

**GOVERNMENT POLICIES IN RESOLVING CONFLICTS BETWEEN
TRADITIONAL MARKETS AND ONLINE MARKETS FROM A MAQASHID
SHARIA PERSPECTIVE**

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ABSTRACT

In social psychology, there are various ways for people to lead fulfilling lives. There are those who use peaceful paths such as dividing groups, but there are also those who use violent paths such as invading a territory. There are several reasons why traditional educators hesitate to recommend Tiktok Shop to the government. One reason is that people are more comfortable making purchases online. Events that occur in traditional markets and those that occur online can be likened to Islamic sayings based on the Qur'an, Hadith, Ijma, and Qiyash. Descriptive and normative analysis methods will provide clear and concise results as well as examples or actions that can be a springboard for further research. Trade in goods was developed between 1457 and 1540 B.C.. According to article 1457 B.W. According to Syatibi, one way to understand and comprehend *maqashid al-syariah* is to analyze the *lafaz* of commands and prohibitions (*al-awamir wa an-nawahi*) contained in the law. This is because the purpose of prohibitions and orders is to promote health and prevent damage. One of the things that often happens in human life is dispute. Disputes are also a little point of view on problems that arise and cause disruption of living standards because humans are social creatures. The presence of unreliable payment systems in online markets, also known as online marketplaces, causes online shop users who connect with each other through these marketplaces to feel less connected to each other than in traditional markets. Social discord indicates that they experienced social discord and eventually led to the conflict. Their economic weakness is that their sales have decreased since the establishment of online stores in Indonesia. The downside of their technology is that people in traditional markets are not ready to learn and keep up with the rapid advancement of modern technology. Islam teaches us that all truth is in the hands of Allah, and the righteous will always be able to overcome evil. A lack of sense of responsibility makes people feel uncomfortable, especially caretakers of public facilities. There are so many

laws that talk about this, mostly about consumer privacy rights when making a purchase or sale.

Keywords: Online Market, Traditional Market, Sale of Goods or Services, Social Disputes

INTRODUCTION

Allah *Subhanahu Wa Ta'ala* created the heavens and the earth during six days of creation.¹ And seventy thousand years before the heavens and the earth were created, there was a creature of Allah *Subhanahu Wa Ta'ala* who was created who had the task of being a writer in the *lauhul mahfudz* where all affairs in the world were written from the beginning of the creation of the heavens and the earth to the day when everything was returned to the Creator.²

When God created the first human being, Prophet Adam A.S. who was still in heaven, God had equipped Prophet Adam A.S. with vast knowledge. Even the angels recognized the greatness of God's creatures called humans. Because indeed the nature of the creation of Prophet Adam A.S. is to be a leader on earth.³ And in the end because of the temptation and whispering of the devil, Adam and Eve were expelled by Allah from heaven and placed on earth.

In sociology, there are various ways for humans to survive. Some choose peaceful paths such as forming groups, but some do so through violent means such as invading an area by force.⁴ So in this case, Islam exists and provides solutions to humanity in general.

Basically, the concept of sustenance is very easy to know. Allah has spread all his sustenance on this earth for humanity to use because of Allah's loving nature. So, the question is how do we get and obtain the sustenance. Islam instructs its ummah to survive in a halal and thayyib

¹ Alquran Surat Hud ayat 7 Kementerian Agama RI, Syaamil Al-Qur'an (Al-Qur'an dan Terjemahan) (Solo: PT. Tiga Serangkai, 2014),

² Hadits riwayat Abu Ya'la (1/126) dan Al-Baihaqi dalam *Al-Asma' wash-Shifat* (hal. 271) dari jalur Ahmad

³ Ritonga, Muhammad Soleh. "Penciptaan Manusia." *FITRAH: Jurnal Kajian Ilmu-ilmu Keislaman* 4.1 (2018): 1-28.

⁴ Mahmud, Amir. "Adaptasi Sebagai Strategi Bertahan Hidup Manusia." *Ar-Risalah* 17.1 (2016): 51-61.

way. Whether it is by trading, working for people, teaching, or anything else and there is no element of haram in it. Allah says in Surah An-Nisa' verse 97 which explains that Allah's earth is vast and we can travel wherever we want. Allah's mercy and sustenance are spread out there. One of the noblest ways to survive in Islam is by buying and selling. Allah enshrines this in Surah Al-Baqarah verse 275, which explains that Allah has legalized buying and selling and forbidden usury.⁵ In general, buying and selling is trading merchandise for merchandise or products for cash by releasing property rights to each other on the basis of mutual consent.⁶ Meanwhile, buying and selling in *fiqh* terms is called *al-bai'* which means offering, exchanging something for something else. The word *albai'* in Arabic is sometimes used for its opposite meaning, namely the word *asy-syira* (purchase). So not far from buying and selling there will be a market. No one knows since when the market exists, when there are people carrying out buying and selling then there will be a market.

Broadly speaking, a market is a place where sellers and buyers meet to carry out transactions.⁷ With the development of the times, the existence of markets has also evolved. The market that we used to know only traditional markets and modern markets, now extends to online markets. The basic concept of a market is the existence of a group of sellers and a group of buyers who are in a certain regional space, so the online market is a market where sellers and buyers meet on an online scale.⁸ Online buying and selling is characterized as an exchange of merchandise and administrative transactions through social media, specifically through the web or social media. One illustration is offering goods online through the web as done by *bukalapak.com*, *berniaga.com*, *tokobagus.com*, *lazada.com*, *kaskus*, *olx.com*, etc. The online market has several advantages and disadvantages. The advantages include being practical, efficient, varied choices, many discount promos, and an easier payment system. Of all these things, most of the

⁵ Al-Baqoroah 275

⁶ Ahmad, Idris. "Fiqh al-Syafi'iyah." *Jakarta: Karya Indah* (1986).

⁷ Rahmi, Ain. "Mekanisme pasar dalam islam." *Jurnal Ekonomi Bisnis dan Kewirausahaan* 4.2 (2015): 177-192.

⁸ Rohimah, Afifatur. "Era digitalisasi media pemasaran online dalam gugurnya pasar ritel konvensional." *KANAL: Jurnal Ilmu Komunikasi* 6.2 (2018): 91-100.

online markets use a system that can be said to violate Islamic law because there is *gharar* or fraud in it.

Like the case that is currently trending, namely the closing of one of the buying and selling platforms, namely *Tiktok shop*, which has an impact on many online sellers who feel disadvantaged by this decision. This decision occurred allegedly because there was pressure from traditional markets who felt that their markets were empty of visitors because they preferred to make online transactions.⁹ Even after it was closed, the situation of traditional markets still did not experience a significant increase. There are several factors that caused traditional market traders to then submit the request to the government to close *Tiktok Shop*, such as the reason if people prefer to shop online, or because there is a deep hurt experienced by traders in Tanah Abang to the platform. And the problem of the closure of *Tiktok Shop* by the government did not have a significant impact either. So, in this case Islamic law provides a solution. Solutions that are certainly accurate, perfect, full, and complete because they come directly from the One who controls heaven and earth. Problems experienced in traditional markets and online market problems can be resolved with Islamic law which is based on the Al-Qur'an, Hadith, Ijma' and Qiyash. *Maqoshid Sharia* in general is the purpose of Islamic law. More broadly, the existence of Islamic laws ensures the welfare of mankind, because Islam is basically *rahmatan lil 'alamin*.

In the explanation above, I am interested in seeing the role of *Maqoshid Sharia* in resolving conflicts between traditional markets and online markets.

RESEARCH METHOD

The research method is an activity that aims to understand one or several legitimate wonders by analyzing them based on certain strategies, systematics, and considerations. In this research,

⁹ <https://katantizen.kompas.com/read/2023/10/06/100347785/penutupan-tiktok-shop-dan-dampaknya-bagi-umkm-dan-ekonomi-indonesia?page=all> diakses pada 1 November 2023

the creator uses a kind of standardization approach strategy, which is a research strategy that uses an approach carried out by analyzing and translating hypothetical matters relating to standards, conceptions, principles and legal standards relating to the proof of a criminal case. In this research, the author uses a data collection method, namely by using literature study in this research to explore the sources of legal materials. The data used in this thesis research can be divided into three, namely primary, secondary, and tertiary legal materials.

RESULTS AND DISCUSSION

Traditional and online market conflict

1. Forms of Conflict between Traditional and Online Markets

a) The decline in turnover of traditional market sellers due to competition with online markets.

One of the recent highlights of the conflict between traditional markets and modern markets is the Tanah Abang market which made a request for the closure of online shop applications, especially *TikTok Shop*, which was later granted by the government. Sellers in Tanah Abang complained that their income was decreasing due to competition with sellers who run live broadcasts on online shop platforms. The reason is that the prices advertised by sellers through live shopping are far below the normal price. Niken, one of the clothing sellers in Tanah Abang, admitted that her turnover has plummeted since the live shopping activity. She said, the costs delegated by the coordinator's customers made the sellers in the ad confused about how much price tag they should apply. Anggita, one of the moslem dress sellers at Tanah Abang Showcase, also said the same thing. She said that many sellers were discouraged because their turnover had decreased by 80-90%. They stated that selling with live broadcasts on marketplace channels has had a sharp effect on sales at the Tanah Abang Market. "The problem is that we are physical traders, so we need buyers to come directly face-to-face. If we shop online, we don't need to go to Tanah Abang, we can shop directly," said Anggita.

b) Traditional Market Management Policy

Tanah Abang Supervisor, A. Hery Supriyatna said that his party and Pasar Jaya as the overall manager of Tanah Abang plan to find an agreement regarding the needs of guests who advertise in Tanah Abang. In the future, the market manager plans to collaborate with academics and find the best solution regarding this matter. The management of the Tanah Abang market is also considered not to move quickly and still monitor market conditions but only move when conditions are already or important. The following Tanah Abang issue comes from the parking attendants. Many guests complain about the amount of extortion in the zone. A number of netizens commented on social media news channels that the cost of stopping at Tanah Abang was very expensive. A car costs IDR 50,000, while a motorcycle is estimated at IDR 20,000. Regarding this parking, the market manager should be more assertive in providing services to market visitors considering that the parking problem in Indonesia is not a minor problem. This adds to the note that the Tanah Abang market is not deserted purely because of the online shop but also because the market management is not good and does not provide the best service to market visitors.

2. Government Policy on Conflict Resolution

The government's policy towards the demands of traditional market traders then produced results with the closure of the *Tiktok shop* platform. Due to the Minister of Trade Regulation No. 31 of 2023 which was decided to close last September. One of them controls the rejection of social media for trading and is allowed to offer and promote products or services. A few days after the announcement of this restriction, TikTok Shop announced that it would close its operations in the country on October 4, 2023 at 17:00 WIB. The closure of *TikTok Shop* can have a positive impact on the e-commerce ecosystem, as seen from the data reported by *Yahoo Finance* website, which shows that e-commerce stocks have skyrocketed, such as PT Global Digital Niaga Tbk, PT Bukalapak.com Tbk, PT GoTo Gojek Tokopedia. However, it may only be temporary because the digital platform may return with a slightly different system. After the closure, many rumors say that *Tiktok Shop* plans to return to Indonesia. One way is to collaborate with the nearest e-commerce player. It did not take long, after two months of closure, *Tiktok Shop* returned to Indonesia. Earlier this month, the company declared a

partnership with *GoTo* through *Tokopedia*'s e-commerce trading unit. The main activity of their collaboration is through the Nearby Purchase program. This program started to coincide with the National Online Shopping Day on December 12, 2023. From the little description above, it is explained that the government as a power holder listens to complaints from traditional traders who feel that their existence is threatened by the existence of online buying and selling which has a very low price and is outside the market price and finally closes one of the online shop platforms, namely *Tiktok Shop*.

Conflict resolution government policy in *maqashid sharia*

1) Consumer Protection Law

According to Syatibi, one method of finding and understanding *maqashid al-sharia* is by analyzing the lafaz of commands and prohibitions (*al-awamir wa an-nawahi*) contained in His law, because behind the commands and prohibitions there are intentions and goals, namely attracting benefits and rejecting damage. The Consumer Protection Law (UUPK) contains commands and prohibitions. Commands are communicated in terms of commitments that must be implemented by consumers and trade in order to bring benefits, while prohibitions are imposed on trade in anticipation of losses. Some time ago, the Consumer Protection Law was passed. Businesses initially performed in accordance with economic standards, specifically to obtain maximum profit with small capital without considering the condition of the buyer, so after the Consumer Protection Law was passed, trade continued. Screen characters are bound by legitimate standards in the form of rights and commitments that must be ideally implemented. Looking at the system above, many vital matters relating to consumer protection seem to have been stated in the Consumer Protection Law. But it cannot be said that this law is perfect and this law has no weaknesses. In order for us to know where the concept of *maqashid al-syaria* is adopted in the Consumer Protection Law, the author takes several points from the above systematics and then matches them with the concept of *maqashid al-syariah*, namely as follows:

First, the purpose of the Consumer Protection Law. The purpose of the Consumer Protection Law is set out in Article 3, which is as follows:

- 1) Increasing awareness, ability and independence of consumers to protect themselves
- 2) Raising the dignity of consumers by preventing them from the negative excesses of the use of goods and / or services
- 3) Increasing consumer empowerment in choosing, determining and demanding their rights as consumers
- 4) Creating a consumer protection system that contains elements of legal certainty and information disclosure and access to information.
- 5) Raising awareness of business actors about the importance of consumer protection so that an honest and responsible attitude in business grows
- 6) Improving the quality of goods and/or services that ensure the continuity of the business of producing goods and/or services, health, comfort, security, and safety of consumers.

Looking at the objectives formulated in Article 3 of the Consumer Protection Law, this law carries a mission of prosperity that will be carried out in trade activities. Apart from that, the reason for the Consumer Protection Law is very important for several important components (*kulliyat alkhamisah*) that must be guaranteed in *maqashid al-syaria*, namely ensuring religion by avoiding the use of goods that are not in accordance with needs, which of course can have excessive negative impacts, ensuring the soul is done by expanding awareness of buyer rights, abilities and freedom of buyers, ensuring reason by taking access and openness to data so that knowledge into the product is good, ensuring resources by expanding the awareness of sellers to have a legitimate and responsible attitude in creating products and / or services so that buyers do not choose products that deviate and their resources are not wasted, securing offspring by prioritizing the quality of goods with the belief that the trade will go well so that it can provide goodness to their families and relatives.

Second, rights and obligations of consumers and business actors. The provisions regarding the rights and obligations of both parties are regulated in Article 4 (consumer rights), Article 5 (consumer obligations), Article 6 (business actor rights) and Article 7 (business actor obligations). For this reason, in order to carry out a fair attitude in the study of Islamic economic

law, the perpetrators of the agreement (consumers and business actors) are obliged to fulfill their rights and obligations.¹⁰

In the rules of *ushul fiqh*, it is explained that something that becomes obligatory because of a certain thing, then that certain thing becomes obligatory too or *maa laa yatimmu alwaaajibu illa bihi fahuwa waaajibun*.¹¹ Thus, if examined carefully, the rights and obligations stipulated in Articles 4-7 of the Consumer Protection Law are in line with *maqashid alsharia* because in principle the rights and obligations exist in order to create benefits or goodness for consumers and business actors.

Third, activities prohibited for business actors. Articles 8-17 of the Consumer Protection Law describe several activities that are prohibited for businesses in the course of their business. In general, Article 8 of the Consumer Protection Law provides two main prohibitions, namely the prohibition against the goods themselves that are not in accordance with the needs and proper benchmarks for use by buyers, and the rejection of providing inaccurate and false information so as to deceive buyers in choosing products and/or or administration. The purpose of the prohibition is because it can cause harm or loss to others. This is in line with the rule “*La dharar wa la dhirar*”, which means that it is not permissible to harm others or be harmed or “*al-dharar yuzal*”, which means that harm must be eliminated. It is revealed in *maqashid al-sharia* that to realize welfare, one must carry out activities that contain benefits for mankind by carrying out rights and obligations, while avoiding everything that can harm people is done by leaving the prohibitions that have been determined by *maqashid al-sharia* law.

Fourth, guidance and supervision. This provision is contained in Articles 29-30 of the Consumer Protection Law which contains the implementation of business guidance and supervision carried out by the government to ensure the acquisition of consumer rights and business actors to achieve the objectives of the Consumer Protection Law. The direction and supervision carried out by the government, among others, ensures the creation of a healthy

¹⁰ Oni Sahroni dan Adiwarmar A. Karim, *Maqashid Bisnis & Keuangan Islam : Sintesis Fikih dan Ekonomi*, (Jakarta : PT.RajaGrafindo Persada, 2015), page. 3

¹¹ *Ibid.*, pg. 49.

trade climate between trade actors and consumers, creates non-governmental buyer guarantee education and improves human resources, research in the field of consumer safety. The Hisbah institution has an obligation comparable to that of the state in providing direction and supervision to trade actors and consumers. It is a form of external supervision that monitors the deviant behavior of actors and cracks down on violators in the market. This institution is filled with bright, intelligent, legitimate Muslim individuals who dare to fight against bad forms.

Fifth, punishment. Articles 60-63 of the Consumer Protection Law regulate the type and punishment of witnesses to violators. Actually, the legal relationship between consumers and business actors is a civil legal relationship. Therefore, if there is a problem between the two, it must be resolved in civil law. However, if the decision of the Dispute Resolution Body (BPSK) is not implemented by the business actor, it can be created as initial evidence for investigators. This means that in addition to good relations in resolving debates between trade actors and consumers, the Consumer Protection Law also imposes criminal sanctions.

CONCLUSION

This conclusion will answer the problem that occurred in this case, namely the role of *maqhasid sharia* in resolving this conflict. The role of *maqhasid sharia* has actually been widely implemented in Indonesian government regulations and the government has been wise in making decisions regarding this case by temporarily closing the *TikTok* platform and prohibiting *TikTok* (social media) from operating to trade and only allowed for promotional facilities in accordance with the Minister of Trade Regulation No. 31 of 2023 announced at the end of September.

To see the substance of the expediency of the Consumer Protection Law, we must see how the five main components that must be guaranteed for the community in life are contained in it:

1) Protection of Religion

The first principle of Pancasila is “Belief in God Almighty”. Every preamble of the Law includes the phrase “By the Grace of God Almighty”, including in the Consumer Protection Law. It seems that in the fabric of the Consumer Protection Act there are divine values that must be absorbed by society. Furthermore, it can be interpreted that state education in

determining the approach should not ignore the relationship between the state and the angle of divinity (Islam). Article 3 letter (b) of the Consumer Protection Law warns against using goods and/or services that have a negative impact from the point of view of religious or state provisions, meaning that the Consumer Protection Law has provided protection for religion. Article 8 letter (f) of the Consumer Protection Law explains that business actors are prohibited from producing and / or trading goods and / or services that do not comply with the provisions of halal production, as the halal statement attached to the label of each product. This provision is in accordance with *maqashid al-sharia*, so that Muslim consumers can distinguish which goods and/or services are halal and haram. The existence of a halal label included in each product is a good intention of business actors in providing protection to consumers. Because halal and haram in Islam have legal consequences. Consuming halal products and leaving haram ones is part of protecting Islam. This is in line with the philosophy of consumer protection, namely in the context of building a complete Indonesian human being to realize a just and prosperous society that is equitable both materially and spiritually based on Pancasila and the 1945 Constitution.

2) Protection of Property

If we carefully examine the Consumer Protection Law in force in Indonesia, it already refers to the rules as intended and wants to be realized by *maqashid al-sharia*, namely usefulness. The Consumer Protection Law has a passion to realize usefulness by anticipating things that can damage the sustainability of the lives of consumers and business actors and carry out their rights and obligations. It can be said that the Consumer Protection Law if we look deeply in accordance with *maqashid al-sharia* even without necessarily mentioning it as a sharia product.

3) Protection of Life

The right to life in Islam is the most important right that should be honored. It can be interpreted that the protection of the soul as a means of protecting the right to human life and other human rights. In such a way, the protection of the soul is the same as protecting the glory of the human soul. Consumer rights in Article 4 of the Consumer Protection Law can be referred to as a form of protection of the consumer's soul. Under the Consumer Protection Law, of the nine consumer rights, the issue of consumer comfort, security and safety is the most important

concern in consumer protection. For this reason, goods and/or services that can endanger consumers are prohibited from being circulated by business actors and consumers are given the freedom to choose goods and/or services that are comfortable and safe to consume based on the information obtained. If it turns out that there are deviations and consumers are harmed, then consumers have the right to be heard, advocated, fostered, treated fairly and receive compensation. Another form of protection for the soul can be seen in Articles 8-17 of the Consumer Protection Law, which broadly states that business actors are prohibited from producing and offering goods and/or services that damage the physical and psychological health of consumers. The form of consumer protection provided in the articles above is in line with the essential guarantee for life according to the concept of *maqashid al-sharia*.

4) Protection of offspring

The forms of protection that will be provided can be in the form of sanctions against perpetrators who violate the provisions of the Consumer Protection Law. Establishing a penalty procedure is a solution to perpetrators who violate the provisions of the Consumer Protection Law. It has been said from the beginning that the Consumer Protection Law provides protection to consumers and businesses. The form of protection to business actors is explained in Article 6 letter (d) that business actors have the right to have their good name or glory rehabilitated if it is legally proven that the losses suffered by consumers are not caused by goods and/or services produced and traded by business actors. This is understandable if the business actor is not rehabilitated for his good name, then his honor and descendants will remain tarnished.

5) Protection of the Intellect

The protection of the mind is realized by the method of improving one's ability to think through utilizing consumer rights as stated in Article 4 of the Consumer Protection Law, such as the right to obtain correct and honest information, obtain advocacy, guidance and consumer education. Meanwhile, to maintain one's insight or reasoning so as not to reduce one's thinking power, one must avoid goods that do not meet the halal guidelines of Article 8 of the Consumer Protection Law, such as the prohibition of consuming alcoholic beverages, psychotropics and narcotics. In relation to halal and good products, all kinds of halal products are certainly good, but what is good is not necessarily halal. Moreover, haram products or those that are not

standardized as halal, certainly cause more damage and do not bring goodness when consumed, therefore every food and drink that is forbidden or permitted for consumption by Allah SW contains *maqashid* or purpose.

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