

CONSUMER PROTECTION AS IMPLEMENTATION INSTRUMENT ISLAMIC BUSINESS ETHICS

Rimanto

Muhammadiyah University of Pringsewu Lampung
Email: rimanto@umpri.ac.id

Muhammad Rudi Wijaya

STIS Darul Ulum Lampung Timur
Email: rudiwijaya68@gmail.com

Kholid Hidayatullah

Muhammadiyah University of Pringsewu Lampung
Email: kholidhidayat.kh@gmail.com

Abstract

Changes in the pattern of trade transactions from conventional patterns to digital patterns, are caused by the development and progress of science and information technology, which in turn brings human users of these technologies to the virtual world, a new life order, there is no physical contact, but can communicate with each other and transact. As with the world of commerce, it does not escape the influence of the digitalization of transactions. Transaction digitization is an option because it affects time and cost efficiency on the one hand, on the other hand due to external factors that make physical contact with each other impossible, such as in the current Covid-19 pandemic, triggering the increasingly massive use of e-commerce as a transaction model. safe in terms of exposure to the virus, However, it is not certain that its safety for consumer protection can be ascertained. The right of consumers to obtain commodities in accordance with the agreement is often neglected, there are some untrustworthy and honest online sellers in carrying out their business activities.

This research, using a legal study approach. The method used in writing this journal is a type of empirical legal research using the object of study of normative legal provisions (laws) with their implementation in every legal event that occurs in the community so that this research covers gaps in theory and practice in society, using a fact approach. (The Fact Approach)

The Law on the Protection of Consumer Rights Number 8 of 1999 guarantees the fulfillment of consumer rights in a professional manner, by regulating the rights and obligations of the parties bound by the sale and purchase agreement, as well as regulating sanctions if the rights and obligations are not fulfilled. However, what occasionally happens is that the consumer's rights are not fully fulfilled, such as the absence of conformity of commodities with the contents of the agreement. Islam as a universal teaching, perfect values and rules, provides guidelines so that consumers get protection, with the concept and value of transactions based on *filarshidiq*, *amanah*, *fathanah* and *tabligh*.

Lack of guidance from the value system of the philosophy of commerce results in corrupt attitudes/behaviors that occur among producers and sellers, this can be avoided if business ethics based on Islamic business ethics can be understood and used as guidelines for electronic/digital transactions.

Keywords; *Consumer protection, Islamic ethics*

A. Introduction

1. Background of the problem

The internet has an impact on changes in the world economy, these changes are very clear and felt when a new round of economic transactions occurs or better known as digital economics or the digital economy. This can be seen by the increasingly massive use of the internet as a communication medium for trade transactions. Electronic transactions are an option for parties, both service or goods providers and prospective buyers. This condition encourages the emergence of e-commerce companies as parties that bring together producers or service/goods providers as well as prospective buyers.¹

Face-to-face-based trade transactions underwent a very essential transformation, no longer needed meetings by interested parties, both producers, sellers and buyers directly, but with the internet media it is possible for certain meetings and deal deals to be carried out. The transaction interaction model in the virtual world is designed with various transactional approach models, which are legally considered valid and valid, starting from offers, deals, purchases, inspections and delivery.²

E-commerce means all buying and selling transaction models by making the internet as a transaction medium, this affects consumer behavior, namely the more consumptive they use their finances. On the other hand, there is a critical and selective attitude towards the goods to be purchased. Likewise, for producers to be more dynamic and varied in promoting their merchandise, various promotive methods are carried out, which do not have little promotional value, made as attractive and beautiful as possible. Which is then shared on various social media, which in its application are more effective and efficient, reach large audiences, touch various circles and penetrate all boundaries.³

As a result of not meeting physically by the parties with business interests, this condition is very vulnerable to the emergence of corrupt behavior by producers and sellers. The negative impact of e-commerce itself has a tendency to harm consumers. Among them there is no conformity between the

¹ Richardus Eko Indrajit, *E-Commerce: Business Tips and Strategies in the Virtual World*, PT. Elex Media Komputindo, Jakarta, 2001, p. 33.

² Abdul Halim Barkatullah and Teguh Prasetyo, *E-Commerce Business: Study of Security and Legal Systems in Indonesia*, Pustaka Pelajar, Yogyakarta, 2005, p. vii.

³ Cindy Aulia Khotimah Jeumpa Crisan Chairunnisa, *Legal Protection for Consumers in Online Buying and Selling Transactions (E-Commerce)*, Business Law Review: Volume One, <https://law.uii.ac.id/wp-content/uploads/2016/12>

products ordered and the products received by consumers. This causes losses and triggers a non-conductive verbal confrontation between consumers and couriers, even though the status of the delivery service provider is not the one who has agreed in the trade transaction in question. As has happened in recent cases. Another example is the case when shopping for goods online, but the goods purchased are not the same as those published by the manufacturer or seller.

This of course violates the rights of consumers which must be fulfilled in full and without the slightest reduction. In this situation, the consumer can sue the seller to return the money or replace the goods that have been purchased?. Therefore, in this paper, we will describe how the legal protection for consumers is if they experience situations and conditions where their rights as consumers are not properly fulfilled, when transacting trade through e-commerce instruments. Then what are the provisions of the legislation which has been stated in Law Number 8 of 1999 concerning Consumer Protection (UUPK). And how is this relevant to the implementation of business ethics in Islam?

2. Formulation of the problem

Based on the above background, the writer can formulate the problem formulation as follows:

- a. How can consumer rights protection efforts be protected in accordance with the laws and regulations?
- b. How is it relevant to the implementation of Islamic business ethics in digital transactions?

3. Research purposes

Research ini aims to find legal solutions for consumers if they experience material losses in electronic transactions and look for instruments so that Islamic business ethics become characters and guidelines in trading transactions with electronic media.

B. Research Methods

The method used in writing this journal is a type of empirical legal research using the object of study of normative legal provisions (laws) with their implementation in every legal event that occurs in the community so that this research covers gaps in theory and practice in society, using a fact approach. (The Fact Approach) means that this approach looks at the facts that exist in the community and is then linked to the laws and regulations.⁴ And then correlated with the implementation of business ethics in Islam.

C. Discussion

1. Protection of Consumer Rights as Fulfillment of Basic Human Rights.

Before entering into the substance related to the provisions of the UUPK, it is better for us to first identify related terms that are familiar to consumers. The consumer being discussed in this case is every user of goods or services for their

⁴ Peter Mahmud Marzuki, 2005, Legal Research, Jakarta, Kencana, p.93.

own, family or household needs, and not to produce other goods/services or to re-trade them. from providers of goods or service providers to consumers.⁵

Thus, it is said that a consumer is every individual or group that controls and enjoys any goods/objects or services resulting from the transfer of rights through the mechanism of direct or indirect buying and selling transactions, conventionally or electronically, which are allowed to be carried out and considered valid by regulations. which exists.

In every commercial transaction, of course, it requires other components besides the buyer, namely the seller, both as a producer and as an intermediary or broker service provider, who of course attaches to himself obligations that must be fulfilled for consumers. On the other hand, the obligations for business actors in accordance with Article 7 of the UUPK include; provide correct, clear and honest information regarding the condition and guarantee of goods and/or services as well as provide an explanation of the use, repair and maintenance; provide compensation, compensation and/or replacement if the goods and/or services received or utilized are not in accordance with the agreement, etc. More explicitly, Article 8 of the UUPK prohibits business actors from trading goods/services that are not in accordance with the promises stated in labels, etiquette, information, advertisement or promotion of the sale of the said goods and/or services. Based on the article, the discrepancy between the specifications of the goods you receive with the goods listed in the advertisement/photo of the goods offer is a form of violation/prohibition for business actors in trading goods.

Thus, the suitability between the goods offered and the goods received by consumers is something that is principle and binding for providers of goods or services. This commitment should be a point of concern for producers and sellers, both in terms of quantity and quality

If the consumer accepts the goods are not in accordance with the agreement, then the consumer according to Article 4 letter h of the UUPK is entitled to compensation, compensation and/or replacement if the goods and/or services received are not in accordance with the agreement or not as they should be. Meanwhile, the business actor himself, in accordance with Article 7 letter g of the PK Law, is obliged to provide compensation, compensation and/or replacement if the goods and/or services received or utilized are not in accordance with the agreement. If the business actor does not carry out his obligations, the business actor can be punished based on Article 62 of the UUPK, which reads:⁶

“Business actors who violate the provisions as referred to in Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letter a, letter b, letter c, letter e, paragraph (2) and Article 18 shall be sentenced to a maximum imprisonment of 5 (five) years or a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah).”

The above provisions clearly stipulateregarding the obligations carried out by the goods/services provider and if they are not fulfilled, there are several

⁵ Az Nasution, Consumers and Law, SinarHarapan Library, Jakarta, 1995, p. 37.

⁶ Law Number 8 of 1999 concerning Consumer Protection

consequences, among which there must be conformity of the goods in accordance with the agreement, otherwise the seller must provide compensation, either exchanging the goods in accordance with the agreement or with compensation for the nominal loss incurred. accepted by consumers. If not, then the Consumer Protection Law Number 8 of 1999, guarantees the fulfillment of consumer rights in a professional manner, by regulating the rights and obligations of the parties bound by the sale and purchase agreement, as well as regulating sanctions if the rights and obligations are not fulfilled. Thus, this UUPK guarantees the basic rights of consumers, namely the protection of the right to obtain objects in accordance with their obligations to issue payment fees,

In order to ensure the fulfillment of consumer rights, namely obtaining goods/services in accordance with the agreement, then in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, it regulates the status of electronic transactions made by the parties.

Trade transactions, although carried out during, based on Law No. 11 of 2008 concerning Information and Electronic Transactions and PP PSTE, recognize the existence of electronic transactions and have legal force, based on Article 48 paragraph (3), and in PP PSTE to be recognized as a transaction that has legal force, the transaction must include the following: identity data of the parties; objects and specifications; Electronic Transaction requirements; prices and fees; procedures in the event of cancellation by the parties; provisions that give the injured party the right to be able to return the goods and/or request a replacement of the product if there is a hidden defect; and the choice of law for the settlement of Electronic Transactions.⁷

2. Islamic Business Ethics

After understanding several factors regarding protection for consumers and the legal provisions that apply in Indonesia, according to the purpose of this study, the author will review how Islamic business ethics plays a strong role in encouraging the realization of protection for consumers who are often neglected in digital transactions. In Islam Ethics or morals is a spirit or spirit in taking action, because in Islam anything can be attributed as a form of worship to God Almighty, as long as it is driven by the motivation to worship Him.

Ethics has two understandings: First, ethics as morality, contains real values and norms that are used as guidelines and guidelines for human life in their entire life. Second, ethics as critical and rational reflection. Ethics makes humans act freely but can be accountable. Meanwhile, business cites Straub,

⁷ Aulia, Cindy Jeumpa, Khotimah, Legal Protection for Consumers in Online Buying and Selling Transactions (E-Commerce), FIAT JUSTISIA:Journal of Legal Studies (2015) p.7

Alimin (2004: 56), as an organization that carries out production and sales activities of goods and services desired by consumers for profit.⁸

Thus the words ethics and business can be interpreted as an effort to internalize religious norms in business activities. Include religious ethics in every business step, revise systems and business laws that are not in line with the spirit of transcendental values. An ethical business is a business that always links the values of God, in a social contract that has been running to maintain mutual commitment to goodness, not harm each other and uphold the values of honesty and sincerity.⁹

Islamic business ethics is actually a character that is attached to the personality of the Prophet Muhammad SAW when carrying out prophetic functions and this character is implemented in trade. The noble qualities of the Prophet Muhammad SAW as a trader are, in addition to a strong commitment to the profession and sincerity in conducting commerce, he also has the characteristics of shidiq, fathanah, amanah and tabligh. These characteristics are still added with a high commitment or Istiqamah.¹⁰

Shidiq means having similarities between speech and reality and always bases words, beliefs and deeds on the basis of Uluhiyah values taught by Islam. Islam upholds the value of honesty in all aspects of life, including managing a company. No matter how hard it is to be honest. This is one of the challenges of doing business, but every Muslim person must try to comply with it so that partnerships in managing businesses bring salvation in the world and the hereafter. Behaving honestly is very much needed with an economic condition full of competition that tends to justify the way.

Fathanah means the character of intellectual intelligence with that ability to understand, understand, and deeply appreciate everything that is its duties and obligations. This character will encourage the owner, always dynamic and creative and the ability to do various new ways that are innovative and interesting for others that give birth to benefits.

tabligh, This character urges, at the same time, to set an example for others to carry out the norms of virtue taught by Islam in everyday life. Delivering business messages transparently, there is no element of exaggeration and also not reducing information related to the quality or quantity of information on the commodity products traded.

Istiqamah or commitment in faith and the norms of truth which he believes are the foundational and judicial foundations that must be spiritual and warranty in running his business, despite facing pressures and challenges. Istiqamah in goodness is shown in determination, patience and tenacity so as to produce

⁸ Najmudin Ansorullah, "CSR in Islamic Perspective" Article uploaded on November 16, 2007 at <http://jurnalnajmu.wordpress.com> accessed on September 11, 2021.

⁹ Moh. IfanHusaeni, Consumer Protection and Sharia Business Ethics https://docs.google.com/file/d/0B5Dxaf_9ujxbQlFOemJZR0INNkk/edit?resourcekey=0-WqD8bngYrsuzBL3NDvYXgA, uploaded on September 11, 2021

¹⁰ Mulyadi, Ethics and Islamic Business Communication, Salemba Diniyah, Jakarta; 2019, p. 63-69

something optimal. Based on this commitment, the businessman will not commit fraud, manipulation or other corrupt actions, nor will he monopolize a certain commodity to intervene in prices.

Guided by the characters mentioned above, business actors or producers must harmonize with what is offered, there is no inequality and/or mismatch between advertisements and commodities received by consumers, thus manipulating product data is a behavior that must be avoided.¹¹

Producers and sellers must have a responsible character by displaying an attitude of transparency, integrity and serving wholeheartedly, performing services with sincerity, namely the best service, especially with the public consumer.

The nature of tabligh that can be conveyed by business actors wisely (wisdom), patient, argumentative, and persuasive will foster solid and strong human relations.

Business actors with their awareness and at the urging of outsiders must have ethics and morals, because both are spirit and energy that envelop and protect all parties, both business actors themselves and consumers who use their services and products.

In this regard, Ahmad AzahBasyir,¹² outlines the ethical requirements in doing business, namely:

1. The economics of the business in question must be guaranteed to be halal.
2. The halal business must be carried out in a way that encourages the achievement of safety for all parties and must not cause damage and danger, both economic, ecological and social losses.
3. The value of justice must always be maintained.

In the commerce exemplified by Rasulullah SAW, he prioritizes consumer protection by providing customer satisfaction services in the form of transparency or honesty. Which in turn has never been a single consumer who complained. The other side that is dominant in laying his business ethics is the value of God, humanity, transparency, justice and a commitment to serve his business partners to the fullest.¹³

In responding to the importance of making efforts to protect consumers, NajmudinAnsorullah argues that Islam is very concerned about consumer protection, so business actors must pay attention to the following principles:¹⁴

1. Tawhid. Linguistically, monotheism means to unite, namely to unite God.

Tawhid is a general principle of Islamic law. This principle states that all humans are under the same provisions, namely the provisions or

¹¹ Muhammad Hasyim Kamali, *Islamic Cimercial Low*, (Cambridge: Islamic Texts Society, 2000), p. 84

¹² Ahmad Azhar Basyir, *Outlines of the Islamic Economic System* (Yogyakarta: UGM, 1978), page 13

¹³ Laode Kamaluddin, *Rasulullah's Business Secret.....* p. 6.5

¹⁴ Najmudin Ansorullah, *Principles of Islamic Law in the Responsibility of Business Actors* Article uploaded on 15 November 2007 at <http://jurnalnajmu.wordpress.com> accessed 12 September 2021

provisions of monotheism mentioned in the sentence *laaillailla Allah* (There is no god but Allah).

2. Justice (*al'adl*).

In general, justice is the condition of every individual who gets his rights and every person has an equal composition of the common capital. Justice in Islamic law requires a balance between the obligations that must be fulfilled by humans (*mukallaf*) with the human ability to fulfill those obligations. Business actors are not allowed to take actions that are prohibited by law, considering that business actors often use corrupt opportunities on the basis of wanting more profit than usual.

3. The principle of *Amar Ma'ruf Nahi Munkar*.

The principle of *amarma'rufnahimunkar* is a derivative of the first two principles, monotheism and justice. *Amar ma'ruf* which is the command of Allah SWT is a social system which means a movement for social engineering towards better conditions, conditions desired by Allah SWT and as a preventive and repressive effort against inequality and deviation from Allah's provisions.

With regard to consumer protection, UUPK is one of the regulations or positive law as a medium of social control to ensure that the relationship between business actors and consumers goes according to the agreement. In the perspective of Islamic law, regulations such as regarding the production of halal food and the implementation of options for consumers, namely the existence of *khiyar* rights, both *khiyarmajlis* and *khiyar* conditions, *khiyar* rights are one of the instruments for *ma'ruf nahi munkar*. However, both have their own rules or rules regarding the implementation of consumer protection. One of the implementations of *amarma'ruf* for business actors is to make efforts to provide guarantees for losses experienced by consumers in exchange, if the loss is caused by mistakes and negligence committed by business actors, both producers and sellers of the product in question. While *nahimunkar* by paying attention to and implementing the rules of Islamic law regarding buying and selling.

4. The Principle of Independence or Freedom (*al-Hurriyah*).

The principle of independence is related to the commandments of *makrufnahimunkar*. The necessity of inviting virtue and avoiding evil (*amarma'rufnahimunkar*) can only be realized if there is complete freedom in expressing his thoughts and hearts both orally and in writing.

What is meant by independence or freedom here is in the sense of universal freedom which includes various things, both religion, assembly, and political freedom. Personal freedom includes the freedom to do something or not to do something.¹⁵ This principle of freedom aims so that religion in Islamic law is not published on the basis of coercion, but based on

¹⁵ Article 28 of the 1945 *Constitution stipulates freedom of association and assembly, expressing thoughts orally and in writing.*

clear information, argumentative presentation, and convincing information (al-burha'nwa al-Iqna'). In relation to consumer protection, this principle of freedom is very principle and fundamental because it is related to the freedom of individuals and groups to choose and determine their choices in a transaction. By not In obtaining that freedom, Muslim individuals, both as consumers and business actors, cannot carry out their basic obligations in enjoying welfare and avoiding chaos in society. Therefore, the rights and obligations of business actors and consumers need to be balanced.

5. Principle of Equality or Egalitarian.

The principle of equality implies that there is no difference between fellow human beings, but it does not mean that Islamic law requires a classless society in the style of Communism, that human dignity is not due to race and color.

6. The principle of al-Ta'awun (Help-Help).

The principle of ta'awun means helping fellow members of the community. This assistance is directed in accordance with monotheism, especially in an effort to increase goodness and piety to Allah. This principle requires Muslims to help each other in goodness and piety (Surah al-Maidah [5]: 2).

According to DawamRaharjo, from the principle of ta'awun, the principles of competition and cooperation will arise. In the modern sense, cooperation is not carried out solely because of tradition and solidarity, but on the basis of rationality, namely the awareness of the existence of complementary functions or the need for reconciliation (ishlah) between different goals or ways, competing or even contradicting.¹⁶

7. Principle of Tolerance (Tasa'muh).

This principle is a continuation of the principles described above. Tolerance is meant by Islam is tolerance which ensures that the rights of Islam and its people are not violated. Tolerance can be accepted and implemented as long as it does not harm the religion of Islam. In consumer protection, the application of Islamic principles can be directed at providing motivation and work ethic in order to develop productive, quality and professional human resources. Islam provides relevant teachings, such as responsibility to others, the environment and God. Fiqh related to consumer protection related to the misuse of weaknesses in consumers usually occurs in 3 (three).

Terms, namely when the transaction has not yet taken place, when the transaction is in progress and when the transaction has taken place.¹⁷ Islam has

¹⁶ Fathul Aminuddin Aziz, "Economic and Management Ethics" Article uploaded 25 December 2010 at www.aminazizcenter.com accessed 13 September 2021

¹⁷ Muhammad and Alimin, *Ethics and Consumer Protection in Islamic Economics*, (Yogyakarta: BPF, 2004), p. 196.

anticipated the above by establishing regulations in consumer protection as follows:

1. Protection from counterfeiting and incorrect information (gharar).
2. Protection of voting rights and unfair exchange rates due to monopolistic market mechanisms. So Islam offers a prohibition on the practice of usury, a monopoly on unfair competition, does not apply *tas'ir* (fixing price), enforce the law of *khiyar*, prohibit the sale and purchase of *an-Najsy*, prohibit the sale and purchase of *talaqirukban* (intercept before reaching the market).¹⁸
3. Protection of product safety.
4. The right to get advocacy and dispute resolution. In Islam, all citizens have the same rights and obligations before the law. So that the judge in enforcing the parties must be fair in terms of standing, sitting, speaking, turning and listening.¹⁹
5. Protection from abuse of circumstances such as *ihtikar*.
6. The right to compensation (*dhaman*) due to negative products. *Dhoman* means complying with the basis of the Qur'an, Sunnah and *Ijma*.²⁰ There are 3 *dhoman* requirements, namely the guarantor and the guaranteed one. Guaranteed assets still have time to guarantee it. And the stuff must be known.

In Islam there are 5 things that must be maintained and their benefit is the main goal of sharia, namely religion (*ad-din*), offspring (*an-nasl*), soul (*an-nafs*), reason (*al-aql*), and property (*mal*). So for dangerous goods such as *khomr*, Islamic drugs consider them as useless goods (*ghairumutaqawwim*).²¹

D. Conclusion

From the explanation above, the writer can conclude that:

1. Law Number 08 of 1999 concerning Consumer Protection, guarantees the fulfillment of consumer rights, by requiring producers and or sellers not to reduce the rights of consumers in the slightest, and if a loss occurs on the part of the consumer, it is caused by factors of error and negligence on the part of producers and sellers of commodities. , then it is required to provide compensation to parties who are harmed materially and non-materially. Weak consumer protection is due to the waning of the collapse of ethics and morals of business people, both producers and sellers who only pursue profit without considering the interests and rights of consumers.
2. To create trust, the values and business ethics contained in Islamic teachings become solutions related to consumer protection, in general it is

¹⁸ Muhammad,...Op.cit, 207-215

¹⁹ Fatchur Rahman, *Hadiths on Religious Courts*, (Jakarta: TerangBulan, 2005), p. 131

²⁰ Abdul Haq Humaisy and Al-Husain Syawat, *Fiqh al-Uqud al-Maliyah*, (Amman: Darul Bayariq, tt) p. 189

²¹ Syamsul Munir Amin, and Totok Jumentoro, *Dictionary of Ushul Fiqh* (Jakarta: Amzah, 2005) page 56.

necessary to return to Islamic business principles following the Sunnah of the Prophet such as sidiq, amanah, tabligh and fathonah as minimum requirements. This concept can be used as a solution to the problem of consumer dissatisfaction about the products they buy, which is vented to the courier who is legally and legally not involved in the intended sale and purchase agreement, and not as a party must bear the losses suffered by consumers.

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