

Online Trading Practices from the Perspective of Fiqh Muamalah (Analysis of Contracts, Gharar, and Khiyar Mechanisms)

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Abstract : The development of digital technology has transformed conventional buying and selling practices into electronic transactions, giving rise to new issues from the perspective of fiqh Muamalah. This study aims to analyse online buying and selling practices through a trilogy approach to the concepts of Akad, Gharar, and Khiyar. The method used is qualitative, with a library research approach and content analysis of primary and secondary sources. The results of the study show that: First, electronic contracts have fulfilled the pillars and requirements of contracts through the digital transformation of ijab-qabul with the support of DSN-MUI fatwa No. 116/DSN-MUI/IX/2017. Second, the potential for gharar in e-commerce can be mitigated through technologies such as digital reputation systems, escrow, and blockchain. Third, the Khiyar mechanism has been actualised through return features, digital previews, and delivery method selection. This study concludes that sharia e-commerce is not only valid in fiqh, but also strengthens consumer protection when integrated with national regulations. The research recommendations include the development of an integrated sharia and national consumer protection system model to create a fair e-commerce ecosystem.

Keywords: *Online Trading, Fiqh Muamalah, Electronic Contracts, Gharar, Khiyar*

INTRODUCTION

The 4.0 digital revolution has fundamentally transformed the global economic landscape, including in the practice of buying and selling transactions. In Indonesia, e-commerce growth has accelerated significantly, with a very large transaction value. This phenomenon has not only changed people's consumption patterns, but also necessitated a comprehensive Islamic legal analysis of this digital transaction model, given that Indonesia is one of the countries with the largest Muslim population in the world.

From a historical perspective, Fiqh Muamalah as part of Islamic law has proven its flexibility in responding to developments over time. The universal principles of muamalah, such as justice ('adl), willingness (taradin), and benefit (maslahah), provide an elastic framework for assessing the validity of various forms of contemporary transactions, including the digital economy.¹ This flexibility is reflected in the fiqh principle of 'al-aslu fil mu'amalati al-ibahah hatta

¹ Wahbah Az-Zuhaili, "Fiqh Islam Wa Adillatuhu, Jilid 3, Cetakan 10" (Darul Fikr, 2007), 369.

yadulla ad-dalilu 'ala tahrimiha', which forms the basis for the legality of financial innovation in Islam.²

However, the reality of modern e-commerce transactions presents its own complexities. Unlike traditional face-to-face transactions, online buying and selling is characterised by the absence of physical interaction between the seller and the buyer, dependence on digital media, and the involvement of multiple parties such as platforms, couriers, and payment gateways.³ This unique characteristic raises fundamental questions about the implementation of the principles and conditions of sales contracts as formulated in classical fiqh literature.

The first and most fundamental issue concerns the validity of contracts in digital transactions. Contemporary scholars debate the legal status of electronic contracts, whether they can be equated with verbal contracts (*sighat al-qaul*) or written contracts (*sighat al-kitabah*) in conventional fiqh.⁴ Fatwa DSN-MUI No. 116/DSN-MUI/IX/2017 explicitly states the validity of electronic contracts as long as they fulfil the principles of clear offer and acceptance, even though their implementation in practice still leaves various problems.⁵

The second crucial aspect is the potential for *Gharar* (uncertainty) inherent in online transactions. Empirical studies show that 35% of e-commerce consumer complaints in Indonesia relate to product mismatches, misleading descriptions, and unclear product conditions.⁶ The form of *Gharar* in this context is more complex than in conventional transactions, covering *Gharar Fi Al-Mabi'* (on the object), *Gharar Fi Al-Tsaman* (on the price), and *Gharar Fi Al-Ajal* (on the time of delivery).⁷

The *khiyar* mechanism (option right) is a vital balancing element in overcoming the potential for *Gharar*. In the digital context, the implementation of *Khiyar Al-'Aib* (option right due to defects) and *Khiyar Al-Ru'yah* (option right due to not having seen the goods) requires systemic adaptation. Modern e-commerce platforms have developed guarantee, return, and refund mechanisms as contemporary forms of *Khiyar*, although their effectiveness in meeting fiqh standards still needs to be studied in greater depth..⁸

² Jalaluddin bin Abdurrahman Al Suyuthi, *Al Asybah Wa Al Nazair Fi Al Furu'*, Beirut: Dar Al Fikr (Beirut, Lebanon.: Dar al Fikr, 1994).

³ Zahra Alifia Salwa et al., "Transaksi Bisnis Modern Pada E-Commerce Dalam Perspektif Fiqih Muamalah," *Jurnal Ekonomi Manajemen Dan Bisnis (JEMB)* 3, no. 2 (2024): 323–27, <https://doi.org/10.47233/jemb.v3i2.2430>.

⁴ M. A. El-Gamal, "Islamic Finance and Digital Currencies.," *Journal of Islamic Business* 12, no. 1 (2021).

⁵ DSN-MUI, "Fatwa No. 116/DSN-MUI/IX/2017 Mengatur Uang Elektronik Syariah" (2017).

⁶ Badan Penyelesaian Sengketa Konsumen (BPSK), "Laporan Tahunan 2022," 2023.

⁷ I Qayyim and SD Muhammad, *I'lam Al-Muwaqqi'in 'an Rabb Al-'Alamin'*, Jilid III, (Beirut, Lebanon.: Dar al-Jayl, 1991).

⁸ Mujiatun Ridawati, "Konsep Khiyar Â€Aib Dan Relevansinya Dengan Garansi," *Tafaqquh* 1, no. 1 (2016): 80–92, <https://doi.org/10.70032/5b31p437>.

National regulations through Law No. 7 of 2014 concerning Trade and Government Regulation No. 80 of 2019 concerning Trade Through Electronic Systems have provided legal recognition for e-commerce transactions.⁹ However, harmonising these positive regulations with Sharia principles still requires an integrative approach, particularly in ensuring consumer protection that is in line with *maqashid al-shari'ah*.¹⁰

Previous research emphasises the importance of standardising contracts in sharia e-commerce,¹¹ while other studies identify 15 forms of *Gharar* in digital transactions.¹² However, there has been no research that comprehensively integrates the analysis of the trilogy of akad-*Gharar-Khiyar* in the context of the Indonesian marketplace using a contemporary fiqh approach. Based on the identification of these gaps, this study was designed to analyse online buying and selling practices through an integral approach that combines classical fiqh muamalah concepts with digital realities. The focus of analysis on the conceptual trilogy of akad-gharar-khiyar is seen as a strategic approach to comprehensively assess the sharia compliance of e-commerce transactions. The significance of this research lies in its contribution to the development of contemporary fiqh muamalah, particularly in responding to disruptive technology in the economic sector. The findings of this research are expected to serve as an academic reference and basis for policy formulation for the development of sharia e-commerce in Indonesia, as well as providing practical guidance for Muslim business actors in conducting digital transactions in accordance with sharia.

METHOD

This study uses a qualitative approach with library research focusing on content analysis of classical and contemporary Islamic texts. This approach was chosen to examine fiqh muamalah concepts in depth in the context of digital transactions.¹³ The type of research used is descriptive-analytical, which aims to describe online buying and selling practices and then analyse them through the perspective of the trilogy of concepts of akad, gharar, and khiyar in fiqh muamalah.

The research data sources consist of primary and secondary sources. Primary sources include classical fiqh muamalah books such as *Al-Mughni* by Ibn Qudamah and *Al-Fiqh al-Islami wa*

⁹ Pemerintah Republik Indonesia, "Peraturan Pemerintah Republik Indonesia Nomor 80 Tahun 2019 Tentang Perdagangan Melalui Sistem Elektronik," Republik Indonesia (2019).

¹⁰ J Auda, "Maqasid Al-Shari'ah as Philosophy of Islamic Law. International Institute of Islamic Thought, 2008," *The International Institute of Islamic Thought*, 2008, 376.

¹¹ Rizki Jayuska, "Keabsahan Kontrak Pada Transaksi E-Commerce Melalui Media Internet Berdasarkan Undang-Undang No 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik," *Jurnal Cahaya Keadilan* 4, no. 1 (2016): 43, <https://doi.org/10.33884/jck.v4i1.943>.

¹² Atik Devi Kusuma et al., "Gharar Dalam Transaksi Ekonomi: Analisis Hukum Islam Dan Implikasinya," *Jurnal Kajian Dan Penelitian Umum* 2, no. 6 (2024): 140–52, <https://doi.org/10.47861/jkpu-nalanda.v2i6.1413>.

¹³ Moleong, *Metodologi Penelitian Kualitatif* (Pt Remaja Rosdakarya, 2021).

Adillatub by Wahbah al-Zuhayli, as well as DSN-MUI fatwas related to electronic transactions. Secondary sources include scientific journals, books, and publications related to e-commerce and Islamic economics published in the last 10 years. Data collection techniques were carried out through documentary studies by searching reliable databases..

Data analysis utilised content analysis techniques and comparative analysis through three stages: data reduction, data presentation, and verification of conclusions. To verify the validity of the data, this study employed source triangulation techniques by comparing information from various relevant references.¹⁴

RESULTS AND DISCUSSION

1. The Construction of Electronic Contracts in Contemporary Fiqh Muamalah

a. Transformation of the Concepts of Ijab and Qabul in Digital Platforms

In classical fiqh tradition, ijab and qabul are fundamental pillars that require clarity and certainty in an agreement. This concept is usually manifested through verbal or written expressions that are conveyed directly between the parties.¹⁵ However, in the digital ecosystem, the concepts of ijab and qabul have undergone a fundamental transformation. Ijab is no longer expressed in front of the seller, but is represented by clicking or tapping the ‘Buy’ or ‘Add to Basket’ button. Meanwhile, qabul is not only marked by payment, but is often associated with an automatic system confirmation.¹⁶ This shift in form does not necessarily invalidate the contract, because the substance of the meeting of minds (the meeting of ijab and qabul) remains fulfilled, even though the medium has changed.

This transformation also addresses academic concerns regarding the validity of electronic contracts. Fatwa DSN-MUI No. 116/DSN-MUI/IX/2017 explicitly states that electronic contracts that fulfil the elements of offer and acceptance are valid as long as the identities of the parties can be ascertained.¹⁷ In the context of digital platforms, ‘identity’ is no longer just a physical name, but can also be a username, email address, or verified phone number that serves as a digital signature for the parties involved.¹⁸ Thus, e-commerce platforms have essentially created a new space for the convergence of desires facilitated by digital interfaces.

¹⁴ Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif, Dan R&D* (Alfabeta., 2019).

¹⁵ Wahbah az-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*, vol. 4 (Beirut: Dar al-Fikr, 2011).

¹⁶ Nurlailiyah Aidatus Sholihah and Fikry Ramadhan Suhendar, “Konsep Akad Dalam Lingkup Ekonomi Syariah,” *Syntax: Literate - Jurnal Ilmiah Indonesia* 3 (2020): 274–82.

¹⁷ DSN-MUI, Fatwa No. 116/DSN-MUI/IX/2017 mengatur uang elektronik syariah.

¹⁸ Abdul Halim Barkatullah, *Hukum Transaksi Elektronik, (Sebagai Pedoman Dalam Menghadapi Era Digital Bisnis e-Commerce Di Indonesia)*, Nusa Media, 2017.

The implication of this transformation is the emergence of a faster, automated, and neatly documented form of agreement. Each stage of the transaction, from product search, addition to the basket, to payment, is stored as digital evidence that can be accessed by all parties.¹⁹ In many ways, this system minimises the potential for disputes because it provides a transparent record. Therefore, the transformation of *ijab* and *qabul* in a digital platform should not be seen as a deviation, but rather as a logical evolution of the classical concept that adapts to the spirit of the times, as long as the basic principles of willingness (*taradin*) and clarity are maintained.²⁰

b. Analysis of the Compatibility of Contract Principles with E-Commerce Mechanisms

Kesesuaian rukun akad dengan mekanisme e-commerce menjadi tema krusial dalam diskursus fiqh muamalah kontemporer. Empat rukun akad tradisional pelaku (*al-'aqidain*), objek (*al-ma'qud 'alaih*), nilai tukar (*al-tsaman*), dan sighat (*shighat al-'aqd*)²¹ remains relevant but has been re-actualised in the digital space. The four pillars of contract are actualised in e-commerce with a higher degree of certainty. First, the identity of the parties (*al-'aqidain*) is verified through the platform's KYC system. Second, the object of the contract (*al-ma'qud 'alaih*) is represented digitally, which minimises *gharar*. Third, the exchange value (*al-tsaman*) is standardised transparently. Fourth, the sighat contract has evolved into a checkout click that leaves a digital footprint as strong legal evidence.²²

Based on this analysis, it can be concluded that the e-commerce mechanism not only fulfils but in some aspects even improves the fulfilment of traditional contract requirements. Digital systems provide automatic documentation, price transparency, and more comprehensive identity verification. Thus, e-commerce can be seen as a natural evolution of traditional buying and selling practices that adhere to the basic principles of fiqh muamalah, while utilising technological advances to improve the certainty and fairness of transactions.

c. Legal Status of Digital Intermediaries in Electronic Contract Construction

The presence of digital platforms as intermediaries in e-commerce transactions raises profound questions about their legal position in contract construction. While classical fiqh

¹⁹ Kapsan Usman and Utomo Nasution, "Dampak Komunikasi Digital Terhadap Implementasi Prinsip Gharar Dalam Transaksi Online," *Islamic Circle* 04, no. 2 (2023): 61–86.

²⁰ Nevi Hasnita, *Konsep Multiakad (Hybrid Contract) Dalam Kajian Fikih Muamalah Kontemporer, Angewandte Chemie International Edition*, 6(11), 951–952., vol. 3 (UIN Ar-Raniry, 2021), <https://medium.com/@arifwicaksanaa/pengertian-use-case-a7e576e1b6bf>.

²¹ Ibn Qudamah, *Al-Mughni* (Beirut: Dar al-Kutub al-Ilmiyyah, 2020).

²² Barkatullah, *Hukum Transaksi Elektronik, (Sebagai Pedoman Dalam Menghadapi Era Digital Bisnis e-Commerce Di Indonesia)*.

recognises the role of *samsarah* (intermediary) or *wakil* (representative), digital platforms such as Tokopedia, Shopee, and Bukalapak display a more complex and multidimensional form of intermediation. They do not merely connect sellers and buyers, but create a complete transaction ecosystem with various supporting features.²³

Based on contemporary *fiqh* analysis, there are at least three perspectives regarding the legal status of this digital platform. First, the platform can be categorised as a representative of both parties because it acts on behalf of the seller and buyer in the transaction process. Second, the platform can be viewed as a *ja'ir musytarak* (joint service provider) that provides services to all users. Third, the platform has the status of a *syarikah* (partnership) because it facilitates the meeting of the economic interests of various parties.²⁴

Interestingly, digital platforms have actually surpassed the functions of traditional intermediaries. They not only bring sellers and buyers together, but also guarantee transaction security, provide payment systems, and resolve disputes. Features such as escrow (temporary fund deposit), product reviews, and return guarantees demonstrate a deeper level of involvement than that of ordinary intermediaries.

Fatwa DSN-MUI No. 110/DSN-MUI/IX/2017 concerning Guidelines for the Implementation of Sharia E-Commerce has provided clear guidance on this status. The platform is positioned as a *washilah* (means) tasked with ensuring that all transactions carried out comply with Sharia principles. They are obliged to verify products, ensure clarity of contracts, and provide fair dispute resolution mechanisms.

Therefore, the legal status of digital platforms in electronic contract construction is multifunctional. They are representatives in facilitating contracts, *ja'ir* in providing technical services, and *syarikah* in building a digital economic ecosystem. This uniqueness enriches the treasury of *fiqh muamalah* by offering a new intermediary model that is responsive to the times, as long as it adheres to the principles of justice and benefit.

2. Deconstructing *Gharar* in the Digital Ecosystem: Between Uncertainty and Technological Innovation

a. Identification of Forms of *Gharar Fahisy* in Online Transactions

In the realm of *fiqh muamalah*, *Gharar Fahisy* refers to substantial uncertainty in transactions that can lead to disputes and injustice.²⁵ In the context of online transactions,

²³ Ilham Abdi Prawira, "E- Commerce Dalam Hukum Bisnis Syariah," *Az Zaqqa': Jurnal Hukum Bisnis Islam* 12, no. 2 (2020): 35–56, <http://ejournal.uin-suka.ac.id/syariah/azzarqa/article/view/2150/1623>.

²⁴ M.Ag Prof. Dr. H. Abu Azam Al Hadi, *Fikih Muamalah Kontemporer, Sustainability (Switzerland)*, vol. 11, 2019

²⁵ Ibn Qudamah, *Al-Mughni*.

these forms of *Gharar* have been modernised and require careful identification to protect the interests of all parties.²⁶

One of the most prominent forms of *Gharar Fahisy* in e-commerce is the discrepancy between digital descriptions and actual goods. Excessively edited product photos, ambiguous descriptions, or concealment of product defects create fundamental uncertainty about the object of the contract. Buyers often feel cheated when they receive goods that are far different from their expectations based on digital displays.²⁷

The second form is uncertainty in the delivery system. Uncertain delivery times, the risk of damage during delivery, or even loss of packages cause significant *Gharar*. Although there are delivery time estimates, factors such as weather, logistical conditions, and human error still create uncertainty that is difficult to completely eliminate.²⁸

The third equally problematic issue is the lack of clarity in the warranty and return mechanisms. Complicated return policies, confusing terms and conditions, or unclear refund processes create uncertainty regarding consumer rights after a transaction. Even when platforms provide warranty features, their implementation in practice often does not match the promises made.²⁹

Interestingly, technological advances have created new and unexpected forms of *Gharar*. The uncertainty of algorithms in product recommendation systems can lead buyers to suboptimal choices. Similarly, dynamic price fluctuations regulated by artificial intelligence systems create uncertainty regarding fair exchange rates.³⁰ However, it should be noted that not all uncertainties in online transactions are considered *Gharar Fahisy*. Minor uncertainties that are reasonable and acceptable in normal business practices (*Gharar Yasir*) are still permitted as long as they do not interfere with the substance of the contract. What is important is how platforms and businesses strive to minimise various forms of *Gharar Fahisy* through information transparency, reliable delivery systems, and clear return policies.

b. *Gharar* Mitigation Strategy through Technology and Information Systems

Faced with various forms of *gharar* in online transactions, e-commerce platforms have developed sophisticated mitigation strategies that utilise technology and information systems.

²⁶ Prof. Dr. H. Abu Azam Al Hadi, *Fikih Muamalah Kontemporer*.

²⁷ Nurinayah Nurinayah, "Praktik *Gharar* Dalam Transaksi Ekonomi Islam: Telaah Terhadap Kaidah Fiqhiyah," *Tadayun: Jurnal Hukum Ekonomi Syariah* 4, no. 1 (2023): 63–78,

²⁸ Atik Devi Kusuma et al., "Gharar Dalam Transaksi Ekonomi: Analisis Hukum Islam Dan Implikasinya."

²⁹ Atik Devi Kusuma et al.

³⁰ M.A. Dr. Andri Soemitra, *Hukum Ekonomi Syariah Dan Fiqh Muamalah Di Lembaga Keuangan Dan Bisnis Kontemporer, Telematics and Informatics*, 2019.

This approach is not only in line with sharia principles, but also strengthens transparent and accountable business practices.³¹ One of the main strategies is the implementation of a digital reputation system that allows buyers to provide reviews and ratings of products and sellers.³² This rating and review system creates a peer-to-peer verification mechanism that reduces uncertainty about product quality. Sellers with poor reputations will naturally be eliminated from the digital marketplace, creating an organic quality control system.

The second effective strategy is the use of product visualisation technology such as 360-degree photos, unboxing videos, and augmented reality. This technology allows buyers to 'try' products virtually before purchasing, reducing *Gharar* arising from discrepancies between expectations and reality. Some platforms have even integrated virtual try-on features for fashion and cosmetic products.³³

Equally innovative is the implementation of a digital escrow system that holds payments until the goods are received and approved by the buyer. This mechanism prevents *Gharar* related to advance payments by ensuring that funds only change hands when the transaction is complete. This system is a modernisation of the concept of al-wadi'ah in Islamic fiqh, which guarantees the security of property.³⁴

Artificial intelligence and machine learning technologies also play an important role in detecting patterns of fraud and inconsistencies in information. AI can analyse product descriptions, images, and transaction histories to identify potential *gharar* before a transaction occurs. This system proactively protects consumers from misleading sales practices.³⁵

The latest breakthrough is the implementation of blockchain to create supply chain transparency. This technology enables the tracking of products from the manufacturer to the consumer, reducing *gharar* in the delivery process and ensuring product authenticity. Each stage in the supply chain is permanently recorded and cannot be altered.

Although these technologies are effective in reducing uncertainty, their implementation must be balanced with digital literacy education for consumers. Platforms have a responsibility to ensure that these technological features are accessible and understandable to all users, not just those who are tech-savvy.

³¹ M Iqbal, *General Takaful Practice: Technical Approach to Eliminate Gharar (Uncertainty), Maysir (Gambling), and Riba (Usury)*, 2005.

³² Atik Devi Kusuma et al., "Gharar Dalam Transaksi Ekonomi: Analisis Hukum Islam Dan Implikasinya."

³³ Nurinayah, "Praktik Gharar Dalam Transaksi Ekonomi Islam: Telaah Terhadap Kaidah Fiqhiyah."

³⁴ Atik Devi Kusuma et al., "Gharar Dalam Transaksi Ekonomi: Analisis Hukum Islam Dan Implikasinya."

³⁵ Usman and Nasution, "Dampak Komunikasi Digital Terhadap Implementasi Prinsip Gharar Dalam Transaksi Online."

c. Analysis of *Gharar* in the Perspective of Contemporary Sharia Maqashid

The understanding of *gharar* in online transactions cannot be separated from the framework of *Maqashid Syariah*, which emphasises the protection of human welfare. From a contemporary perspective, *Gharar* is not merely technical uncertainty, but any form of ambiguity that threatens the achievement of sharia objectives (*Maqashid Al-Syari'ah*).³⁶

From the perspective of *Maqashid Syariah*, *Gharar* in e-commerce threatens all dimensions of public interest..³⁷ In terms of *hifz al-mal*, it has the potential to cause financial losses due to product mismatches or fraud, making refund mechanisms and payment protection a necessity. In *hifz al-nafs*, *gharar* arises from dangerous products (such as counterfeit cosmetics or expired food) that threaten life, making product verification absolutely necessary. From the perspective of *hifz al-'aql*, *Gharar* manifests itself in the manipulation of information and dark patterns that mislead the mind, requiring transparent interface design. Meanwhile, *hifz al-nasl* is threatened by products that are dangerous to future generations (such as unsafe toys), and *hifz al-din* is violated by transactions that contain elements of usury or sharia ambiguity, making a halal and transparent payment system a prerequisite.³⁸

The contemporary *Maqashid Syariah* approach offers a more holistic perspective in analysing *Gharar*. It does not only focus on legal-formal aspects, but also considers the social and ethical impacts of digital transactions. Every form of *Gharar* must be analysed based on its level of threat to the five core *Maqashid*.

In this context, regulators and e-commerce platforms need to develop standards that not only meet legal requirements but also achieve a higher level of *maslahah* (public interest). The principles of *Jalb al-Mashalih* (bringing benefits) and *Dar' al-Mafasid* (rejecting harm) must be the guidelines in designing a sharia-compliant and equitable e-commerce system..

3. Reactualisation of Khiyar in the Digital Consumer Protection Mechanism

a. Implementation of Khiyar al-'Aib in the Product Return Mechanism

The concept of *khiyar al-'aib*, or the right to choose due to defects in classical fiqh, finds its contemporary form in the product return mechanism on e-commerce platforms. The

³⁶ Auda, "Maqasid Al-Shari'ah as Philosophy of Islamic Law. International Institute of Islamic Thought, 2008."

³⁷ Prof. Dr. H. Abu Azam Al Hadi, *Fikih Muamalah Kontemporer*.

³⁸ Auda, "Maqasid Al-Shari'ah as Philosophy of Islamic Law. International Institute of Islamic Thought, 2008."

basic principle underlying both institutions is the same: to protect buyers from losses due to ignorance of product defects and to ensure fairness in transactions.³⁹

The implementation of *khiyar al-'aib* in modern e-commerce is realised through structured return policies that give buyers the right to return goods that are defective, do not match the description, or differ from the order. Most platforms such as Shopee, Tokopedia, and Lazada have set a return period of 7-14 days after the goods are received, which in the perspective of fiqh can be seen as a reasonable time limit for inspection (*ta'yin al-'aib*)⁴⁰

The mechanism for verifying product defects has also been modernised. Whereas in classical fiqh tradition, verification was carried out directly by involving witnesses or experts, e-commerce platforms now use a digital verification system through photos, videos and written descriptions.⁴¹ Buyers are required to upload clear visual evidence of product defects, which will then be verified by the platform's customer service team. Although it does not involve direct physical inspection, this system is considered adequate because it provides objective and accountable evidence.

The challenges of implementing *khiyar al-'aib* in e-commerce arise in several forms. *First*, there is the issue of proof, where the burden is often placed entirely on the buyer. *Second*, there are differences in interpretation between sellers and buyers regarding what is categorised as a 'defect'. *Third*, there are return fees, which in some cases actually hinder consumers' access to justice..⁴²

The solutions developed by the platform to overcome these challenges are quite innovative. Several marketplaces implement automatic return policies for certain cases, such as items not arriving, items being clearly different, or defective products that are easy to prove. The digital escrow system also ensures that the buyer's funds are secure until confirmation of receipt of the appropriate goods.

From a *Maqashid Syariah* perspective, modern return mechanisms actually fulfil the objective of *hifz al-mal* (protection of property) better than traditional systems. The broad scope of protection, standardised processes, and ease of access are added values of the contemporary implementation of *khiyar al-'aib*. However, continuous improvement is needed to ensure that return policies can truly prevent losses and create fairness for all parties.

³⁹ Wahbah Al-Zuhaili, *Al Fiqh Al-Islamy Wa Adillatuhu*, ed. juz IV (Beirut: Dar al- Fikr, 1989).

⁴⁰ O Oktasari, "Al-Khiyar Dan Implementasinya Dalam Jual Beli Online," *Jurnal Agbniya*, 2021.

⁴¹ Hasnita, *Konsep Multiakad (Hybrid Contract) Dalam Kajian Fikih Muamalah Kontemporer*.

⁴² O Oktasari, "Al-Khiyar Dan Implementasinya Dalam Jual Beli Online."

b. Actualisation of *Khiyar al-Ru'yah* through the Digital Preview Feature

Khiyar al-ru'yah The buyer's right to cancel the contract if the goods do not meet expectations is now realised through a digital preview feature. High-resolution images, unboxing videos, 360° tours, and augmented reality serve as a 'substitute' for physical inspection, although they are not entirely equivalent. This feature supports *hijrah al-mal* by minimising the risk of goods not matching expectations..

Some platforms have adopted virtual try-on technology for fashion and cosmetic products, allowing consumers to 'try' products virtually. However, challenges such as visual manipulation, limitations in texture representation, and the digital divide still need to be addressed. As a solution, a visual reputation system based on previous buyer photos (crowdsourced verification) and image recognition technology for manipulation detection have been developed. In contemporary fiqh, digital previews are considered adequate if they meet three conditions: accuracy, completeness of perspective, and accessibility for all consumers..

c. The Mechanism of *Khiyar al-Ta'yin* in the Continuous Delivery System

Khiyar al-ta'yin or the right to choose⁴³ In some delivery chronologies, the modern form is found in the features for selecting shipping services and delivery methods on e-commerce platforms. The right in traditional fiqh to choose between several items offered has now evolved into the right to determine the method of receiving goods that best suits the consumer's needs. This mechanism represents the principle of freedom of choice (*ikhtiyar*) within the framework of *khiyar al-ta'yin*.

The implementation of *khiyar al-ta'yin* in digital logistics also includes a delivery tracking feature that allows consumers to monitor the journey of goods in real time. The ability to change the delivery address, reschedule receipt, or even divert the package to another pickup point is an extension of the classic *ta'yin* concept. These features increase consumer control over the goods receipt process.

However, the complexity of modern logistics systems. poses challenges in implementing *khiyar al-ta'yin*. *First*, there are limited delivery options in remote areas. *Second*, there is an imbalance of information regarding differences in service quality between shipping services. *Third*, there are disproportionate additional costs for certain delivery options.⁴⁴

⁴³ az-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuhu*.

⁴⁴ O Oktasari, "Al-Khiyar Dan Implementasinya Dalam Jual Beli Online."

The solutions developed include an automatic recommendation system based on consumer choice history, integration of multiple shipping services into a single platform, and a delivery guarantee policy that protects consumers from delays. From a *Maqashid Sharia* perspective, this mechanism supports *hifẓ al-mal* and *maslahah al-ummah* through efficient distribution of goods.

4. The Dialectic of Classical Fiqh and Digital Reality: An Integrative Analysis of the Trilogy of Akad-Gharar-Khiyar

The dynamics of digital transactions present an interesting dialectic between classical fiqh concepts and contemporary technological realities. The trilogy of akad-gharar-khiyar, which forms the pillars of conventional fiqh muamalah, has proven to be highly relevant and flexible when dealing with disruptive technology.

This dialectic produces a synthesis of contemporary fiqh thought that does not lose its classical roots but remains relevant to the developments of the times. The principle of *Al-'Ibrah Bi Al-Maqashid Wa Al-Ma'ani* (the emphasis is on purpose and meaning) is key to reinterpreting classical texts for the contemporary context. The maqashid approach allows us to preserve the substance of Islamic law while responding to technological changes.⁴⁵

The dialectic between classical fiqh and digital reality has given rise to a dynamic synthesis. The trilogy of *Akad-Gharar-Khiyar* has proven its elasticity by evolving from its formal shape towards its digital essence, which in many ways enhances accountability and consumer protection. This transformation strengthens Islamic fiqh as a living and responsive law."

5. Harmonisation of Regulations and Implementation of Sharia Principles in Indonesian E-Commerce

a. Evaluation of the Conformity of National Regulations with Sharia Principles

Harmonisation between national regulations and Sharia principles in the context of e-commerce is a necessity in Indonesia as a country with a Muslim majority. An evaluation of several key regulations shows varying degrees of compliance with Islamic muamalah principles.

The Regulation No. 7 of 2014 on Trade and the Government Regulation No. 80 of 2019 on Trade Through Electronic Systems are essentially in line with many sharia principles.⁴⁶

⁴⁵ Irsyad Kurniawan Widjanarko et al., "Implementasi Transaksi Digital Dalam Perspektif Fiqh Muamalah," *Media Riset Bisnis Manajemen Akuntansi* 1, no. 1 (2025): 68–76.

⁴⁶ Kementerian Perdagangan RI, *Analisis Implementasi PP No. 80 Tahun 2019* (Jakarta: Kemendag, 2023)

The provisions regarding transparency, consumer protection, and clarity of contracts in this regulation are in line with the principles of *Gharar* and *Khiyar* in fiqh. However, its implementation in the field still faces challenges in ensuring comprehensive sharia compliance.

DSN-MUI Fatwa No. 110/DSN-MUI/IX/2017 concerning Guidelines for Sharia E-Commerce serves as a bridge between national regulations and sharia principles. This fatwa provides specific guidelines on electronic contracts, the avoidance of usury, and sharia-compliant dispute resolution mechanisms. Unfortunately, this fatwa does not yet have binding legal force, so its implementation remains voluntary.

Several points of inconsistency were still found, particularly in digital payment mechanisms. The escrow payment system implemented by several platforms often contains elements of uncertainty (*gharar*) in the handling of funds. In addition, discount and promotion schemes that use the concept of rebates need to be reviewed to ensure that they do not contain elements of usury. The Financial Services Authority regulations on Fintech have sought to accommodate sharia principles through various derivative regulations. However, the integration between sharia fintech regulations and e-commerce still needs to be improved. Personal data protection in the PDP Law is also in line with the principle of *hifz al-'ird* (preserving honour) in *maqashid sharia*.

Going forward, a hybrid regulatory model that integrates national provisions with Sharia standards is needed. Strengthening the Sharia compliance function in e-commerce platforms, halal product certification, and the integration of Sharia audit systems could be solutions to bridge the gap between national regulations and Sharia principles.

b. Analysis of the Implementation of DSN-MUI Fatwas in E-Commerce Practice

As a central instrument of Sharia law, the DSN-MUI fatwa plays a strategic role in guiding e-commerce practices in Indonesia to align with muamalah principles. An evaluation of its implementation reveals a range of achievements and challenges in the field..

Firstly, Fatwa No. 116/DSN-MUI/IX/2017 on Electronic Contracts has led to significant changes in platform design. The majority of large marketplaces now include more transparent terms and conditions, provide explicit confirmation features, and adopt notification systems that ensure valid digital *ijab qabul*. However, on small and medium-sized platforms, implementation is still often hampered by technical and resource limitations.

Secondly, Fatwa No. 110/DSN-MUI/IX/2017 concerning Guidelines for Sharia E-Commerce has encouraged product verification to prevent *gharar*. Many platforms are now actively filtering advertisements for products that are clearly haram, such as alcoholic

beverages and products containing pork. Unfortunately, verification for products containing syubhat (ambiguous) elements, such as cosmetics with non-halal ingredients, is still not optimal due to the complexity of the supply chain.

Third, the implementation of the *khiyar* principle based on fatwa is evident in the warranty and refund mechanisms. The return and refund features, which used to be complicated, are now more accessible to consumers, reflecting the spirit of *khiyar al-'aib*. The biggest challenge is the inconsistency in implementation; the same policy can be interpreted differently by different customer service representatives.

On the other hand, several implementation challenges remain. The main obstacle is the non-binding nature of fatwas in positive law, meaning that compliance often depends on the awareness of each platform. The second obstacle is the uneven level of digital and Sharia literacy among MSME players, causing them difficulty in translating fatwas into daily operations.

c. Integration Model for Sharia and National Consumer Protection Systems

The integration of sharia and national consumer protection systems is a necessity in Indonesia's diverse e-commerce ecosystem. The integration model developed needs to comprehensively combine the strengths of positive law with sharia ethical values. There are three consumer protection system integration models that can be implemented. *First*, the Integrated Service System, which consolidates national complaint channels and sharia mediation into a single portal, as trialled in the West Java Integrated Complaint Service System (SLPT) with an 85% success rate. *Second*, the Dual Certification model, which requires platforms to have Business Confidence certification from the government and Sharia Compliance Certification from the Indonesian Ulema Council (MUI), as has been implemented by Bukalapak and Blibli. *Third*, a Hybrid Mediation Council consisting of national legal experts and fiqh experts, authorised to resolve complex disputes such as dubious products or usury practices with recommendations that are legally and sharia binding.

The main challenge lies in the harmonisation of technical regulations, where several technical provisions in the Consumer Protection Law need to be aligned with sharia principles. For example, provisions on grace periods and late fees need to be reviewed to ensure they do not contain elements of usury. The solution is to form a Joint Technical Committee consisting of legal experts and fuqaha to develop implementation guidelines. This integration is not only about uniting two systems, but creating a stronger and more comprehensive consumer protection ecosystem.

CONCLUSION

Based on the results of the research and discussion outlined above, it can be concluded that online buying and selling practices from the perspective of fiqh muamalah (Islamic commercial law) have essentially fulfilled the principles of sharia, with some important notes regarding their technical implementation. *First*, the construction of electronic contracts has undergone a significant transformation, where the concepts of ijab and qabul are no longer limited to physical meetings, but have evolved into valid digital meetings of intent as long as they fulfil the pillars and conditions of the contract. *Second*, although the potential for *gharar* in online transactions is more complex than in conventional transactions, technological advances have provided various effective mitigation instruments, such as digital reputation systems, escrow, and advanced previews, which can substantially minimise uncertainty. *Third*, contemporary khiyar mechanisms embodied through return, refund, and warranty features have successfully actualised the spirit of khiyar al-'aib, khiyar al-ru'yah, and khiyar al-ta'yin with greater scope and efficiency. The dialectic between classical fiqh and digital reality has given rise to a dynamic synthesis of thought, demonstrating the elasticity of fiqh muamalah in responding to disruptive technology without losing its normative identity..

From a regulatory perspective, the evaluation shows that despite substantive harmonisation between national regulations and sharia principles, the implementation of DSN-MUI fatwas in e-commerce practice still needs to be strengthened, particularly through an integrative approach. The model of integrating the Sharia and national consumer protection systems through integrated services, dual certification, and a hybrid mediation council—offers a solution framework for creating an e-commerce ecosystem that is not only safe and fair according to positive law, but also ethical and blessed according to Sharia principles.

Thus, it can be concluded that online buying and selling is not only permissible in Islamic law, but can also be a means of achieving broader economic benefits (jalb al-mashalih) in the digital age, as long as business actors and regulators consistently implement Sharia principles in all aspects of digital transactions.

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