



Online Counterfeit Drugs in Point View of National Laws and *Maqashid* Sharia

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Abstract

The development of information technology gives two sides of the coin in the dynamic of human life, whether positive or negative. This condition is also pertinent to transactions involving cosmetics and psychotropic substances; without close supervision, it may result in consumer harm. In light of this concern, the present study aims to examine how law reviewing the online spreading of medicines gives law protection. This research uses the normative juridical method with the legislative approach. This research uses a qualitative research method in the form of normative juridical research with a statutory approach regarding Online Counterfeit Drugs and examines the synchronization and consistency of its implementation. The legal sources used are primary and secondary sources relating to Online Counterfeit Drugs guarantees. The data collection technique uses library research by examining references to primary and secondary legal sources. Furthermore, the author investigated and evaluated the efficacy of legal sources. This study was carried out from the perspective of *Maqashid* al-Sharia. The findings of this study indicate a pressing need for regulations that protect consumers engaging in online transactions, particularly those involving pharmaceuticals, cosmetics, and psychotropic substances. Such regulations are essential to prevent consumer losses by ensuring strict liability for manufacturers if their products cause harm. Additionally, the study highlights the crucial role of pharmacists and the National Agency of Drug and Food Control (BPOM) in overseeing the distribution of drugs and cosmetics prior to their market release.

Keywords *E-Commerce, Online Spreading, Supervision, Marketplace, Maqashid Sharia*

INTRODUCTION

Changes in conventional transaction patterns to digital have an impact on lifestyle, so there is a need for effective and efficient regulations to protect the public from misuse of digital technology. This includes the establishment of Sharia-based transaction guidelines to address issues within e-commerce activities. Such guidelines should ensure the proper functioning of payment systems and the protection of consumers concerning product quality and counterfeit goods (Sari, 2023).

Counterfeit goods – medicines, cosmetics – and illegal online transactions are a concern regarding the effectiveness of law enforcement due to the lack of harmonization and synchronization of regulations related to electronic transactions, medicines, and consumer protection. Online transactions are regulated through the Information and Electronic Transactions Law (UU ITE). In contrast, medicines and cosmetics are regulated by the Health and Consumer Protection Law, regulated in Consumer Protection Law (Widyaningrum & Islamiati, 2020).

The above conditions can be seen from data from distribution inspection results by the Indonesia E-Commerce Association (IDEA) involving the Food and Drug Supervisory Agency (BPOM) in collaboration with legal authorities, where many marketplace platforms carried out fake drug transactions, where law enforcement officers have anticipated and taken firm action against

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the perpetrators by closing the market - in 2020 there were already fifty thousand market members who were taken down (Ernestia, 2021).

In Muslim-majority societies like Indonesia, the virtues of *halal muamalah* and *thoyib* (transactions that prioritize benefits) protect the public from fake medicines sold online. Socialization to the community regarding the benefits is part of *Maqashid* Shariah (Islamic means) in ensuring people's lives. Islamic law (*fiqh*) is a source of law that regulates the rules of worship and *muamalah*, namely making the relationship between God and humans and relationships between humans based on the guidance of the Al-Quran and As-Sunnah formulated by legal experts (law experts) in the study of Islamic law. Man's relationship with God is in the form of procedures and conditions for worship. The relationship between human provisions related to the economy, agreements, and legal sanctions creates personal and social order.

Maqashid means guidance or a straight direction on the way, while the other meaning is balance - neither more nor less - the other meaning is the source of life. so *maqashid* is a means of achieving a goal. Sharia means that the Creator determines it for his people to achieve a benefit. Islamic law (*fiqh*) is a source of law that regulates the rules of worship and *muamalah*, which makes the relationship between God and humans and relations between humans based on the guidance of the Al-Quran and As-Sunnah which were formulated by the jurists (jurists) in the study of Islamic law, the relationship between humans and their gods takes the form of procedures and provisions in worship, while relations between humans take the form of provisions related to the economy, agreements and legal sanctions for the sake of realizing personal and social order (Hadi et al., 2023).

The urgency of this research is the synchronization and harmonization of legislation relating to the supervision and precaution of drugs, food, cosmetics, and psychotropic online spreading to ensure the prospected and protected human rights in society based on the nation's constitution. In Islamic law, basically, the original law of *muamalah fiqh* (trade law) is *halal* until there is a provision (*dalil*) that prohibits it, but in accordance with the *Maqashid* of sharia, buying and selling must fulfil legal requirements and harmony in accordance with sharia rules, namely to achieve the benefit of the people. Likewise, in the case of buying and selling medicines online, it is permissible as long as it complies with the legal and harmonious requirements, but when the medicines traded online are illegal and potentially dangerous, then this is *haram* and not following the *Maqashid* of sharia because it will have an impact on the health of the people and even cause death (Siregar, 2022).

The research from Versita et al. (2021) states that society must be more aware of choosing drugs online so it does not harm them during consumption. Furthermore, Ernestia (2021) notes that the proliferation of counterfeit drugs, particularly during the pandemic, is exacerbated by societal constraints and the convenience afforded by e-commerce platforms. These factors eliminate the need for individuals to visit pharmacies or consult with doctors, thereby increasing the risk of adverse side effects for consumers who ingest these fraudulent medications.

Research by Livingston and Mattingly (2021) states that the circulation of illegal drugs and expired medical devices will continue to be monitored and withdrawn from all distribution networks consistently by the authorities. The difference in research regarding the withdrawal of counterfeit drug distribution lies in the research location, where the research is in the United States, as well as in methodology, where the research uses a quantitative approach based on cross-panel data (Livingston & Mattingly, 2021).

The abuse or distribution of drug counterfeit is influenced by low prices, discounts, and access to digital information that encourages consumers to ignore safety factors; for this reason, it is necessary to take preventive measures against the circulation of illegal drug sales online without a prescription, in addition to educating the public regarding legal drugs with a doctor's prescription and always consult a pharmacist (Penley et al., 2021).

There is a solution that can be given by the research, which is preventive and repressive actions against producers and distributors of those false drugs, besides the physical proof on the field normatively not up to expectation as being arranged in regulation. The research from [Siahaan et al. \(2022\)](#) stated that the optimal solution in supervising the BPOM Tanjung Pinang City does not yet give an optimal solution in supervising the false drug spreading online because there is still no standardization precaution mechanism.

Based on [Versita et al.'s \(2021\)](#) research, the finding emphasizes the awareness of consumers rationally in consuming drugs online without showing precaution or stopping the false drug transaction from spreading, so it can potentially cause side effects from consuming those drugs will always happen, and no deterrent effect also there are no actions in asking absolute responsibility from producer or tenant marketplace.

Numerous studies have addressed this topic and its associated issues. The discussion is growing, and these prior investigations found a bunch of weaknesses that happened in the field of this topic. For example, [Ernestia \(2021\)](#) explains that the involvement of law officers is only temporary- just taking down the site - without any action to give a deterrent effect and economic effect to replace the amounts of losses to the consumer is a form of producer absolute responsibility regarding the risk if anything happened to their consumer. Whereas [Siahaan et al.'s \(2022\)](#) research states that the producer is not always being evaluated because many producers violate the law in spreading drugs that are not based on the license issued by BPOM.

The gap in this research is that the circulation of illegal drugs, apart from being influenced by the ease of online transactions, low prices, and the reluctance of patients to consult with doctors and pharmacists, is also influenced by the level of public awareness of *muamalah* (trade transactions) on a product and service without considering the benefits. Therefore, based on the urgency of this issue, this research aims to examine the regulations and community culture relating to the distribution of counterfeit medicines so that they can create community welfare, especially the right to receive excellent health services.

LITERATURE REVIEW

Free trading with economic globalization has turned the transaction paradigm, along with the development of digital technology support that can make the transaction process easier, nevertheless, in the health field, especially in online shopping transactions. This can be seen based on transaction data from 2017-2021, which shows the increasing trend where in 2021, those trends reached three hundred ninety-five trillion rupiahs with the internet users reaching over 33.7% of the population such as two hundred seventy-five million people ([Halkam, 2022](#)). Online drug counterfeiting has become a global issue because it has a profound impact on world health and is a severe concern for WHO. Safety nets have been carried out regularly through online pharmacy accreditation as carried out by government and private health institutions in the European Union and the US ([UNICRI, 2023](#)).

The businessmen involved in e-commerce in Indonesia are from MSMEs, with an amount of 2.361.423 businesses as of 2020, the majority of whom are non-formal businesses that do not have a booking system ([Badan Pusat Statistik, 2021](#)). The online transaction keeps increasing is a rational thing regarding the nature of practical, effective and efficient transactions because they can be done through marketplace portals such as Bukalapak, Tokopedia, Lazada, Shopee, or JnD; social media, such as Facebook, WhatsApp, or Instagram; and also, the delivery online service, such as Gojek, Grab, Pos, JNE, SiCepat, and others ([Halkam, 2022](#)).

The shifting transaction paradigm during this disruption era has shifted patterns and methods in all fields, including digital transactions through e-commerce platforms. This term also involves the trend of internet users, online transactions, and cybercrime because the crime exists

because there is a chance and opportunity utilized by irresponsible people (Fitri, 2022).

Citing the results of a survey by the Association of Indonesian Internet Service Providers (APJII) in 2020, the first quarter increased to 73.7% from the 2019 period, following the increase in internet crime based on data from the National Cyber and Crypto Agency (BSSN) stating that cyber-crime as 2020 increased to 41% from 2019 which record almost a half of millions of criminal cases, and also with police-cyber data there was increasing in trend cases one year prior (Fitri, 2022). The cyber-world already become world attention because the violation of crime by using advanced technology can judicial cross and potentially do money laundering and white-collar crime that push the regulation supply to take care of by cyber law (Fitri, 2022).

This online pharmacy business will inevitably keep increasing along with the pharmaceutical industry's development, and the need for people to buy those drugs will increase. However, if it is not regulated, it will harm the consumer and will bring health problems to society because of these illegal drugs. Therefore, strict supervision is needed so it will be based on regulations and standards from the offline pharmacy- because basically, the spreading of drugs outside license from BOPM also involves pharmacists as an institution that has authority in recommending drug consumption, as regulated in drug and food supervision (BPOM, 2019).

Human productivity, whether individual or socio-economy supported by the existence of good health; this is the promise from the constitution that has to be supplied by the government and supported by society always to keep their health is one of good collective responsibility whether physical or spiritual health (National Agency of Drug and Food Control Republic of Indonesia, 2020).

The minimum productive life standard arranged by WHO is the fulfilment of material and spiritual needs through the supplying of service health, whether medical or paramedical (National Agency of Drug and Food Control Republic of Indonesia, 2020). The vital role of the pharmacist in service and education relating to proper drug usage makes the government give law protection to widening and distributing society health services as it regulated in Government Regulation No. 51 of 2009 about pharmaceuticals (Ariestiana, 2020).

Drugs and narcotics must have a license from a doctor to prevent un-responsible drug usage, which can cause health problems in society and the nation- also it can potentially develop illegal spreading globally and abuse the internet for criminal acts in drug transactions (Ernawaty et al., 2023). In the United States, the role of the Food and Drug Administration (FDA) is to regulate trade and supervise drug distribution. However, domestic production has declined, and the United States has become increasingly dependent on international sources of active pharmaceutical ingredients and finished drug products (FDP). This condition has impacted pharmacists and pharmacy technicians who filter and withdraw expired and low-quality drugs. Risk mitigation controlled by the FDA involves all stakeholders through policies and economic incentives, in-depth testing, and objective supervision to maintain public health and national security (Costantino, 2021).

Therefore, it needs to be arranged in its legality; narcotics via e-commerce can be dangerous because it does not use recipes from doctors. The government is responsible for the supervision and protection of society through Regulation of the Minister of Health No. 9 of 2017 concerning Pharmacies, Per BPOM No. 8 of 2020 and Ministry of Information Circular No. 5 of 2016 (Ernawaty et al., 2023).

Health services to society related to proper, legal, and according to recipes from doctors based on standards are arranged in pharmaceutical regulations to prevent drug usage without any doctor's recipe. The socialization of proper drugs abused to society gives literature and awareness about the importance of legal and proper drugs. The drug spreading must be supervised by professionals appointed by legislation to secure society's prosperity through proper drug use.

RESEARCH METHOD

The author used a form of normative legal research with a legal regulation approach and a descriptive analysis of various legal sources related to online transactions in the trade of illegal drugs without prescriptions based on the regulations in force in Indonesia. Shidarta and Achmad Ali said that normative legal methods are research based on legal materials, both written law and positive law - legal principles, legal norms, and legal rules - to study an object (ontology) of legal science (Bachtiar, 2019). Normative juridical research with a prescriptive approach is research that produces prescriptive arguments related to the truth of a legal issue seen from legal norms, legal principles, principles, legal doctrine, or theory regarding the legal facts or events being studied (Muhaimin, 2020).

The approach in this research is descriptive and qualitative. The author examines research that aims to describe and explore the object under study (Fadjarajani et al., 2020). Besides that, this research used the *Maqashid* Sharia perspective to assess the benefits of online transactions related to halal products (Takhim & Mashudi, 2018). From an Islamic economic perspective, Muslim consumer behaviour in the *Maqashid* Sharia perspective always balances the needs and benefits of goods and services consumed by considering halal and the blessings of the product (Harahap et al., 2020).

FINDINGS AND DISCUSSION

Online Counterfeit Drugs

The facilitation of transactions, encompassing payment systems, is bolstered by the convergence of convenience, the rapid advancement of innovative spirit, and an open labour market (Badan Pusat Statistik, 2021). Its negative effect is that it can become media for drugs and false cosmetic spreading that can harm society. Counterfeit drugs are drugs that are categorized as falsified drug products that are carried out knowingly (intentionally) by irresponsible and only pursuing profits from legitimate manufacturers for both patent and generic drugs, which can endanger the health and even be life-threatening and have the potential to damage trust society to producers and health systems, globally this grey economy practice is growing very fast – after narcotics, terrorism and arms trade (Singh & Gupta, 2022).

Handling Counterfeit Drugs in India involves the public in suppressing their distribution. Besides that, as of January 2023, the government requires every manufacturer to use QR codes on Active Pharmaceutical ingredients used in medicines to ensure the safety of the supply chain (Singh & Gupta, 2022). Meanwhile, in Indonesia, perpetrators can be subject to administrative fines and criminal sanctions as a criminal law remedy as a form of preventive and repressive protection (Pratama et al., 2023; Sukrianti & Mapuna, 2022).

Counterfeit drug products can be identified from the ingredients, indifference, or even the absence of active ingredients, the contents and packaging are not the same, and the product has passed the expiration date without including the name and address of the manufacturer (Singh & Gupta, 2022). Strengthening drug and food control can be carried out through institutional strengthening, namely the establishment of a Technical Implementation Unit for the Food and Drug Supervisory Agency (UPT BPOM) down to the district or city level and increasing the capacity of drug and food supervisors as well as Civil Servants Investigators of the Food and Drug Supervisory Agency (Yuningsih, 2017).

Trade in counterfeit drugs, long before globalization, was rational because human nature is greedy without considering the impact on other parties; it not only occurs in the informal market mechanism but has entered the official trade channels. This criminal network uses channels online to supply goods to individuals. The open space niche in the illegal online market requires serious supervision nationally and internationally because these transactions are invisible and not

monitored by state authorities – customs and excise. The complexity of online illegal trade makes it difficult to eradicate it without serious handling (Kikerkova & Kikerkov, 2022).

The main problem of this illegal drug trade is besides being illegal because it has an impact on public health – causing poisoning, treatment failure, untreated disease, or premature death – because the feasibility of these drugs is doubtful and even unfit for circulation – blue printer ink, amphetamines, arsenic, boric acid, brick dust, cement powder, floor, polish, leaded road paint, nickel, and shoe polish. Besides that, many strong drugs are classified as diethylene glycol pharmaceutical products (the active ingredient in antifreeze), which have caused hundreds of patient deaths due to kidney failure. There are many more impacts from the use of counterfeit drugs, so strict action is needed from the authorities (Kikerkova & Kikerkov, 2022).

In addition to the impact on public health, the circulation of counterfeit drugs disrupts the socio-economy of a country because of the high-cost effect of having to pay higher medical expenses – based on data that medical expenses are the second highest expenditure after food – and this condition will become a burden on the state -countries belonging to the lower middle class where the cost of treatment is an aspect that is neither cheap nor very expensive (Kikerkova & Kikerkov, 2022).

Pujo Purwanto in Gondokesumo and Amir (2021) said that one of the main elements in dealing with medicine (including food) is ensuring benefits and placing more emphasis on safety and the needs of human life. Consumers are also expected to have sufficient health awareness and literacy to encourage people to demand health services, including more professional drug services. People are interested in transacting counterfeit drugs because they are driven by human rationality, which is driven by the motivation of branded drugs but low prices – even though these drugs are different from the patented drugs – driven by experience in consuming these counterfeit drugs. Besides that, human rationality also expects easy and simple transactions (Adriani, 2023).

As *homo economicus* - humans who always prioritize profit and loss - and as social beings who must defend their lives, their interaction in meeting their needs is influenced by considerations of profit and loss, including in economic activity. However, as religious beings, they are required to be responsible for managing resources by God's commands - so they are free to take responsibility - and prioritize benefits, including consumption, prioritizing sufficiency, not excess, and balancing physical benefits and elements of blessing. The *maslahah* (benefit) concept is now more trendy with the term 'halal lifestyle' (Harahap et al., 2020).

As the state's responsibility to guarantee the health of its citizens, through the health ministry to socialize and also oversee the supply of quality and sufficient medicines that can be used rationally, effectively, and efficiently, health service facilities must plan the need for drugs that can meet national needs by the law no. 36 of 2009 concerning health and Government Regulation no. 51 of 2009 concerning pharmaceutical work (Siahaan & Handayani, 2019).

The pharmacist paradigm has changed from being on drugs to being based on patients, making drug provision more rational; pharmacists are not only drug concocters but can provide health literacy services, including counselling and education to patients by pharmaceutical standards so that patients can consume quality drugs to improve quality life – the indicator is that the outcome is increasing, this is indicated by a decrease in the number of visits and an increase in the patient's recovery rate (Siahaan & Handayani, 2019).

Maqashid Sharia

Humans as *homo economicus* - who are profit-oriented - sometimes get caught up in pragmatism, buying cheap products without looking at their benefits, the awareness and responsibility in fulfilling all our needs based on halal and *thoyiban* (good and halal), which are beneficial for health and safety of his soul. Islam has regulated human behaviour to fulfil their needs

based on sufficiency, halalness, and goodness. All trading is permitted until there is a prohibition against it, including fulfilling one's life needs to be beneficial, so the essence of humans is to maximize benefit. If it is harmful, it is forbidden to do so. Satisfaction is not just utility but must be well-being, property, beliefs, rationality, and the security of family and descendants. *Maslahah* is an integration of physical benefits and blessing elements (Harahap et al., 2020).

The gaps and challenges in the legal framework related to the distribution of medicines and food are still weak supervision from the competent authority (BPOM), in addition to weak public awareness of the risks, which have an impact on producers' low responsibility because they prioritize profits over consumer safety. Instead of curing, illegal drugs can have fatal consequences for people's health and mental safety. The losses experienced by the community are not only material but also the safety of their souls. The participation of stakeholders is very crucial, where the *maqasid* sharia approach in *muamalah* needs to be socialized to the community to increase awareness of the risks and benefits of the goods they consume. On the other hand, law enforcement officers must enforce effectiveness for a deterrent effect through strict liability.

The halal product guarantee regulation aims to guarantee the benefit of the Indonesian people, so with this provision, the Indonesian people get a guarantee of the benefit of the products and services offered by producers, besides that the existence of consumer protection regulations also gives attention to producers to produce halal and thoyib products and provide compensation for product defects or failure without having to prove consumer negligence.

Muslim consumer behaviour must be based on basic Islamic values, namely being aware of the existence of another life in the afterlife, so that they prioritize needs related to worship, including a blessed life, namely a life based on morals and morals. The position of wealth is only a tool to fulfil a person's living needs so that he can make the best use of his assets. Fulfilment of human life needs (*maqasid*), whether primary, secondary, or tertiary, is used to maintain the five benefit elements, including religion, soul, reason, heredity, and property, associated with the illegal drug trade. The public will consider the five elements of *maslahah* before purchasing by referring to the rules of Islamic law (*fiqh*), which are based on *kalamullah* and *Sunnah* to realize social welfare (Harahap et al., 2020; Takhim & Mashudi, 2018; Firdaus & Sahputra, 2022).

Consumer behaviour in consuming halal products will form a halal ecosystem based on awareness of benefits for safety and health besides adherence to religion. Consumers' understanding of their safety will encourage healthy living behaviour by choosing halal products and services. Knowledge and religious observance in consuming products and services influence people's awareness and rationality (Putri & Windasari, 2022). The element of benefit is sometimes rarely paid attention to by some people due to a lack of knowledge and awareness of halal products, even though these products and services are prohibited by religion (Arif et al., 2022).

The consumer nature of society is experiencing a significant upward trend due to increasing purchasing power, including increasing customer satisfaction offered by the halal industry. The higher consumer satisfaction, the higher consumer confidence in the products and services offered, including halal products and services (Verawaty, 2022). The trend of counterfeit drug sales was influenced by the factor of low public health literacy, where consumers were ignorant of the impact of using counterfeit drugs. For this reason, an effort and role of the government and interested parties are needed synergistically and collaboratively in preventing and suppressing counterfeit drug trade - the Ministry of Health, the POM, the Police, the Courts and the Prosecutor's Office, industry, importers, distributors, hospitals, professional organizations, doctors, pharmacies, drugstores, consumers, and also the public - apart from that, there is a need for quality assurance and control of drug prices in the market as well as supervision of products that are fit for distribution (Utomo, 2017).

Online Counterfeit Drugs conflict with *maqasid* sharia and consumer protection regulations

- because they ignore the five elements of benefit - so there needs to be synergy between stakeholders to ensure consumer protection. Besides that, there needs to be synchronization and harmonization of existing legal regulations so that law enforcement can run effectively and efficiently. Consumer protection demands absolute responsibility from producers and customers. BOPM and the Ministry of Health, law enforcement officials can apply strict sanctions to perpetrators of drug distribution. -Illegal drugs to provide a deterrent effect.

The existence of the drug quality assurance agency above does not necessarily provide justice; with the application of a transaction pattern based on *maqasid asy-shari'ah*, human life will be better and more prosperous and balanced between material and spiritual satisfaction (Ishak, 2016). Handling the circulation of counterfeit drugs in Nigeria by utilizing a special blockchain network, which is generated from serial numbers inputted by consumers, which in turn generates a QR Code as a form of verification of product authenticity so that it can reduce the number of victims of counterfeit drug abuse (Tijani & Tomiwa, 2022).

All transactions are lawful unless a text prohibits it (Rofam & Noor, 2014). Therefore, transactions must be based on divine, moral, and noble values (morals) to realize human benefit and guarantee halal and *toyyiban* products (Ulfa, 2021). Halal products - both food and medicine - based on purpose sharia are the main key in sharia aimed at benefit, wisdom, secrets, and general targets based on legal instruments contained in the texts of the Qur'an and Hadith with the fulfilment of elements the main points of Islamic teachings in consuming halal food are mainly related to *hifdzun-nafs* (safeguarding the soul), *hifdzul-'aql* (safeguarding the mind) and *hifdzul times* (safeguarding property), so counterfeit drugs seen from the aspect of benefit conflict with the principles of halal (Takhim & Mashudi, 2018).

The influence of needs on a benefit where in *fiqh* stated that guarding and maintaining religion, soul, mind, lineage, and wealth affect the fulfilment of needs (Firdaus & Sahputra, 2022), where Muslims must buy goods and services with the principles of halal and *tayyib* (Harahap et al., 2020). Based on BPOM data, counterfeit drugs and unregistered food products continue to increase from year to year, and according to the Directorate General of Customs and Excise (DJBC), including illegal drugs and food products, many violations are found in customs cases. Prevention of the distribution of counterfeit drugs requires an integrated team involving law enforcement officials. For this reason, Customs Officers can also be given access to early detection to prevent the distribution of illegally imported drugs and food (Apriansyah & Munandar, 2019).

Besides that, it is necessary to use technology and socialization in education to increase public awareness in anticipating counterfeit drugs and products, whereas anticipating the effects of counterfeit drug use can be done through pharmacovigilance and *toxicovigilance* to prevent the after-effects of the impact of counterfeit drugs on organ damage and patient death (Alquadeib et al., 2022; Vida et al., 2022).

Regulation Aspect

The existing regulation will protect society through administration and revocation sanction "take down" on vendors that exist in the marketplace if there are any suspected violations in regulation related to drugs or cosmetic transactions and illegal psychotropics. Although the existing regulation is not yet maximal, as stated by Mitendra in Ernowaty et al. (2023), the existing regulation is still not yet maximal in protecting society related to drugs and food spreading, so the level of legislation regulation is needed.

The law update in digitalization drug spreading needed to fill the emptiness. The regulation relating to psychotropic e-commerce, if Article 1320 of the Civil Code does not fulfil the objective elements is null and void, seen from the ITE Law (Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 about Information and Electronic Transactions and State Gazette of the

Republic of Indonesia of 2016 Number 251, Supplement Republic of Indonesia State Gazette Number 5952, 2016), does not regulate the sale and purchase of psychotropic drugs. Meanwhile, the prohibition on distributing certain types of drugs that may not be displayed on e-commerce platforms is regulated in the Ministry of Information Circular No. 5 of 2016, where the sanctions for violators are administrative (Ariestiana, 2020).

The harmonization and synchronization of absolute regulation are done to synchronize the changing conditions quickly and disruptively. The regulation must adapt toward change to prevent any mischievous practice that harms society. Europe and America are rigid and strict with products and food, also spreading health products for the security and health of their people, and if an unwanted thing happens, they apply responsibility for their product and give absolute responsibility to the producer. The high position makes producer more aware of spreading their product to anticipate market risk - product liability and strict liability (Sodikin, 2022). Settling electronic transaction disputes regarding online counterfeit Drugs is more appropriate through online dispute resolution (ODR), especially cross-border transactions, because of flexibility, cheapness, effectiveness, and legal certainty for the parties (Solikhin, 2023).

The handling of hammer drug trafficking crimes in the world, including in Indonesia, is due to the existence of regulatory obstacles that have multiple interpretations, and the procedures for imposing sanctions have not yet been regulated. For this reason, criminals take advantage of the weak aspects of these regulations by diversifying their illegal products with herbal medicines and food supplements, making it increasingly difficult to prosecute, considering that there is still ambiguity in the interpretation of the definitions of supplements and medicines (UNICRI, 2023).

The increasingly widespread crime in online transactions increasingly urges regulators in all regions to form a law Online Dispute Resolution (ODR) mechanism. However, the Law regulations have not yet specifically regulated implementation rules (Solikhin, 2023). For this reason, the regulator should issue ODR regulations - as a response to developments in the world of online trading - including procedures and procedural laws, while Law no. 7 of 2014 concerning trade states that if a dispute occurs in an electronic transaction, it can be carried out through ODR which is further regulated through government regulations. However, the more the world of e-commerce develops, the more complex the dispute resolution will be, so the regulator should make special regulations related to ODR (Tantowi, 2019).

Finally, Indonesia adopted this system through regulations related to consumer protection and implemented absolute responsibility (strict responsibility) in consumer protection law. Strict responsibility and can anticipate producers made the products more carefully. Besides that, consumers can sue service providers through dispute resolution through online dispute resolution (ODR). Consumers are also advised to be careful when carrying out online transactions, especially for illegal medicinal products, even if they look cheap, without involving a doctor's prescription and consultation with a pharmacist for the sake of health and safety (principle of *maslahah*).

Maqashid Sharia can provide justice in online drugs transaction patterns because the parties are consciously responsible based on spiritual values and morals for the common good so that business actors try to sell legal goods and consumers have the awareness to buy halal and thoyib products. Consumer protection for producers and consumers is by the principles of Islamic teachings so online and offline transactions must be based on aspects of the parties' benefits (*maslahah*).

CONCLUSIONS

The researcher argues that based on the judicial review above related to spreading drugs online can protect society, that regulation that regulates drug spreading and food cannot give maximum protection, in the point of view of *Maqashid* sharia is contrary to divine, moral, and noble

values (morals), as well as human welfare. Therefore, the standardization regulation, whether from capital or referring areas to the same regulation, needs an assessment of drugs and goods, whether licensed or already have a license continuity following supervision over spreading drugs in market-pre-market and post-market control.

LIMITATION & FURTHER RESEARCH

This research only examines licensing related to trade in counterfeit drugs seen from online trading. Subsequent research can also be carried out by combining online and offline trade because trade related to food and drugs must prioritize the benefit and safety of its use for consumers. It is hoped that with the *Maqashid* sharia principle, producers can realize that the concept of *muamalah* in Islam is not only for profit but must pay attention to consumer protection for products that are halal as well as *thoyib* (good).

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