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The failure of Indonesian e-commerce law in adapting to digital economy

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E-commerce and social media have become the main platforms for trade in Indonesia, but the legal framework governing digital transactions remains ambiguous and inadequate. Therefore, this research aimed to examine the causes of weak e-commerce regulation, the developing legal issues, and the implications for the sustainability of conventional trade. Behavioral data related to digital trading practices were analyzed across several e-commerce platforms using an empirical legal method. Muhammad al-Tahir Ibn Ashur's theory of *maqāsid al-sharia* was applied, comprising *al-maqāsid al-'ammah* (general objectives) and al-maqāsid *al-khassah* (specific objectives)to interpret the dynamics of e-commerce usage, the relationships among parties, and the legal challenges arising in online transactions. The results showed that the existing legal framework failed to keep pace with the complexity of e-commerce, leading to insufficient legal certainty, justice, and protection for all parties. Theoretically, this research extended Ibn Ashur's *maqāsid al-sharia* from moral and social domains to digital legal sphere, offering a new paradigm for understanding legal behavior in cyberspace. A conceptual foundation was provided from a practical context for reforming e-commerce regulation, emphasizing the need for a *maqāsid al-sharia*-based legal design to uphold justice, public welfare, and the protection of consumer and business rights.

E-commerce dan media sosial kini menjadi platform utama dalam kegiatan perdagangan di Indonesia. Namun, kerangka hukum yang mengatur transaksi digital masih bersifat ambigu dan belum memadai. Penelitian ini bertujuan untuk menganalisis penyebab lemahnya regulasi hukum e-commerce, berbagai permasalahan hukum yang muncul, serta dampaknya terhadap keberlangsungan perdagangan konvensional. Dengan menggunakan pendekatan hukum empiris, penelitian ini menganalisis data perilaku hukum dalam praktik perdagangan digital pada beberapa platform e-commerce di Indonesia. Teori *maqāsid al-sharia* dari Muhammad al-Tahir Ibn Ashur—yang mencakup *al-maqāsid al-'ammah* (tujuan umum) dan *al-maqāsid al-khassah* (tujuan khusus)—digunakan untuk memahami dinamika penggunaan platform e-commerce, hubungan para pihak,

dan problematika hukum dalam transaksi digital. Hasil penelitian menunjukkan bahwa regulasi yang ada belum mampu mengimbangi kompleksitas e-commerce, sehingga belum memberikan kepastian hukum, keadilan, dan perlindungan yang memadai bagi para pihak. Secara teoretis, penelitian ini memperluas penerapan konsep *maqāsid al-sharia* Ibn Ashur dari ranah moral dan sosial ke ranah hukum digital, menawarkan paradigma baru dalam memahami perilaku hukum di ruang siber. Secara praktis, penelitian ini memberikan dasar konseptual bagi reformasi hukum e-commerce di Indonesia dengan menekankan pentingnya desain regulasi berbasis *maqāsid al-sharia* yang berorientasi pada keadilan, kemaslahatan umum, serta perlindungan hak konsumen dan pelaku usaha.

Keywords: *customer protection; digital era; e-commerce law.*

Introduction

The integration of information technology in online commerce provides convenience in buying and selling transactions, as well as creates problems that represent the failure of legal regulations (Gupta et al., 2023). In this context, the use of marketplace platforms and social media as trading media does not guarantee legal certainty, justice, and public welfare since the law lacks maximum function (Fairgrieve et al., 2024) (Wibowo et al., 2024). Based on Indonesian Central Bureau of Statistics (CBS, 2020), there were 649 cases of fraud in e-commerce in Indonesia (Rahayu et al., 2023). Theft of personal data and misuse are common complaints in digital commerce (Bodhi and Tan, 2022; Lodewyk and Siahaan, 2011; Pratiwi et al., 2023). Another problem is the mismatch between expectations and the reality of the purchased goods (Fatarib & Meirison, 2020). The use of standard contracts in terms and conditions on platforms tends to create an unbalanced legal position among platform providers, sellers, and consumers (Anwar and Muslih, 2024; Nugrahaeni and Tjen, 2021). Predatory pricing and algorithmic data are other problems in the implementation and use of platforms. The reality shows that legal regulations are unable to anticipate issues in e-commerce.

Scholarly discussions on technology integration in the trade sector, such as the use of marketplaces and social media, have been conducted by various experts with diverse perspectives. For example, research shows that e-commerce provides sales and profit growth for businesses in micro, small, and medium enterprises (MSMEs) sector (Gupta et al., 2023; Salah and Ayyash, 2024; Mohamad et al., 2022; Abdillah et al., 2024; Rifas and Nushthi, 2025; Oluka, 2024). Other investigations show the impact of marketplace and

social media use on personal data security. The failures in protecting data are often not technical issues, but rather weaknesses in governance and coordination between entities managing data (Uddin et al., 2024; Abdillah et al., 2024; Indriana et al., 2023). The high intensity of digital platform use has led to legal issues, such as personal data leaks (Oluka, 2024; Mansawan et al., 2025; Rahma et al., 2024) . Digital-based business practices have the potential to affect competition (Gawer and Bonina, 2024). The dominant position of digital market, such as the manipulation of self-preference algorithms on platforms, has caused distortions (Etro, 2024; Ivana, 2024; Chen et al., 2016; Rahman et al., 2022). Therefore, the results of previous research indicate the reliability of e-commerce platforms in increasing sales and market reach. In Indonesian context, no research examines the failure of the law in adapting to the dynamics of e-commerce. This research takes a different perspective by using a critical analysis of the law's inability to anticipate changing patterns of legal relations between subjects on digital platforms, using Ibn Ahsur's *maqāsid al-sharia* theory. This theory focuses on two main dimensions, namely *al-maqāsid al-'ammah* and *al-maqāsid al-khassah,* general and specific objectives, respectively (Wahid et al., 2025). The powerlessness of trade law in dealing with e-commerce trade practices was analyzed by considering the general problems in digital commerce. Therefore, this research answers three key questions, namely, *first*, how does the law respond to trade through e-commerce? *Second*, what are the problems that arise due to the failure of e-commerce regulations, and *third*, how can the model for developing e-commerce law be dynamic and adaptable to global changes?

Method

This qualitative research used an empirical legal method to analyze the ineffectiveness of Indonesian e-commerce law in adapting to the dynamics of platform-based commerce. The main focus was on identifying and interpreting legal issues in e-commerce transactions. Primary data was obtained through direct observation of the use of various digital trading platforms and social media popular in Indonesia. The observation focused on public conversations, complaints, and transaction issues, reflecting legal behavior in e-commerce practices. In addition, primary data was collected through semi-structured interviews with consumers, producers, traders, digital business actors, legal consultants, and legal experts.

A netnography method was used to deepen the social context and user behavior in digital space (Bansal et al., 2024). This method of observation and analysis of social phenomena occurs in virtual communities. All empirical results were verified using data triangulation (Morgan, 2024) to ensure the validity and consistency of the information. The confirmed data refers to Indonesian legal framework, as stipulated in various relevant instruments, including Law Number 7 of 2014 concerning trade, Law Number 1 of 2008 concerning electronic information and transactions, Law Number 8 of 1999 concerning consumer protection, Law No. 5 of 1999 concerning the prohibition of monopolistic practices and unfair business competition, as well as Government Regulation No. 80 of 2019 concerning trade through electronic systems, and Article 1458 of the Civil Code.

In the final stage, the results were analyzed using Ibn Ashur's *maqāsid al-sharia* theory (Wahid et al., 2025), namely *al-maqāsid al-'ammah* (general objectives) and *al-maqāsid al-khassah* (specific objectives). The first concept was used to examine the social impact and public interest of e-commerce use. Meanwhile, the second concept was used to assess the effectiveness and role of regulation in digital trade ecosystem. Empirical data were also linked with *maqāsid al-sharia* theoretical framework to offer a basis for the formation and development of an adaptive and equitable digital trade law.

The issue of e-commerce regulations

Indonesia has several regulations related to e-commerce, based on the analysis of e-commerce regulatory documents. The problem can be explained as follows, First, Indonesian government Regulation of Indonesia Number 80 of 2019 concerning trade through electronic systems expands and divides the definition of business actors into organizers of trade through electronic systems (organizers) and traders. Meanwhile, Article 1 paragraph (3) of Law Number 8 of 1999 concerning consumer protection states that business actors are every person or entity carrying out activities in various economic fields. Law Number 7 of 2014 concerning trade in Indonesia, article 1 paragraph (6) reports that a business actor is defined as any individual or entity established and domiciled in the jurisdiction of Indonesia and conducts activities in the field of trade. The first two regulations (Article 1 paragraph (6) of Law Number 7 of 2014 and Article 1 paragraph (3) of Law Number 8

of 1999) define business actors with a similar scope. Government Regulation of Indonesia Number 80 of 2019 concerning trade through electronic systems expands and divides the definition of business actors into organizers of trade through electronic systems and traders. This distinction has different legal consequences, and the most important aspects are responsibility, authority, and control. The difference in definition leads to variation in interpretation by relevant institutions and business actors, as well as in law enforcement. Second, ambiguity of jurisdiction and law enforcement. Article 66 of Law No. 7 of 2014 on trade in Indonesia states that further provisions regarding trade transactions through electronic systems are managed through government regulations. In contrast, Article 2 of Law No. 19 of 2016 concerning Electronic Information and Transactions (EIT) emphasizes that EIT provisions apply to every individual, provided the legal actions carried out through information technology have consequences in Indonesia. EIT law has extra-territorial jurisdiction, but the application faces major obstacles in cross-border transactions. In the case of transactions including global platforms, there is still a fundamental question regarding the application of law during a dispute between a consumer in Indonesia and a perpetrator from another country. Third, another issue is the overlap of authority between ministries and state institutions. Article 24 of Indonesian Minister of Trade Regulation No. 36/MDAG/PER/9/2007 concerning trade business licenses requires every business actor to have a license. In practice, e-commerce is also regulated by the Indonesian Ministry of Communication, Digital, and Information Technology as an electronic system operator (ESO), as well as supervised by Business Competition Supervisory Commission (BCSC) in terms of business competition practices. This situation is complicated by the existence of Law No. 11 of 2020 concerning job creation and Government Regulation No. 5 of 2021 concerning risk-based licensing.

Fourth, Indonesian government regulates customs for low-value imported goods through Minister of Finance Regulation (PMK) No. 112/PMK.04/2018, which amends PMK No. 182/PMK.04/2016 concerning customs provisions for shipped goods. This provision establishes a de minimis value limit, hence, low-value imported products remain taxable. Since July 2020, the government has imposed a 10% value-added tax on intangible goods and services sold through electronic systems. The problems include complex

oversight, numerous components, and a rise in direct shipments of low-value goods from abroad. Fifth, Law Number 8 of 1999 concerning Consumer Protection provides a general legal basis for consumer protection, but does not address the characteristics of electronic transactions. For example, dispute resolution is often left to consumers and merchants without including platform operators. The absence of a regulator or oversight mechanism places consumers in a vulnerable position regarding refunds, product suitability, or personal data security. Article 20 of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition prohibits unfair business practices, and existing instruments are inadequate to address violations in digital ecosystem. In some cases of e-commerce platform use, current e-commerce regulatory law does not provide clear guidance for e-commerce platform management (Gupta et al., 2023). Policies and regulations are issued after problems in online transactions are reported in response to cases. Therefore, existing laws cannot address potential problems in the future.

The map of legal and regulatory problems in e-commerce from the perspective of Ibn Ahsur's *maqāsid al-sharia* theory has two dimensions, namely *al-maqāsid al-'ammah* (general objectives) and *al-maqāsid al-khassah* (specific objectives). From the perspective of *al-maqāsid al-'ammah*, e-commerce law should create justice, legal certainty, and public welfare. The unclear definition and separation between platform organizers and traders, overlapping licensing and control authorities, and handling of dispute resolution are contrary to *al-maqāsid al-'ammah*. From the perspective of *al-maqāsid al-khassa*h, e-commerce law aims to maintain a balance between individual and public interests, prevent losses and manipulation, guarantee honesty of transactions, clarity of contracts, protection of consumer rights, and fiscal justice between domestic and foreign business actors.

Practices and key issues in e-commerce

E-commerce model is more complex than conventional commerce (Dewi & Lusikooy, 2024; Purba et al., 2025.), due to the large number of parties, such as platform providers, merchants, delivery service providers, guarantors, and payment processors (Sella et al., 2024). This complexity raises legal issues, such as the positions of the parties in the transaction, which determine responsibilities in the trading process. Based on observations

and interviews with several platform users, manufacturers, and sellers, as well as several legal experts, the existence of e-commerce is unavoidable and has impacts and benefits in terms of increasing trade volume and market reach. However, this condition is not balanced by the seriousness of the government and regulators in anticipating new legal issues arising from non-specific laws and regulations. The following is an illustration of how the complex existence of e-commerce creates problems unaccommodated by existing trade laws. First, security concerns: the terms and conditions of several large digital trading platforms use standard contracts, which regulate user rights, obligations, and responsibilities regarding features and services accessed through the website, as well as the derivative sites and Android or iOS-based applications managed by the platform operator. Users are required to read, understand, and agree to the entire contents of the terms and conditions. Failure to agree to some or all of the terms and conditions restricts access to the platform. Based on survey results (Rasyid, 2024), public conversations, and complaints on social media, e-commerce platforms are used to meet various needs. There are concerns about personal data leakage (Purba et al., 2025; Sukardi et al., 2024; Ikhlas et al., 2022; Utami et al., 2021) since informants and the public often receive offers of goods and financial services from unknown sources through email, text messages, or websites. There is a general concern that more serious crimes will occur in relation to the use of personal data (Noor et al., 2025; Rakha et al., 2025). The use of the standard contracts shows the legal dominance of platform operators, which does not provide space for users.

Second, goods do not meet expectations: e-commerce platforms tend to place all responsibility on sellers. With the terms and conditions, platforms are positioned as transaction facilitators and do not guarantee the accuracy of product information uploaded. This condition shows an imbalance of legal responsibility between sellers and platform operators. Platforms are free from responsibility for product non-conformity, while there are no specific clauses regarding those guaranteeing product conformity to neglecting consumer protection aspects.

Third, Unfair competition: existing e-commerce platforms show the freedom of sellers based on observations. Platform operators promote massive discounts and shipping subsidies financed through programs such as flash sales, free shipping vouchers,

and cashback. According to survey data, 70% of merchant respondents stated that the existence of e-commerce platforms significantly influenced unfair competition. Based on interviews with Sodikin (2024), misleading pricing strategies in e-commerce are a form of unfair competition. However, legal instruments are not adaptive to monitor increasingly complex pricing algorithms. Obvious price wars are created when pricing freedom is left entirely to sellers. Pressure from platform operators on sellers to apply discounts and free shipping offers, as well as direct trade from foreign merchants, also contributes to unfair competition and tends to create market distortions (Adam, 2023). Regulatory overlap, decentralized oversight responsibilities, and the lack of government control mechanisms over transaction algorithms are the main weaknesses of competition in e-commerce.

Fourth, Return Procedures: the procedures for returning goods and refunds, as stated in the terms and conditions, show a layered policy highly dependent on the status of the seller based on observations on the platform, public conversations on social media platforms, and interviews with experts (Kurniyati, 2024). Consumers' right to return goods is limited by strict administrative requirements, such as narrow time limits (1x24 hours to 3 days after the goods are received) and the obligation to provide evidence in the form of a video. In addition, information asymmetry and unclear return clauses in the platform's terms and conditions often place consumers in a weak position. There is a need for minimum standards for return policies that are regulated (Duong et al., 2025) unilaterally by platforms. Another problem is the procedure for returning goods and money. The "terms and conditions" feature on e-commerce platforms shows that there are layered and very rigid policies highly dependent on the status of the seller. Additionally, consumers' right to return goods is limited to between 24 hours and 3 days after the goods are received, and video evidence must be provided. The clause is an attempt to shift the burden of proof entirely to the buyer, while the platform only performs administrative functions. This contradicts the prohibition on including clauses that shift the responsibility of business actors to consumers, as stipulated in the protection laws. From the perspective of *al-maqāsid al-'ammah*, the use of a standard contract shows the legal dominance of platform operators. Platforms are free from responsibility for product non-conformity, and there are no specific clauses guaranteeing the conformity of goods, neglecting aspects of consumer

protection. From the perspective of Ashur's theory, e-commerce cannot create certainty, justice, and benefits for consumers. The problem of predatory pricing and the dominance of platform algorithms undermines the ideal goals of e-commerce transactions. There are layered and very rigid policies highly dependent on the status of the seller. From the perspective of *al-maqāsid al-khassah*, these strict and rigid requirements undermine the legal objectives required to protect individual rights in e-commerce practices.

The existence of conventional trade is threatened

Based on observations, surveys, and interviews with consumers, traders, and related institutions (Sumiati, 2024), the problems in conventional markets include the following. First, a decline in the number of visitors, with a significant decrease in customer visits. Some traders have switched to e-commerce platforms, while others have changed jobs. The main problem is the presence of e-commerce platforms (Faiz & Masli, 2024), which are easily accessible, causing a decline in customer visits. In addition, there has been a massive migration of producers who can use e-commerce platforms to reach many consumers without restrictions and set prices cheaper than market prices. The expensive nature of product prices in conventional markets is the cause of declining interest in shopping. The observations of several online news media and social media platforms, public conversations show that traders at Tanah Abang Market, West Jakarta, claim to have experienced a drastic decline in sales due to online trading. A similar case also occurred at Kapasan Market, Surabaya. Traditional merchants state that the market is quiet due to the impact of online (TVOneNews.com, 2023). Meanwhile, economic observers have provided analysis on the decline in visitor numbers and transaction values in modern shopping centers such as malls. This is due to the rapid development of online trading and the use of social media as a platform. Data (CNN Indonesia, 2023) indicates the bankruptcy of MSMEs.

The phenomenon of declining visitors to conventional markets and the massive migration to e-commerce platforms reflects a shift in structure from traditional to digital competition. This condition is regulated in Law of Indonesia Number 5 of 1999 concerning Prohibition of Monopoly Practices and Unfair Competition, where every business actor is obliged to create a healthy competitive climate. However, regulatory imbalances between

conventional traders and digital business actors cause market distortions. E-commerce has an increased level of cost efficiency, while conventional markets face higher labor and logistics costs. Existing regulations, including Indonesian Government Regulation Number 80 of 2019 concerning trade through electronic systems, cannot enforce the principle of fair competition since there is no effective mechanism to balance protection between the e-commerce and conventional sectors. This situation creates the risk of unfair competition when platforms implement promotional strategies such as shipping costs, discounted prices, and algorithms (Sukarmi et al., 2024). The massive use of the internet, online trading platforms, and social media has a significant impact on the number of visitors to conventional markets. In addition, price competition has caused the weakness and bankruptcy of MSMEs (Raihan, 2024; Shafira et al., 2025). From the perspective of Ibn Ashur's *maqāṣid al-sharī'ah* theory, particularly *al-maqāsid al-'ammah*, the conditions require comprehensive laws and regulations to ensure order and interaction between relevant parties, such as sellers, buyers, and platforms. The absence of clear and comprehensive laws has led to abnormal conditions in the trading ecosystem. In the context of *al-maqāsid al-khassah*, e-commerce legislation protects consumers, ensures transparency, and eliminates difficulties in all forms of transactions. Legal uncertainty can also threaten *al-maqāsid al-khassah* to the losses suffered by e-commerce users.

The future of Indonesian e-commerce law based on *maqāṣid al-sharia*

Maqāṣid al-sharia is a moral foundation in the formation of law and can be used to balance legal certainty, justice, and public welfare, as explained by Ibn Ashur in developing the theory of *maqāṣid al-sharī'a*. This theory (Ashur and EL-Mesawi, 2006; Güney, 2024) offers *al-maqāsid al-'amma* and *al-maqāsid al-khassa* as the basis for dynamic and contextual legal development. Law must be oriented towards the enforcement of justice, the guarantee of human rights, and collective benefits (Kamali, 2012; Mattori and Rusdiana, 2023; Sunaryo et al., 2024). Ibn Ashur's theory serves as an ethical compass in the formation of e-commerce law, where the law ensures procedural aspects in the implementation of digital commerce and operates in distributive justice and substantial benefits for society (Joshi and Doorn, 2021; Suhartana et al., 2025; Mayana et al., 2024). The dimension of *al-*

maqāsid al-khassah allows adaptation to social and technological conditions simultaneously, since the law can adjust. Following the development of e-commerce law, *al-maqāsid al-khassah* serves as a guide in legal instruments and policies to provide consumer protection, personal data security, and dispute resolution mechanisms. Legal justice is measured based on compliance with normative aspects and the creation of balance between technological effectiveness, legal certainty and protection, and social welfare (Anshar, 2024). Therefore, Ibn Ashur's *maqāsid al-sharia* theory has the potential to become a new paradigm in future legal reform. The integration of *al-maqāsid al-'ammah* and *al-maqāsid al-khassah* in the design of e-commerce law is a normative transformation and ethical reconstruction, serving as a tool to achieve legal substance in the current digital era.

This research offers a model of reconstruction in legal development. First, the normative dimension, namely the revision of existing e-commerce regulations by integrating digital ethics, facilitates the moral responsibility of platform operators towards consumers. Second, the institutional dimension, including the need to establish digital supervisory agency, acts as a supervisor of e-commerce practices to prevent algorithmic practices, predatory pricing, and misuse of personal data. This institution integrates the supervisory roles and functions of the Ministry of Trade, the Ministry of Digital and Information Technology, and the Business Competition Supervisory Commission. In this context, the regulation and supervision become more consistent and oriented towards the public interest. Third, the substantive dimension to create justice and ensure legal certainty and benefits for the community in the settlement of e-commerce disputes promotes restorative and preventive methods.

Conclusion

In conclusion, the legal framework for e-commerce has not developed in line with digital economic transformation. The result shows that existing laws are conceptually based on the conventional trade paradigm. Even though the legal system officially recognizes electronic transactions, the normative and procedural structure is influenced by traditional commercial assumptions, leading to regulatory rigidity and a lack of responsiveness. This research identifies structural and institutional weaknesses, inconsistencies in authority,

unclear legal positions between platform operators, sellers, and consumers, as well as accountability mechanisms. Issues relating to data leaks, price fixing, product mismatches, and non-transparent return mechanisms show the weaknesses of e-commerce legal protection system. The shortcomings report a normative gap between the formal legality of the law and the ethical dimension, as well as the failure to regulate online commerce. This research also obtains a competitive gap between digital and traditional markets.

A normative-ethical reconstruction of e-commerce law is recommended based on the principles of *maqāṣid al-sharīa*. This integrative framework offers an innovative juridical model that harmonizes technological adaptation with ethical accountability, emphasizing a balance between economic efficiency, justice, and public welfare. The proposed method enriches legal research and provides a reference for policymakers and academics aiming to harmonize digital transformation with sustainable and inclusive legal development. Therefore, this research contributes to the reform of e-commerce regulations in Indonesia and broader global discussion on the application of ethical jurisprudence in digital governance systems.

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