



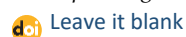
Research Paper

Sale Legality of Rejected Bandage on Shopee Application from The Perspective of Sharia Economic Law and Protection Law Consumer

Taufik Naufal, Arief Cahyono, Dery Ariswanto

^{a,b} Universitas Nahdlatul Ulama Sunan Giri Bojonegoro

Corresponding email: taufiknaufal1112@gmail.com



Leave it blank

ARTICLE INFO

Keywords:

Al- dharar, Reject Sanitary Napkins, Consumer Protection

Article history:

Received: 2023-01-05

Revised: 2023-02-07

Accepted: 2023-03-25

Available online: 2023-05-01

To cite in APA style:

ABSTRACT

Currently, reject products are not foreign commodities traded in Indonesia, one of which is reject sanitary napkin products. Many of these rejected sanitary napkin products are circulating on the market, such as those on the Shopee application. Reject sanitary napkins themselves are described as products that do not pass the quality control (QC) stage and have defects or damage that should not be suitable for distribution based on Indonesian law. From the perspective of sharia economic law, rejected sanitary napkins with their dangerous risks (dharar) to the health of their users can become a buying and selling practice that is prohibited due to the conditions of the object. However, many rejected sanitary napkin products are still circulating in the community. The research results show that rejected sanitary napkins sold through the Shopee Application are products that are in a condition that does not meet production standards (damaged) and are in a condition of defects and holes. Findings in the field are the reasons why the sale of rejected sanitary napkins violates the Consumer Protection Law. From the perspective of sharia economic law, the sale of rejected sanitary napkins can provide permissible law if it does not cause definite harm or risk to the user's health, but if the product causes negative impact then this practice is a prohibited sale and purchase. From a legal dharar perspective, this is permissible because the impact is a khafi, or madarat, whose impact is uncertain.

This work is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License

Introduction

Nowadays buying and selling activities are activities that cannot be separated from humans. With the development of technology, it makes it easier for humans to fulfil their needs. This condition also occurs because humans are dynamic social creatures, so they

experience development and change to lead to a more advanced civilisation than the previous era (Pratiwi, 2020) For example, e-commerce (Shopee, Tokopedia, and Lazada) and fintech are aspects that contribute to the influence and development of economic progress (especially MSMEs) and people's lives in general (Ridlwani Hambali et al., 2024, p. Hal. 6.)

In Islam, the term that explains the relationship between humans and humans such as bartering something that is balanced and equally has value with methods that have been understood and agreed upon is generally called muamalah. Hendi Suhendi, *Fikih Muamalah* (Jakarta: Raja Grafindo Persada, 2005). Muamalah activities are linguistically explained as an interaction in buying and selling or something else. (Umar, 2008, p. p. 1554.) Not limited to human relations with humans (social), but also in buying and selling activities or transactions (economic) that seek profit. The term muamalah also means that if you do muamalah, it means that you communicate, interact, mingle or mingle with someone (Syabir, 2010, p. hal. 11.)

One form of activity from muamalah is in commerce or buying and selling activities which in Islam have been regulated properly based on the guidance of the Qur'an and sunnah starting from the pillars, conditions to the object. Islam in providing guidance has clear guidelines, namely in order to keep up with the times so as not to cause narrowness and loss between the parties to the muamalah (Bakry, 2013, p. hal. 41.)

In this modern era, buying and selling activities cannot be separated from prudence, especially if the buying and selling practices are not carried out directly between the seller and the buyer. Including the practice of caution in buying and selling activities is the practice of buying and selling reject sanitary napkins on the Shopee application. The rejected sanitary napkins sold on the Shopee application come from two terms, namely the words sanitary napkins and reject. Sanitary napkins are explained as sheets of cellulose or synthetic material that function to absorb fluids when menstruation arrives or other fluids from the vagina (Rokom, 2015, p. Accessed 9 January 2024.) In the production process, it comes from cellulose material that goes through a bleaching process. Sanitary napkin products are important needs of a woman that must be fulfilled once a month. While reject is a term that refers to products that do not pass the company's product feasibility test. Therefore, rejected sanitary napkins can be explained as sanitary napkins that do not pass the feasibility test during production at the factory or there are defects in the product.

Rejected sanitary napkins in practice are sold wholesale in the form of loss packs (unofficial loose packaging), ranging from 20 contents per pack to 100 contents per pack. As for the reject sanitary napkins, in practice, there were sales of products which at the time of the order had been received by the buyer in a damaged, defective, perforated condition and some smelled musty. The condition of such products certainly has a risk that is harmful to health.

Obgyn specialist from Brawijaya Antasari Hospital, Dinda Dardameisya said that rejected sanitary napkins are products that are not suitable for use. She said that disposable sanitary napkins that are not suitable for use because they have expired or rejected sanitary napkins certainly should not be used. The reason is because they did not make it through the quality control (QC) process. Related to the danger, coupled with the absence of guarantees

related to the safety and cleanliness of the reject sanitary napkins (A.D., 2023, p. diakses 29 Januari 2024.)

The Head of the Bojonegoro District Health Office in terms of the sale of reject sanitary napkins on the Shopee App also gave a similar statement. That if an item does not pass the feasibility test at the production level, it should no longer be circulated in the community. Especially if the item is related to one's health. The product should have been destroyed since the production process, it is because the product has the potential to result in health problems from consumers (Head of Bojonegoro Health Office, 2024). In addition to the health side, when the seller offers the product to consumers, the seller also provides an unclear explanation about the product. The description does not provide a complete explanation that is in accordance with the condition of the product. So that when the product is ordered, consumers do not know the condition of the goods clearly, which then causes harm to consumers..

The sale of the reject sanitary napkins led to various responses. Some gave a favourable view, while others gave the opposite. Consumers who gave a positive response are because the product has several advantages, for example, the price is cheaper than buying a non-rejected product, the seller's response is good to feel happy because they received the product in good condition. Meanwhile, negative responses arise from consumers who feel disadvantaged when they find the product they receive in bad condition.

When viewed from a legal perspective, namely from consumer protection law and sharia economic law, reject sanitary napkins have problems that make them worthy of in-depth study. Whereas according to consumer protection law in Indonesia, the activity of selling reject products or those with damage, defects and the like that occur in the production process should not be circulated or used, while in terms of sharia economic law, selling dangerous products is not in accordance with the requirements of the object of sale and purchase and can be punished as haram.

Referring to the explanation above, reject sanitary napkin products although potentially illegal in the eyes of the law because of the discovery of defective products, holes and bad smells in sales practices, these products can still be circulated. It is also feared that the rejected sanitary napkin products have potential risks and endanger the health of buyers, especially those that can cause loss or damage to the vital organs of women, which does not meet the requirements of buying and selling in Islam, because in Islam it is prohibited to sell goods that are harmful or dharar. In this study, the author specifically wants to analyse the practice of selling reject sanitary napkins on the Shopee App using a review of consumer protection law and sharia economic law. Referring to the description above, the author is then interested to raising it in a research entitled "Analysis of the Legality of Selling Reject Pads on the Shopee Application from the Perspective of Consumer Protection Law and Sharia Economic Law".

Research Methods

The research conducted by the author uses qualitative research methods. The use of qualitative methods because this method prioritises research that is more holistic or comprehensive to enable the collection of more complete, in-depth and comprehensive data.

(Sunggono, 2016, p. p. 67.) This type of research uses field research, which focuses on observing the practice of selling reject sanitary napkins from sellers on the Shopee Application. By conducting research directly in the field, the data obtained has a higher level of accuracy because it is more factual. In the field, the author obtained data through interviews, observation and documentation. There are 3 business actors or sellers who are used as sources who are located in Sidoarjo City. For data on buyers of reject sanitary napkins, the author obtained data online through the Shopee application. While secondary sources are obtained from books, books, journals, and the like as well as news that has been published by institutions or institutions, as well as other literature in accordance with the object of research as a support in the implementation of research. (Rian Tineges, 2021, p. hal. 1.) The data collection methods used by researchers include interviews, observation, and documentation obtained from the research location. While in the data analysis technique there are a number of processes that are passed, namely data inspection, verification, data analysis process and then drawing conclusions. (Nana Sudjana, 2008, p. hal. 84.)

Discussion and Results

Mechanisms and Findings on Sales Reject Sanitary Pads on the Shopee Application

The sales of reject sanitary napkin products on the Shopee application, the product distributor is not an official part of the company. This is known based on interviews with informants who claimed that their products came from the second/third hand from the main distributor (unscrupulous). They did not meet the distributor directly when making product transactions. Communication is only based on mutual trust from the WhatsApp (WA) application. Then when the order is placed via WA, the interviewees cannot fully choose the product they want, because the products that come from the distributor are limited.

Bookings generally take between 1-3 months. Before the product is delivered, the source must make an advance payment or down payment (DP) of an amount that varies depending on the agreement. When the product is ordered, the seller cannot fully ensure that the product ordered will be 100% in accordance with the order (quality and type unknown). For example, when an order is placed for safe night carm pads 35 cm in the amount of 10 packages (balls), each package contains 50 pcs. The orderer after getting the goods sent from Jakarta (distributor) can only check the goods after arriving at the location. When it turns out that the product that has arrived has defects, the distributor cannot be held responsible, because the responsibility is entirely in the hands of the product orderer.

Products sent by distributors are loss packs, which means loose packaging and no official packaging. The sanitary pads delivered varied from 25, 35, 50, 75 to 100 contents per pack. Since sanitary napkins are rejects or products that did not pass QC, it is common to find defective products when they are received. Based on the interviewees, the number of defects per pack cannot be predicted. Sometimes there are many, sometimes there are few.

Shopee has a rating feature in the form of 1 to 5 stars accompanied by a comment column and documentation and videos. So that after the product is received at the location, the customer can give a rating as he feels. Some customers claimed that the product was in line

with the price. Others complained that many of the products sent had holes or defects. There are also those who write that the quantity does not match the product description. However, buyers generally gave good reviews on the products in the product rating column in the Shopee app, and there were no buyers with clear complaints of illness or health problems

Store Name	Product	Evaluation Based on Stars				
		5	4	3	2	1
Continuous blessings	charm safe night 35 cm contains 50 // sanitary napkins los pack	1400	227	58	18	14
	100pcs Day/Night Sanitary Pads	262	32	11	1	1
Umiumashop57	Sanitary Napkins 23cm 26cm Contents 100pcs (random type)	927	174	45	9	19
	Cheap promo in3 herbal sanitary napkins Nina 23cm 24cm 28cm 33cm contains 50 pcs	192	25	11	1	2
Yantidusunwaru	charm safe night sanitary napkins 29cm wings / night wings 35cm contains 50 lospack	13	0	1	1	0
	softex leaf UK betel 23cm & 35 cm per ball lospack wing & non wing check display case	71	5	2	0	2

Table 1 Sample assessment data reject sanitary napkins on the Shopee

Dr Dinda Derdameisya, an obgyn doctor from Brawijaya Antasari Hospital said that the product is not suitable for use. She said that rejected sanitary napkins because they did not pass quality control (QC) or expired sanitary napkins should not be used. Related to the danger, there is also no guarantee regarding the safety and hygiene of the rejected sanitary napkins. (A.D., 2023) Andy Sugiharto Winodihardjo, an Obgyn specialist at Ibnu Sina Bojonegoro Hospital, explained that rejected sanitary napkins should be avoided from daily use. The risk posed by the use of such sanitary pads can cause external skin disorders, such as irritation or the like. Instead of using products that are clearly not labelled, it is better to use common ones that still have clear labels and expiry dates.(Bojonegoro, 2024, p. tanggal 15 Mei 2024.)

The Head of the Bojonegoro District Health Office in terms of the sale of reject sanitary napkins on the Shopee App also gave a similar statement. That if an item does not pass the feasibility test at the production level, it should no longer be circulated in the community. Especially if the item is related to one's health. The product should have been destroyed since the production process, it is because the product has the potential to result in health problems from consumers.(Kepala Dinas Kesehatan Bojonegoro, 2024)

Analysis of Law Number 8 Year 1999 on Consumer Protection on the Sale and Legality of Reject Sanitary Napkin Products on the Shopee Application

Consumer comes from the translation of the word consumer (English), or consument / Consument (Dutch). The Consumer Protection Law (UUPK) defines consumers as every person who uses goods and or services available in the community, both for the benefit of themselves, families, other people and other living things and not for trade.

When shopping for daily necessities, every product purchased by consumers must be ensured to be of good quality. Likewise, when consuming a product, it is important for consumers to get protection so that consumers can be kept away from the negative effects of using a product. However, in reality, in some conditions consumers do not get their rights to get decent products. From the object of the sale and purchase transaction of reject sanitary napkins, reject sanitary napkins are described as sanitary napkins that do not pass the quality control stage in the production process and should not be circulated or traded in the community.

The state in protecting its people in transactional activities and buying and selling can take refuge in Law Number 8 of 1999 concerning Consumer Protection. In full, UUPK in article 8 paragraph 1 reads:

“Business actors are prohibited from producing and / or trading goods and / or services that:

- a. does not meet or is not in accordance with the required standards and provisions of laws and regulations;
- b. does not match the net weight, net or net contents, and the amount in the count as stated in the label or etiquette of the goods;
- c. does not match the size, measure, scale and amount in the count according to the actual size;
- d. does not match the condition, guarantee, privilege or efficacy as stated in the label, etiquette or description of the goods and / or services;
- e. does not match the quality, level, composition, processing, style, fashion, or certain uses not in accordance with the conditions, guarantees, features or efficacy as stated in the label, etiquette or description of the goods and/or services;
- f. not in accordance with the quality, level, composition, processing, style, fashion, or specific use as stated in the label or description of the goods and/or services;
- g. not in accordance with the promises stated in the label or description of the goods and/or services not in accordance with the promises stated in the label, etiquette, description, advertisement or sales promotion of the goods and/or services;
- h. not stating the expiry date or the best period of use/utilisation of certain goods;
- i. not following the provisions of halal production, as stated in the "halal" statement included in the label;
- j. not putting up labels or making explanations of goods that contain the name of the goods, size, net or net weight/contents, composition, rules of use, date of manufacture, side effects, name and address of the business actor and other information for use which according to the provisions must be put up/made;
- k. not putting up information and/or instructions for the use of goods in the Indonesian language in accordance with the provisions of the applicable legislation.

Rejected sanitary napkin products are described as products that do not meet the company's production standards. During the sale and purchase transaction, it was found that the reject sanitary napkin products traded by Shopee sellers had damage, defects, no labeled packaging, and were potentially contaminated. Therefore, in practice, the sale of reject sanitary napkins is an act that violates the provisions of the legislation mentioned above in Article 8 Paragraph 1 of Law Number 8 Year 1999 on Consumer Protection.

Rejected sanitary napkins that do not pass quality control (QC) in the production process should not be circulating from the public. However, in reality, these products are still circulating freely on the Shopee application marketplace or even direct sales. Article 8 Paragraph 2 which reads as follows:

"Pelaku usaha dilarang memperdagangkan barang yang rusak, cacat atau bekas, dan tercemar tanpa memberikan informasi secara lengkap dan benar atas barang dimaksud."(Presiden Republik Indonesia, 1999, p. hal. 3.)

Therefore, this practice is not in accordance with Article 8 paragraph 2 of the Consumer Protection Law. Then analysed in terms of legality, because there is a law that regulates the prohibition of circulation of damaged, defective or contaminated products, reject sanitary napkins are products that are not legal and prohibited from being circulated under positive law. Referring to the explanation and exposure of the risks due to the use of one pharmaceutical product, namely sanitary napkins, reject sanitary napkins which are failed products with conditions that do not comply with production standards are products that are prohibited from being traded. This is as stated in Law Number 8 Year 1999 on Consumer Protection Article 8 Paragraph 3 which reads:

"Pelaku usaha dilarang memperdagangkan sediaan farmasi dan pangan yang rusak, cacat atau bekas dan tercemar, dengan atau tanpa memberikan informasi secara lengkap dan benar."(Presiden Republik Indonesia, 1999, p. hal. 3.)

When looking at the above analysis, reject sanitary napkins, which are pharmaceutical products, are not suitable to be traded or traded in the community due to their high health risks. On its packaging, which is a loss pack, there is no complete and correct information in accordance with the stipulated provisions. Then legally, based on article 8 paragraph 3 of the consumer protection law, reject sanitary napkins are products that are prohibited from being traded or sold to the public. Rejected sanitary napkins that have been circulated to the public must receive special attention so that this condition does not continue. As explained above, rejected sanitary napkins are failed products that do not pass the quality control (QC) stage in the production process which poses a risk to women's health. Based on the observation process in the Shopee application, it was found that the products circulated contained elements as contained in article 8 paragraphs 1, 2 and 3. On this basis, in accordance with the contents of article 8 paragraph 4 which reads:

"Pelaku usaha yang melakukan pelanggaran pada ayat (1) dan ayat (2) dilarang memperdagangkan barang dan/atau jasa tersebut serta wajib menariknya dari peredaran."(Presiden Republik Indonesia, 1999, p. hal. 3.)

Business actors who in this case are sellers of reject sanitary napkins must be responsible by withdrawing them from circulation and not posting products in the shop that the seller has in the Shopee application.

Sharia Economic Law on the Sale and Legality of Reject Sanitary Napkin Products on the Shopee Application

Theory of buying and selling

In a hadith from Abu Tsa'labah, the Messenger of Allah (SAW) said that if you hunt using arrows, then when your quarry disappears from your sight. You should immediately eat it before it rots. From the above hadith states that eating food that is damaged and not suitable for consumption is prohibited.(Al-Asqolani, 1956, p. hal. 302.) According to this Hadith, a Muslim is prohibited from eating food that has spoiled, smelled, coloured or shaped. According to Imam Nawawi and the scholar Al-Qodhi'Iyadh, this prohibition falls under the category of makruh. However, eating bad food that can cause harm (madharat) is haram. Some people even say that eating unhealthy food is haram in its entirety.(Al-Asqolani, 1956, p. hal. 306.)

Sale and purchase comes from the Arabic al-bai' which means selling, exchanging something for something else, or the exchange of something for something with the aim of transferring ownership.(Azqia, 2022, p. hal. 65.) Buying and selling is a term that can be used to refer to the two sides of the transaction that occur at once, namely selling and buying. Islam prescribes buying and selling and makes it permissible. Islam considers buying and selling as one of the means of labour, so the Qur'an gives it a good character.(Syaikhu, 2020, p. hal.35.) According to Wahbah Az-Zuhaili, buying and selling etymologically is the exchange of valuable goods for their kind in a legal and special way, namely ijab kabul or mu'athah (without ijab kabul).(Ghazzaly, 2010, p. hal. 68.) The legal basis for buying and selling in the Qur'an in Surah Al Baqarah verse 275:

Meaning: Orang-orang yang memakan (bertransaksi dengan) riba tidak dapat berdiri, kecuali seperti orang yang berdiri sempoyongan karena kesurupan setan. Demikian itu terjadi karena mereka berkata bahwa jual beli itu sama dengan riba. Padahal, Allah telah menghalalkan jual beli dan mengharamkan riba. Siapa pun yang telah sampai kepadanya peringatan dari Tuhannya (menyangkut riba), lalu dia berhenti sehingga apa yang telah diperolehnya dahulu menjadi miliknya dan urusannya (terserah) kepada Allah. Siapa yang mengulangi (transaksi riba), mereka itulah penghuni neraka. Mereka kekal di dalamnya. (QS: Al Baqarah; 27 Meaning: Those who eat usury cannot stand except as one who staggers because of a demon. This is because they say that buying and selling is the same as usury. But Allah has made buying and selling lawful and usury unlawful. Whoever receives a warning from his Lord (concerning usury), then stops, and what he used to earn is his, and his affair is with Allah. Whoever repeats (the usury transaction), they are the inhabitants of Hell. They shall abide therein. (QS: Al Baqarah; 275).(Kemenag, n.d.)

All Muslims, represented by scholars, have agreed on the permissibility of buying and selling. Therefore, this is a form of *ijma'* (consensus) because no one has challenged it..(Hidayat, 2015, p. hal. 4.) Based on the content of the verses and hadiths, the scholars concluded that buying and selling is permissible. Then according to Imam Ash Syatibi (the Maliki school of fiqh), the law can change to obligatory or something else based on the conditions..(A. Hasan, 2003, p. hal. 117.) The ruling on selling can vary depending on the circumstances including:(Choiriyah, 2009, p. hal. 22.) Mubah, mubah law is the original law of buying and selling activities according to Islam. Al-Imam Ash-Shafi'i asserted that the basic law of buying and selling is all permissible, that is, if both parties are willing to do so. Obligatory, such as a judge is obliged to sell the property of a person who is *muflis* (bankrupt), namely, a person whose debts are more than his assets. Haram, which is forbidden because the item that is the object of the contract does not fulfil the terms and conditions of the contract, such as the item is unclean, or the item does not exist, or the item is destructive and does not provide benefits, or it is impossible to deliver the item. Sunnah, such as selling to friends or relatives and to people in dire need.

In the implementation of buying and selling, there are pillars and conditions that must be fulfilled. A pillar has the meaning of something that must be fulfilled for the validity of the work. In buying and selling based on the opinion of the Hanafiah scholars, there are two, namely *ijab* and *kabul*. As for the opinion of the majority of scholars, the pillars of buying and selling must include four, including: Seller (*Bāi'*), Buyer (*Mushtari*), *Ijab* and *qabul* (*Sij̄hat*), Object traded (*Ma'qūd 'alaih*).

The conditions of buying and selling according to the majority of scholars are in accordance with the pillars of buying and selling, which are bound to the subject, object and *Ijab* and *Kabul*. The following are the conditions of buying and selling as follows:

Aq̄idain (seller and buyer), Both parties to the sale and purchase agreement are required. The perpetrators of the contract or the parties to the contract are central figures who have a role as subjects in carrying out the essence of the contract, namely *ijab-qabul*, without these two parties the contract cannot be formed.(Dery Ariswanto, 2021, p. hal. 71.) The conditions that are inherent and must be fulfilled by the parties to the contract are 1) of sound mind, 2) with their own will (without coercion), 3) *baligh* or adult. If they have reached the age of 15 or have had a dream (for men) and menstruation (for women), the contract must be fulfilled. Syaikh, Fikih Muamalah: Memahami Konsep Dan Dialektika Kontemporer, K-Media, Pertama (Yogyakarta: K-Media, 2020), hal. 53.

Ma'qūd 'alaih (object of sale and purchase), what is meant by the object of sale and purchase is the object that is the cause of the sale and purchase agreement. The object must fulfil the following conditions: Firstly, the goods are pure. The goods being traded are not objects that are qualified as unclean objects, or classified as forbidden objects. Secondly, it can be utilised. Basically, all objects that are used as objects of sale and purchase are goods that can be used, such as for consumption, enjoying their beauty, and being used for useful purposes such as vehicles. Third, it belongs to the person doing the contract. The person who makes the sale and purchase agreement is the legal owner of the goods or has received

permission from the legal owner of the goods. Fourth, being able to deliver, meaning that the seller either as the owner or as a power of attorney can deliver the goods used as the object of purchase in the form and quantity promised at the time of delivery of the goods to the buyer.

Fifth knowing and see for themselves the condition of the goods both regarding the count, measure, scale and quality. If in a sale and purchase the condition of the goods and the amount of the price are not known, then the sale and purchase agreement is not valid. Because it could be that the sale and purchase contains elements of fraud. Sixth, the goods being dealt with are in hand. So that the sale and purchase agreement on something that has not been handled (not in the control of the seller) is prohibited because it could be that the goods are damaged or cannot be handed over as promised. Seventh, the goods being sold do not contain harmful misfortune or elements of dharar. (Fathoni, 2013, p. hal. 60.)

Akad (ijab and kabul). Ijab is a statement from the first party regarding the content of the desired engagement. Meanwhile, kabul is a statement from the second party to accept it. Ijab kabul is held with the intention of showing mutual consent to the binding carried out by the two parties concerned. In practice, the terms of sale and purchase are important elements that must be fulfilled. Because these conditions make the validity of a sale and purchase contract that is carried out. The reject pads as the object of study in this research have been described above that contain elements that can invalidate the validity of the sale and purchase contract, namely the ma'qud alaih or the object of sale and purchase. Because rejected sanitary napkins are products that contain the element of dharar that can harm users when used.

The ruling on buying and selling practices can vary according to the circumstances. In the practice of buying and selling reject sanitary napkins, the sanitary napkin products traded can be included in the prohibited or permissible sale and purchase, because it depends on the consequences of the product, namely if it causes madharat or harm to the user, it is clearly prohibited because it is life-threatening, but it is permissible if the madharat experienced does not directly have an effect or impact that causes damage.

Based on the description above, the sale of rejected sanitary napkins becomes a prohibited sale and purchase practice in Islam if the object is that users experience harm to health (madharat muhaqqah), which can be a clear cause of harm to death. This is because rejected sanitary napkins do not comply with the terms of sale, which is not selling goods that are not harmful, while rejected sanitary napkins are products that contain elements of dharar that have risks to the health of users. However, based on the results from the field, the harm to consumers is still tolerable, treatable or does not have a clear impact on the soul (ghairu muhaqqoh) or the damage is considered only potential and unproven (dharar muhtamal). Therefore, the sale of reject sanitary napkins is deemed permissible (mubah).

Dharar Theory

Al-dharar which means "harm must be eliminated". When viewed from the linguistic aspect of the words and have the same meaning but the object is different. The meaning of *al-dharar* is an act that is done by one person and is harmful only to oneself. While *dhirār* is an interrelated action that is done by two or more people, and is harmful to oneself and others. Meanwhile, *dhararu* means doing harm to others in an absolute sense, causing harm to others

in a way that is not permitted by religion.(Al-Nadwi, 1986, p. hal. 252.) The legal basis regarding the permissibility of al-dharar in the Qur'an is in Surah Al-Baqarah verse 173:

Meaning: Indeed, He has only forbidden to you carrion, blood, pork, and (the meat of) animals slaughtered in (the name of) other than Allah. But whoever is compelled to eat them out of necessity, not out of craving, and does not transgress the limits, there is no sin on him. Indeed, Allah is Forgiving and Merciful.

Contemporary Fiqh experts, namely Wahbah Zuhaili, explain the definition of al-dharar as something whose level of need reaches the highest level and the most difficult situation, so that people are in danger of threatening their lives, property and the like.(Zuhaili, 1985, p. hal. 67.) The permissibility of doing or forgoing something because of dharar is to fulfil the rejection of harm, not anything else. In this regard Wahbah az-Zuhaili divides human interests in something with five classifications, namely:(Bisri, 1977, p. hal. 22.) Dharurat is a situation where delayed help can cause death or near death. In this case, human interests are prioritised, and it is permissible to use something that is prohibited, because it is at the top of human interests. Hajat, which is a situation where delayed help will only cause fatigue or a situation that does not lead to death or near death. Benefit, which is the human interest to create a decent life. The fourth is Zinah, which is human interest related to aesthetic values or beauty. Fudhul, which is a human interest that is only for the sake of exaggeration, which may lead to disobedience or forbidden things.

Based on the level of danger dharar can be divided into al-dharar al-muhaqaqah and al-dharar al-muhtamal which linguistically means realised damage (truly) and potential damage, as well as al-dharar al-khafi and al-dharar al-jali which means hidden damage and real damage.

a. *Al-dharar Al-muhaqaqah* (Damage Will Occur)

The explanation of the term Al-dharar Al-muhaqaqah is damage that actually occurs or is certain to occur which is a reality.

b. *Al-dharar Al-muhtamal* (Potential Damage)

Al-dharar Al-muhtamal has been described as a potential vulnerability. This explanation of potential damage is damage that is not certain to occur, and cannot be confirmed or denied in the future.

c. *Al-dharar Al-khafi*

The term Al-dharar Al-khafi linguistically means hidden damage. The explanation of hidden damage in transactions can be explained as a condition in which damage to a thing/product does not clearly occur, for example, the consequences are hidden or the impact is not directly visible.

d. *Al-dharar Al-jali*

The term Al-dharar Al-jali linguistically means real damage. So the explanation of the term Al-dharar Al-jali is a damage whose loss and impact on someone or something is really real and clear, and not vague or hidden.

Al-dharar al-muhtamal has an explanation as a potential damage. The explanation of this potential damage is damage that is not certain to occur, and it is not certain that the damage will occur in the future. Rejected sanitary napkins are known to be products that do not pass the feasibility test, which according to experts, their use should be avoided due to the potential and risks of their use. Based on the results from the field, there are no facts and data that the use of rejected sanitary napkins can cause serious health problems or have a definite impact on health. Experts in their testimonies only give advice on the potential danger or damage that will arise. Therefore, rejected sanitary napkins are in accordance with the theory of Al-dharar Al-muhtamal.

Anything that causes harm or damage to oneself or others should be avoided in practice. In relation to the above discussion on the sale of rejected sanitary napkins, the results of the analysis show that the damage arising from its use is small, there are no facts and data that the use of rejected sanitary napkins can cause serious health problems or have a definite impact on health. Experts in their testimonies only provide advice on the potential danger or damage that will arise. Therefore, the legal classification of the sale of rejected sanitary napkins is Al-dharar Al-muhtamal.

The term Al-dharar Al-khafi linguistically means hidden damage. The explanation of hidden damage in transactions can be explained as a condition in which damage to a thing/product does not clearly occur, for example, the consequences are hidden or the impact is not directly visible. From the results of research in the field, the buyers of rejected sanitary napkins did not provide information that after the use of rejected sanitary napkins experienced health problems, also from health experts also only gave an appeal related to potential health problems and risks that would arise. Even if it causes disturbances, it is not significantly life-threatening. Therefore, rejected sanitary napkins can be punished as dharar khafi.

The explanation of hidden damage in transactions can be explained as a condition where the damage to a thing/product does not clearly occur, for example, the consequences are hidden or the impact is not directly visible. Furthermore, after the analysis process using the al-dharar theory on the sale of reject sanitary napkins on the Shopee Application, the practice carried out by the seller is permissible because it is known that the impact caused is classified as dharar khafi, or hidden, vague or implied madharat.

Conclusion

The practice of selling reject sanitary napkins in this study is a finding that should be avoided. The potential impact does not mean that it can be used freely, but the potential risk is a limitation that should not be used. Sanitary napkin products are rejects or products that do not pass QC (quality control), so it becomes a risk if defective products are found when the products are received. Products that do not pass this QC based on the Consumer Protection Law are products that are not suitable and are not allowed to be traded and circulated to the public. As the practice in Shopee application, the sales practice and legality of reject sanitary napkins from the perspective of consumer protection law are found to be in violation of Law Number 8 Year 1999 on Consumer Protection. Then, as described above, the law becomes a

permissible trade (mubah) because the harm to consumers is still tolerable or only has the potential for harm (dharar muhtamal) and does not provide definite harm. But then it can also become haram if the user experiences health problems after using it. Through the perspective of al-dharar, the practice of buying and selling reject pads along with the information of the health department and obgyn specialist doctors, after being analysed, it is concluded that the sale and purchase practice by the seller is permissible because the impact caused is Al-dharar Al-muhtamal or the damage is only potential, so it is classified as dharar khafi, because the madharat is hidden, vague or implied.

Bibliography

- A.D., I. E. P. (2023). *Ramai Soal Penjualan Pembalut 'Reject', Masih Amankah Digunakan?* Kompas.Com. <https://www.kompas.com/tren/read/2023/10/16/071500465/ramai-soal-penjualan-pembalut-reject-masih-amankah-digunakan?page=all>
- Al-Asqolani, I. I. H. (1956). *Bulugul Maram*. Jabal.
- Al-Nadwi, A. A. (1986). *al-Qawaid al-Fiqhiyyah*. Dar Qalam.
- Azqia, H. (2022). Jual Beli Dalam Perspektif Islam. *Al Arsyad*, 1(September 2016), 1–6.
- Bakry, N. (2013). *Problematika Pelaksanaan Fiqih Islam di Indonesia*. LKIS.
- Bisri, M. A. (1977). *Al Faraidul Bahiyyah*. Menara Kudus.
- Bojonegoro, W. D. S. O. R. I. S. (2024). *Andy Sugiharto Wonodihardjo*.
- Choiriyah, S. (2009). *Mu'amalah Jual Beli dan Selain Jual Beli (Pertama)*. CDAQ STAIN Surakarta.
- Dery Ariswanto. (2021). Analisis Syarat In'iq Dalam Pembentukan Sebuah Akad Syariah. *Jurnal Peradaban Dan Hukum Islam, Vol.4(1)*.
- Fathoni, N. (2013). Konsep Jual Beli dalam Fatwa DSN-MUI. *Economica, Volume IV*.
- Ghazzaly, A. R. Al. (2010). *Fikih Muamalat (Cet. Perta)*. kencana.
- Hasan, A. (2003). *Berbagai Macam Transaksi dalam Islam (Fiqh Muamalah)*. Grafindo Persada.
- Hasan, A. F. (2014). *Fiqh Muammalah dari Klasik hingga Kontemporer (Teori dan Praktek) (cet. 2, Issue 2)*. UIN-Maliki Malang Press.
- Hidayat, E. (2015). *Fiqh Jual Beli*. PT Remaja Rosdakarya.
- Kemenag. (n.d.). *Sofwere Digital al-Qur'an in word (Al-Qur'an dan terjemah.)*. Kementerian Agama.
- Kepala Dinas Kesehatan Bojonegoro. (2024). *Wawancara dengan Kepala Dinas Kesehatan Kabupaten Bojonegoro Imam Wahyudi*.
- Nana Sudjana, A. K. (2008). *Proposal Penelitian Di Perguruan Tinggi*. Sinar Baru Algenesindo.
- Pratiwi, D. N. (2020). *Dampak Keberadaan Industri Terhadap Perubahan Kondisi Sosial Ekonomi Masyarakat Di Desa Andir Kecamatan Jatiwangi Kabupaten Majalengka Universitas Pendidikan Indonesia*. Universitas Pendidikan Indonesia.
- Presiden Republik Indonesia. (1999). *Undang-Undang Republik Indonesia Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen*. Bhuana Ilmu Populer.
- Rian Tineges. (2021). Mengenal Macam Analisis dengan Metode Analisis Data Sekunder. *DQLab, 01(18)*, 1.
- Ridlwani Hambali, H., Nendissa, S. J., Cahyo Maynardito, E., Muchlis Djibran, M., & Dinsar, A.

- (2024). Pengaruh Fintech dan Ecommerce Terhadap Kinerja UMKM di Indonesia. *Jurnal Ilmiah Edunomika*, 8(2).
- Rokom. (2015). *Pembaut Yang Beredar Sesuai Syarat Ketentuan*. Kemenkes RI. <https://sehatnegeriku.kemkes.go.id/baca/rilis-media/20150708/2612563/pembalut-yang-beredar-sesuai-syarat-kesehatan/#:~:text=kemkes.go.id>
- Suhendi, H. (2005). *Fikih Muamalah*. Raja Graaindo Persada.
- Sunggono, B. (2016). *Metodologi Penelitian Hukum*. Raja Grafindo Persada.
- Syabir, M. U. (2010). *Al Madkhal Ila Fiqh al-Muamalat al-Maliyah* (Cet. 2). Dar al-Nafais.
- Syaikhu. (2020). Fikih Muamalah: Memahami Konsep dan Dialektika Kontemporer. In *K-Media* (Pertama). K-Media.
- Umar, A. M. A. H. (2008). *Mu'jam al-Lugah al-'Arabiyah al-Mu'asirah* (jil. 2). 'Alam al-Kutub.
- Undang-Undang Perlindungan Konsumen No. 8 Tahun 1999*. (2017). Bhuana Ilmu Populer.
- Zuhaili, W. (1985). *Nazariyyat Al-Darurah As-Shari'ah*. Mu'assasah ar-Risalah.