

Legality Of E-Commerce Transactions: A Comparative Analysis of Islamic Law And Indonesian Civil Law

Irlina Dewi^{1*}, Yuni Dhea Utari², Asfar Hamidi Siregar³, Rino Riyaldi⁴

¹⁻⁴ Institut Agama Islam Negeri Datuk Laksemana Bengkalis Indonesia

*Corresponding Author, email: irlina.dudi@gmail.com

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Abstract

The development of information technology has encouraged the emergence of increasingly complex e-commerce transactions that require legal certainty. This study aims to analyze the legality of e-commerce transactions through a comparison of Islamic law and Indonesian civil law perspectives. The method used is normative juridical research with a descriptive-analytical approach based on literature review, using primary sources in the form of the Qur'an, hadith, the Civil Code, the ITE Law, and fatwas of contemporary scholars, and secondary sources in the form of related academic literature. The results of the study indicate that in Islamic law, e-commerce transactions are permitted as long as they fulfill the pillars and conditions of a valid sale and purchase, are free from elements of gharar, usury, and fraud, and uphold the principles of justice, honesty, and openness. Meanwhile, Indonesian civil law views e-commerce as valid if the conditions of an agreement as stipulated in Article 1320 of the Civil Code are met, namely the existence of an agreement, legal capacity, a specific object, and a lawful cause, and are based on the principles of freedom of contract and good faith. Thus, both Islamic law and civil law emphasize the importance of transparency, agreement, and justice, although with different emphases. This study recommends strengthening regulations and legal education to protect consumers while creating a safe and equitable digital transaction ecosystem.

Keywords: E-Commerce, Islamic Law, Civil Law, Legality, Electronic Transactions.

Introduction

The development of information technology over the past two decades has transformed various aspects of life, including commerce. One form of this transformation is electronic transactions, or e-commerce, an online buying and selling system that eliminates the physical presence of sellers and buyers (Khafid 2020). This system utilizes electronic signatures from ordering and inspection to delivery, thus requiring the availability of accurate consumer and company information as a prerequisite (Khalamillah 2019).

E-commerce is an internet-based business activity involving consumers, service providers, and intermediaries. These transactions include ordering, paying for, and delivering products or services electronically. Its characteristics include: online transactions, no physical interaction, the use of digital payment instruments, and electronic documentation as proof of transactions. It is commonly practiced through marketplaces, mobile applications, and websites (Antonio 2001). This modern business model does not require a physical presence or original signature (Hotana 2018).

From a legal perspective in Indonesia, e-commerce transactions are essentially a form of agreement subject to the provisions of the Civil Code (KUHPerdata). This aligns with Article 1313 of the Civil Code, which defines an agreement as an act by which one or more persons bind themselves to one or more other persons (RI 2001). Furthermore, the validity of a contract, including those made electronically, must meet the requirements stipulated in Article 1320 of the Civil Code, namely, agreement, the capacity of the parties, a specific object, and a lawful cause (RI 2001).

E-commerce transactions create a contract, a legal relationship that gives rise to rights and obligations between the parties (Subekti 2021). The seller is obligated to deliver goods or services as agreed, while the buyer is obligated to make payment at the agreed price. Failure by either party to fulfill these obligations can result in legal consequences in the form of breach of contract, the consequences of which are regulated in the Civil Code, such as compensation, cancellation of the agreement, or fulfillment of the contract (Star, Rahmawati, dan Fadli 2024; Subekti dan Tjitrosudibio 2001; Sukarno dan Sari 2023).

For Muslims, the validity of e-commerce transactions must comply with the principles of Islamic muamalah, which emphasize fairness, transparency, and the prohibition of harmful practices such as gharar, usury, and fraud (Al Amin dkk. 2023; Rahman dan Sabiya 2025). Under Indonesian law, e-commerce transactions are subject to civil law provisions, specifically Article 1320 of the Civil Code concerning the requirements for a valid agreement. This transaction creates a contract that gives rise to rights and obligations for the

parties (al-Zuhaili 2021a).

In every sale and purchase, there are two parties: the seller, who is obligated to deliver the goods and guarantee their safety and freedom from defects, and the buyer, who is obligated to pay the agreed price. In e-commerce, the parties involved are sellers (merchants) who offer products via the internet, buyers (consumers) who are legally authorized, and banks as channels of funds from buyers to sellers (Fuady 2021).

Previous research has examined e-commerce from the perspective of Islamic law and positive law, although it is still partial. Some of these include Azhar Muttaqin's (2014) study on e-commerce transactions in Islamic sales law; Tira Nur Fitria's (2017) research on online sales business in Islamic law and state law; Muhammad Lukman Syafii and Nanang Cendriono's (2018) study on e-commerce law from an Islamic perspective; Misbakhul Munir Mubarak's (2022) analysis of e-commerce from the perspective of Islamic economic law; Zaenol Hasan and Saini's (2024) research on e-commerce transactions from the perspective of Sheikh Al-Qardawi in relation to the Consumer Protection Law; Mulyeni and Yulfa Lawra Rifqi Devi's (2022) study on the legal basis of buying and selling through e-commerce from the perspective of Islamic civil law and economics; M. Sya'rani et al's (2022) research on the legal perception of buying and selling through e-commerce applications during the Covid-19 pandemic from an Islamic perspective; Intan Mutiari Solihah's (2017) research on the legal review of e-commerce transactions based on civil law and Law No. 7 of 2014 concerning Trade; Ardiana Hidayah's (2019) study on E-Commerce Buying and Selling in the Perspective of Islamic Law; RR Dewi Anggraeni and Acep Heri Rizal's (2019) research discusses the Implementation of Internet Buying and Selling Agreements (E-Commerce) Reviewed from the Aspect of Civil Law; Annisa Dwi Kurniawati's (2019) research on E-Commerce Transactions in the Perspective of Islam; Taufiq Aulia Rahman's (2024) Thesis on Analysis of E-Commerce Regulations on Consumer Protection in Online Buying and Selling Transactions in the Perspective of Islamic Law; Syifa Fauzia's (2024) Thesis on Legal Protection for Consumers Buying and Selling Mystery Boxes in

Tokopedia E-Commerce in the Perspective of Islamic Law and Indonesian Civil Law; Heldya Natalia Simanullang's (2017) study on Legal Protection for Consumers in E-Commerce Transactions; Dita Hapsari, Hendro Saptono, and Herni Widanarti's (2019) study on the Position of E-Commerce in the Perspective of Law Number 19 of 2016 concerning Electronic Information and Transactions; and Elisa Siti Widyastuti et al.'s (2022) research on Consumer Protection in E-Commerce Transactions: An Islamic Law Perspective. Although numerous, these studies still require further in-depth study. Furthermore, research providing practical recommendations on strengthening regulations to protect consumers in the digital age is rare.

This research focuses on a more integrative comparative analysis of Islamic law and civil law, specifically examining how electronic contracts can be equated with traditional *ijab qabul* (contractual agreements) and how the principle of freedom of contract can be applied to online transactions without neglecting sharia values. Thus, this research is not only theoretical but also offers a normative and practical foundation for the development of regulations and legal education that adapt to technological developments.

Methods

The research method used is normative juridical, with a descriptive-analytical approach. This method was chosen because the research focuses on applicable legal norms, both in Islamic law and civil law, and then analyzes their suitability to e-commerce transaction practices. This research is library research, utilizing written sources as the primary data. The data sources used consist of primary sources, namely the Quran, hadith, the Civil Code (KUHPerdota), Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE), and relevant contemporary religious fatwas; and secondary sources include books, journals, academic articles, previous research results, and other literature related to the object of study.

The research instrument used is documentation, namely the collection and recording of data from various relevant literature. Data is obtained through reading, reviewing, identifying, classifying, recording, and interpreting the contents of the literature to identify points directly related to the research

problem. Data analysis was conducted using a deductive method, concluding general theories in Islamic law and civil law, then applying them to the specific phenomenon of e-commerce transactions. Thus, the general principles of both Islamic and civil law can be tested for their relevance to contemporary digital commerce practices, resulting in a systematic comparative analysis between the two legal systems.

Results And Discussion

E-Commerce Transactions (Online Buying and Selling) Reviewed by Islamic Law

As is known, online buying and selling (e-commerce) is a new phenomenon in Islamic law that is not explicitly discussed in classical fiqh literature. The lack of references explaining this issue has prompted contemporary scholars to conduct *ijtihad* (intelligence) to find a law that aligns with Islamic sharia principles (al-Zuhaili 2021b). Electronic buying and selling transactions are essentially the same as conventional buying and selling transactions. The difference lies in the method of implementation, where the parties involved do not meet face-to-face but interact via the internet (Imaniyati 2003).

In practice, each party involved in an e-commerce transaction has its own rights and obligations. The seller (merchant/business actor) is the party offering products over the internet. Therefore, the seller is obliged to provide correct, transparent, and honest information about the products being traded. Furthermore, the goods offered must comply with statutory provisions, not conflict with the law, and be free from hidden defects, ensuring that the goods are suitable for sale (RI 1999). Thus, these transactions do not result in losses for buyers.

E-commerce has created a new economic system that brings together producers, sellers, and consumers through modern technology. This phenomenon even enables cross-border transactions. This raises questions among Muslims regarding the compatibility of e-commerce with Islamic law, particularly regarding the provisions of sale and purchase in Islamic jurisprudence (*fiqh muamalah*). This is because online purchases and purchases

conducted without face-to-face contact are considered different from the terms and conditions of sale and purchase as understood in classical fiqh literature (Sabiq 1983).

In e-commerce transactions, offers are made through websites or digital applications. Sellers provide a "virtual storefront" containing a product catalog along with descriptions, prices, specifications, previous customer ratings, and related services. Consumers can then place orders using internet communication media, whether through websites, email, or chat applications. This offer is then followed by acceptance (*qabul*) from the buyer, which forms the basis for the electronic sale and purchase contract (Anshori 2016).

Islam emphasizes that everyone involved in the business world must understand the principles that make a sale and purchase contract valid or *fasid*. This aims to prevent muamalah activities from harm prohibited by Sharia. Therefore, the existence of a contract (transaction) is a crucial element in any contract. In Islam, the contract is considered a fundamental foundation that cannot be ignored, as it concerns justice, honesty, and legal certainty in every economic interaction (Syarifuddin 2003).

In Islamic jurisprudence (*fiqh*) literature, trade is generally conducted directly (with the object of the transaction present) or indirectly, with the provisions that the characteristics of the goods are clearly and in detail described. For example, in the contract of *al-salam* (sale and purchase of goods with advance payment and later delivery) and *al-istisnā'* (sale and purchase of goods made to order). Therefore, although e-commerce is a new phenomenon, in principle, it can be analogous to the forms of muamalah transactions already regulated in Islam (Badrulzaman 2001).

An *al-salam* transaction is a form of sale and purchase contract in which payment is made in cash upfront (immediately), while delivery of the goods takes place later at a predetermined time. Meanwhile, the *istisna'* transaction is a sales contract in the form of an order, where payment can be made either in cash or deferred according to the agreement of the parties, while delivery of the goods is also carried out after the manufacturing or provision process is complete (Suhendi 2020).

The *salam* contract, also known as the *salaf* contract, was practiced long before the arrival of the Prophet Muhammad (peace be upon him). This contract serves as a form of convenience (*rukhsah*) in transactions, facilitating human interaction, particularly in the exchange of assets, as is the case with deferred payment sales (al-Zuhaili 2021b).

The *salam* contract embodies the value of mutual assistance (*ta'awun*) that benefits both parties. The buyer typically receives a lower price than the price when the goods are available, while the seller benefits by receiving the money earlier than the time of delivery. This advance payment can be used as additional working capital for production, management, or business development (Hasan 2019). Thus, this contract not only has an economic dimension but also carries social value, as it provides convenience and mutual benefit.

The legal basis for the permissibility of *al-salam* contracts comes from the Koran, al-Sunnah, and the consensus of the ulama. Ibn 'Abbas said: "I testify that the contract of *salaf* (*salaf*) for a certain period of time has been permitted by Allah in His Book and He has permitted it." (Suhendi 2020). Then he read the words of Allah SWT in Surah al-Baqarah, verse 282: "O you who believe, if you don't do your muamalah in cash for the specified time, then you should write it down". This verse demonstrates that Islam legitimizes the practice of buying and selling with advance payment and later delivery, as long as it is carried out under precise terms and conditions and does not contain elements of *gharar* (uncertainty) and usury.

When the Prophet Muhammad arrived in Medina, people were already accustomed to making advance payments (*salaf*) for fruit for a period of one or two years. He then said, "Whoever makes *salaf*, let him do so with a clear measure and a clear weight, for a specified period." (Santoso 2016).

At first glance, e-commerce business transactions bear similarities to *al-salam* transactions, particularly in the aspect of advance payment and deferred delivery of the commodity. Therefore, it is essential to further examine whether e-commerce transactions can be aligned with the principles of the *al-salam*

contract by exploring three main aspects: the parties involved, the process of agreeing, and the object of the transaction.(Salwa dkk. 2024)

In online e-commerce transactions, the payment process (payment instruction) involves several parties in addition to the buyer (cardholder) and seller (merchant). These parties include the payment gateway, acquirer, and issuer. The involvement of these additional parties is essential, given that transactions are conducted virtually without face-to-face meetings. To ensure reliability, security, validity, and confidentiality, supporting services such as a payment gateway are required to authorize payment instructions and monitor the transaction process (Djamil 2023).

Payment gateways are generally operated by acquirers or authorized third parties, equipped with digital certificates from trusted institutions such as Certification Authorities (CAs), such as VeriSign, Thawte, and i-Trust. The acquirer is the financial institution (bank) trusted by the merchant to receive payments. At the same time, the issuer is the bank that issues the card (debit or credit) used by the consumer for the transaction. In this context, the acquirer and issuer can be viewed as representatives of each party, both the merchant and the consumer (Aini dan Fauzi 2022).

Compared to the *salam* contract, the presence of witnesses and representatives is not mandatory, although it is highly recommended to avoid future disputes. Islamic jurisprudence views the presence of additional mechanisms in e-commerce, such as payment gateways or digital certification, as not contradictory to Sharia. Instead, they can be viewed as a form of *maslahah* (benefit) aimed at maintaining justice, preventing fraud, and strengthening trust between contracting parties (Rahman 2024).

From a contemporary Islamic jurisprudence perspective, e-commerce is considered a flexible form of *wasilah* (worldly technical means) as long as it does not violate sharia principles. The principle of Islamic jurisprudence states: "The basic principle in muamalah is that it is permissible, unless there is evidence to prohibit it." This aligns with the opinion of Wahbah al-Zuhaili, who asserts that every muamalah transaction is, in principle, permissible, as long as it does not

contain elements of *gharar* (unclear), *usury* (usury), fraud (*tadlis*), or other sharia violations (al-Zuhaili 2021b).

To ensure the validity of an e-commerce transaction under Islamic law, five stages must be completed. *First*, submitting a contract (*at-ta'aqud*). This is the first stage, where both parties verify the existence of the four pillars of a binding contract: *sighat* (consent), the two parties involved in the transaction, the goods being traded, and the terms of the agreement. If the product owner is unable to attend, an agent must verify the company's existence. Regarding the goods being the object of the transaction, in addition to the conditions that apply to goods in general, in e-commerce, where transactions are conducted via the internet, the goods must be available somewhere in the global market.

Second, ensuring the validity of the contract (*shiha*). During the validity process, the contract must be free from elements of interest (*riba*), uncertainty (*gharar*), fraud, coercion, or any form of gambling (*maisir*). *Third*, implementing/executing the contract (*nafadz*). In this stage, two main things must be fulfilled: the person offering the product is the true owner of the product and has full rights to it. The goods are free from all debts and obligations (*ilzaam*). At this stage, both parties must sign a binding contract. Before signing the contract, the buyer must inspect the company (seller) and the product being sold through an agent or other party. This is necessary because consumers cannot directly see the condition of the goods, and websites are constantly being developed. After signing the contract, the buyer must retain a copy of the contract to prevent manipulation.

Fourth, Delivery of Goods (*Tanfiz*). This stage is where both parties must exchange goods and pay the price. E-commerce generally uses credit cards, but Muslims should avoid using them, which involve interest, and seek alternative payment methods, such as bank payments. After receiving the product, consumers must also check and confirm whether the goods received meet the agreed conditions and specifications. In Islam, there are several options for this, including *khiyar*.

Fifth, Payment (*Dafa' al-tsaman*) for e-commerce transactions. E-commerce payments are generally made by credit card. In Islam, assuming the

use of credit cards is permissible, the buyer must pay the full price before the specified date. However, the main problem with the legitimacy of e-commerce from an Islamic perspective is that consumers only pay 15% of the minimum requirement, while the issuing bank charges 2% monthly on the balance. Therefore, the Islamic solution is *murabahah* (Nurjanah 2023).

Thus, e-commerce transactions can be considered valid according to Islamic law as long as they fulfill the pillars and conditions of valid buying and selling and are free from prohibited elements. This principle is emphasized by *Majma' al-Fiqh al-Islami* and contemporary scholars who state that e-commerce transactions are permissible because they contain great benefits for the community (Majma' al-Fiqh al-Islami 2021). The pillars and conditions for valid buying and selling in Islam are: (1) The existence of parties to the contract (*al-'aqidain*): The seller and buyer must be legally competent (*ahliyyah*); (2) The existence of an object of the contract (*ma'qud 'alayh*): Goods/services that are halal and can be transferred; (3) The existence of *ijab* and *qabul* (*sighat*): A statement of will that indicates an agreement between the two parties. In addition, the contract must be free from elements of *gharar* (uncertainty), *riba* (interest), and fraud (*tadlis*) (al-Zuhaili 2021b).

In fact, the Quran itself emphasizes that business activities are part of socio-economic worship as long as they are conducted in accordance with sharia law. (Kementerian Agama RI 2018) Allah SWT states in the Quran, Surah Al-Jumuah, verse 10; "When the prayer has been performed, then spread out on the face of the earth; and seek the grace of Allah and remember Allah often so that you may be successful".

Based on the explanation in Tafsir al-Wajiz by Wahbah al-Zuhaili, Allah SWT commanded believers that after completing their prayers, they scatter across the face of the earth to try and trade, and seek sustenance through charity and hard work. However, a warning is given so that trading activities do not neglect the remembrance of Allah. Whoever always remembers Allah will be one of the fortunate individuals who will achieve great success (al-Zuhaili 2022).

Even though e-commerce transactions are not carried out directly, with detailed mechanisms and clear agreements between both parties, the internet can be considered as a contract assembly. In this case, sellers and buyers meet virtually. As for *sighat* (consent and *qabul*), even though it is not done verbally, the buyer's willingness shown by pressing the "accept" button can be seen as a valid *qabul*, in accordance with the *ijma' ulama* regarding the validity of non-verbal contracts if agreed upon by both parties.

The views of Islamic scholars regarding the law of e-commerce (online buying and selling) can be divided into two broad groups: classical and contemporary. First, some classical scholars, particularly those of the Hanafi school, argue that a contract does not require a physical assembly to be concluded. According to them, the most important aspect of a contract is the continuity of the *ijab* and *qabul* process. As long as the *ijab* from one party remains directly connected to the *qabul* from the other party without any interruption, the contract is considered valid, even if the parties are not present in the same place. Second, scholars from the Shafi'i school emphasize that unity in the assembly is a crucial requirement for the validity of a contract. This is understood not only as an effort to maintain the continuity of the contract but also as a guarantee that the parties entering into the contract are truly the individuals they purport to be. According to them, the validity of a statement can only be ascertained by directly hearing the *ijab* and *qabul* uttered, and by seeing the parties actually uttering them. Therefore, contracts without physical presence are considered potentially suspicious and open the opportunity for forgery (Zahro 2022).

Thus, these differing views indicate a debate regarding the importance of the unity of the assembly in a contract. However, when related to current e-commerce practices, the Hanafi school of thought appears more relevant, as modern sales transactions generally take place without a physical meeting between the seller and buyer.

Meanwhile, contemporary scholars generally believe that e-commerce transactions, or online sales, are fundamentally valid and permissible, as long as the element of clarity (*bayān*) is met in the contract. This clarity includes the

identities of the parties, the object of the transaction, and the payment and delivery mechanisms. Some contemporary scholars who support this permissibility include Sheikh Muhammad Bakhit al-Muti', Mushthofa Ahmad Zarqa, Wahbah al-Zuhaili, and Abdullah bin Mani (Hidayatullah 2023). According to them, this permissibility is based on several reasons. First, the opinion of several earlier scholars who considered sales contracts valid through correspondence, where the first party's consent is deemed valid after it reaches the second party. In some cases, transactions conducted by shouting are also considered valid. Second, regarding the Shafi'i fiqh view on the unity of the assembly, according to him, what is meant is the continuity of time between the *ijab* and *qabul* continuously, not the necessity of a physical meeting between the two parties in one place (Syafe'i 2022).

In addition, Majma' al-Fiqh al-Islami, in its sixth congress in Jeddah, also stipulated the permissibility of conducting transactions via modern communication media. However, this institution stipulates several conditions for the validity of the contract, namely: (1) there must be clarity regarding the identities of the transacting parties to avoid misunderstandings, errors, and forgery; (2) it can be ensured that the communication tool used is actually used by the intended party, so that every statement can be accounted for; (3) the party stating the *ijab* may not cancel the contract before receiving the *qabul* from the other party, especially in communication media that have a time lag; and (4) online transactions must not cause delays in the delivery of one of the two exchange instruments in a *sharf* (currency buying and selling) contract, because in this transaction the condition is that the delivery must be made in cash in one assembly. Similarly, in a salam contract, capital must be delivered immediately so as not to cause losses due to fluctuations in prices or currency exchange rates (Sanusi 2016).

Thus, based on the principle of *maslahah*, e-commerce transactions are considered permissible due to human needs for technological advancement and considerations to prevent deviations and losses. This aligns with Nasrun Haroen's explanation in *Fiqh Muamalah*, which states that the Sharia basis for the permissibility of modern transactions (Haroen 2021), including e-

commerce, can be found in the words of Allah SWT in QS. al-Nisā' [4]: 29; "O you who believe, do not consume one another's wealth unjustly, except by means of commerce conducted by mutual consent. And do not kill yourselves; surely Allah is Most Merciful to you".

This verse refers to commerce or transactions in muamalah (traditional business transactions) that are invalid. "Vatil" in this context has a comprehensive meaning, including conducting economic transactions that are contrary to Islamic law, such as transactions based on usury (*riba*), speculative transactions (*maisir*, gambling), or transactions containing elements of *gharar* (fraud). This verse also provides the understanding that efforts to obtain wealth must be carried out with the consent of all parties (Kementerian Agama RI 2022).

Furthermore, Surah al-Baqarah verse 275 also states; "Even though Allah has permitted buying and selling and prohibited usury." This verse shows that Allah SWT justifies the practice of buying and selling and prohibits usury, because Allah knows best the nature of human life. If a matter contains benefits and benefits, then Allah orders it to be carried out. On the other hand, if there is damage and harm in it, Allah forbids and prevents it (Shihab 2022).

Apart from that, the hadith of the Prophet SAW also emphasizes the priority of buying and selling carried out correctly. In a hadith, when the Prophet was asked about the best livelihood, he answered: "A person works with his hands and every sale and purchase is *mabrur*". The meaning of *mabrur* is buying and selling that is free from fraud and does not harm other parties. Another hadith also states that "Buying and selling must be done based on mutual pleasure" (HR. Baihaqi and Ibnu Majah) (Zuhri 2021). These hadiths stipulate the basic requirement that a sale and purchase agreement must be based on the consent of both parties. Therefore, all transactions, including those in the context of e-commerce, must fulfill the elements of the parties' consent and agreement, without any coercion or ambiguity. From an Islamic legal perspective, the statement of agreement in an e-commerce transaction is essentially the same as a conventional sale and purchase agreement. The statement of acceptance and acceptance can be made through various modern

communication media, provided that the substance is clearly understood by the parties and truly reflects their consent (al-Zuhaili 2021b).

The objects traded in e-commerce transactions also adhere to the principles of Islamic *muamalah*, as long as the object is *halal* (permissible), has utility value, is clear in form and nature, and can be delivered according to the agreed time and place (Syafe'i 2022). Therefore, for an e-commerce transaction to be valid according to Islamic law, several important principles must be considered, including:

First: Halal Products. The object of the sale and purchase must be halal goods or services. Islam prohibits all transactions involving prohibited goods or services. As the hadith of the Prophet Muhammad (peace be upon him): "Verily, Allah has forbidden a people to eat something, so He has also forbidden the proceeds of its sale". *Second: Clarity of Status.* The seller must have a clear legal status regarding the goods being sold, whether as the direct owner, the representative of the owner, or as an intermediary.

Third: Matching Price to Quality. The seller is obliged to maintain a match between the price offered and the quality of the goods. This is important to prevent buyers from being deceived and to avoid disputes. And *fourth: Honesty and Trustworthiness.* Honesty is a crucial aspect in online commerce. Sellers are prohibited from deceiving buyers, and buyers are also not allowed to deny payment. Fraud, including sending goods that do not match the description or defaulting on payment, is a form of violation prohibited by Sharia (Haroen 2021).

Based on the above description, it can be concluded that Islamic scholars agree on permitting online buying and selling (e-commerce) practices, as long as they do not contain prohibited elements, do not harm either party, and meet the principles of transparency, consent, and justice. Electronic communication can be a legitimate means of *ijab-qabul*, while digital payments are recognized as a legitimate means of settlement according to Islamic law.

E-Commerce Transactions (Online Buying and Selling) Viewed From Civil Law

In the context of trade, civil law recognizes the principles that form the basis of contract law. This is regulated in Book III of the Civil Code (KUHPerdara), which recognizes several basic principles in making and implementing an agreement. One of the most prominent fundamental principles is the principle of freedom of contract, which also reflects the open nature of contract law (Subekti 2021).

The principle of freedom of contract gives the parties the authority to freely make agreements, determine the form and content of the agreement, as long as they comply with applicable legal provisions. This freedom is limited by several conditions, namely: (1) The agreement made must meet the legal requirements as specified in Article 1320 of the Civil Code; (2) The contents of the agreement must not conflict with applicable laws; (3) The agreement must be in harmony with the habits that exist in society; and (4) The agreement must be implemented in good faith (Muhammad 2014).

Thus, the principle of freedom of contract cannot be interpreted as unlimited freedom. This principle can only apply as long as it does not violate legal norms, morality, or public order (Fauzan 2021). Therefore, although Indonesian contract law is open, this principle is still directed at maintaining a balance between individual freedom and legal certainty in every civil transaction (Fuady 2021).

Contract law recognizes an open system that provides individuals with the broadest possible freedom to enter into agreements with the terms they determine themselves, as long as they do not conflict with mandatory legal regulations, public order, and morality. Parties are given the freedom to independently determine their interests through the agreements they make. However, if something is not expressly stipulated in the agreement, the parties are automatically subject to the provisions of applicable laws (Harahap 2022).

For example, in a sales and purchase agreement, agreement on the goods and price is sufficient to constitute an agreement. However, other matters not typically agreed upon, such as the place of delivery of the goods, shipping costs, and the risk of loss of goods in transit, are subject to applicable law (Hatta 2020). This reflects the principle of an open system as contained in Article 1338

paragraph (1) of the Civil Code, which states: "All agreements made in accordance with law apply as law for those who make them." Thus, the meaning of the word "all" in this article can be understood as: (a) the freedom to enter into or not enter into an agreement, (b) the freedom to determine the subject or with whom the agreement is entered into, (c) the freedom to determine the form of the agreement, (d) the freedom to determine the content and terms of the agreement, and (e) the freedom to determine the applicable law as long as it does not conflict with mandatory norms (Barkatullah dan Prasetyo 2015).

In addition to the principle of freedom of contract, contract law also adheres to the principle of consensualism. This term is derived from the word "consensus," meaning agreement. The principle of consensualism teaches that an agreement arises from the agreement of the parties on the main points without requiring a specific formal form, unless the law requires specific formalities. This principle is reflected in Article 1320 of the Civil Code, which emphasizes the requirements for a valid agreement: agreement, capacity, a specific object, and a lawful cause (Hermanto 2021).

Furthermore, there is the principle of good faith, which has two dimensions: (a) subjective good faith, namely the honesty and inner truthfulness of the parties when entering into an agreement, free from coercion, deception, or abuse of circumstances; and (b) objective good faith, which relates to the propriety of the contents of the agreement itself. Article 1338 paragraph (3) of the Civil Code states that "an agreement must be made in good faith," meaning that the implementation of the agreement must adhere to norms of propriety, justice, and morality (Triyono 2022).

Article 1320 of the Civil Code regulates the requirements for a valid agreement, namely: (1) agreement of the parties, (2) capacity to enter into an agreement, (3) the existence of a specific object, and (4) a lawful cause. The first two requirements are subjective because they concern the parties involved, while the last two are objective because they relate to the object of the agreement. If the subjective requirements are not met, the agreement can be canceled at the request of the interested party. Conversely, if the objective

requirements are not met, the agreement is null and void from the outset (Indrati 2020).

In relation to e-commerce, not all transactions can be categorized as valid under Indonesian civil law. The basic principle is that online transactions can be declared valid as long as they meet the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code. However, a transaction becomes invalid if: (1) the requirements for a valid agreement are not met, (2) the object of the sale and purchase is a legally prohibited good or service, such as human trafficking, narcotics, online gambling, or illegal content, and (3) there is a violation of the agreed-upon agreement or a complete lack of agreement regarding the content of the agreement (Hermanto 2022). Thus, just as from an Islamic legal perspective, e-commerce under Indonesian civil law can be considered permissible (*halal*) or forbidden (*haram*), valid (*halal*) or invalid (illegal), depending on the fulfillment of the pillars and requirements for a valid agreement.

E-commerce is fundamentally legal under positive law in Indonesia. However, in practice, it cannot be denied that online buying and selling is often fraught with various forms of crime, particularly fraud. Consumers often become victims because the goods received do not match the description or image of the product offered, and there are even cases where goods are not delivered at all. This causes real harm to consumers and undermines public trust in digital transaction systems.

As a state governed by the rule of law (*rechtsstaat*), Indonesia has an obligation to provide legal protection to its citizens, including in the realm of electronic transactions. The head of state, as a representative of the government, is obligated to guarantee legal certainty for the benefit of the public. The increasing intensity of crime in the digital realm prompted the government to establish specific regulations through Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), which was amended by Law Number 19 of 2016. In this regulation, electronic transactions are defined as "legal acts carried out using computers, computer networks, and/or other electronic media." (RI 2008)

One form of legal protection for consumers in electronic transactions is reflected in Article 28, paragraph (1) of the ITE Law, which states: "Any person who intentionally and without authority disseminates false and misleading news that results in consumer losses in Electronic Transactions. This provision confirms that sellers and other parties who disseminate false information that results in consumer losses can be subject to criminal penalties. Furthermore, Article 45 paragraph (2) of the ITE Law stipulates: "Any person who meets the elements as referred to in Article 28 paragraph (1) or paragraph (2) shall be subject to a maximum imprisonment of six years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah) (RI 2008).

Thus, the state guarantees balanced legal certainty for both sellers and buyers. The government is also required to continuously strengthen oversight and protection mechanisms for the public to maintain public trust in online transactions. In fact, when viewed from a benefits perspective, e-commerce actually offers many advantages, such as time efficiency, ease of access, and broader economic opportunities. Online transactions also have the potential to create new jobs and provide a solution for small and medium enterprises (SMEs) with limited capital to market their products.

Therefore, the legal relationship between sellers and buyers in online transactions should be based on the principles of trust and mutual trust. Sellers must act in good faith by providing accurate, honest information that reflects the condition of the goods being sold. Conversely, buyers are also required to be more cautious and use credible platforms to avoid fraud.

Based on the above description, the author believes it is essential to compare the perspectives of Islamic law and civil law in assessing the validity and legality of e-commerce transactions. This comparison aims to identify common ground and fundamental differences between the two, thereby providing a comprehensive picture of the position of e-commerce in Indonesia's legally and religiously pluralistic society.

Table 1

Comparison of Islamic and Civil Law Aspects of E-commerce Transactions

Aspects	Islamic Law	Civil Law
Validity of transactions/Legal basis	Sourced from the Qur'an, Hadith, Ijma', and Qiyas. The principle of muamalah: الأصل في المعاملة الإباحة إلا أن يدل دليل على تحريمها Basically, all muamalah are permissible unless there is evidence that prohibits it)	Sourced from the Civil Code (Articles 1320 and 1338) and Law No. 11 of 2008 in conjunction with Law No. 19 of 2016 concerning ITE.
Valid Transaction Requirements	There must be: (1) <i>Aqid</i> (legally competent parties), (2) <i>Ma'qud 'alaih</i> (halal and clear object), (3) <i>Shighat</i> contract (<i>qabul</i> agreement, may be oral, written, or electronic), (4) Halal purpose.	Must fulfill the requirements for a valid agreement: (1) agreement of the parties, (2) legal capacity, (3) specific object, (4) lawful cause (Article 1320 of the Civil Code)
The object of the transaction	It must be lawful, pure, beneficial, and transferable. Illegal goods (drugs, alcohol, online gambling) are not legally traded.	The object of the agreement must be clear, have economic value, and not violate the law (e.g., human trafficking, narcotics, and online gambling are illegal).
Freedom of Contract	Limited by Islamic law, must not conflict with Allah's law for example: buying and selling haram goods, usury, <i>gharar</i> , and <i>maisir</i>	Adhering to the principle of freedom of contract (Article 1338 of the Civil Code), but limited by law, public order, and morality
Good Faith	This is highly emphasized, as buying and selling are a trust. The seller must be honest and must not deceive, conceal defects in the goods, or manipulate information.	As regulated in Article 1338 paragraph (3) of the Civil Code, agreements must be executed in good faith (honestly, properly, and in accordance with legal norms).
Consensualism	A contract is considered valid upon agreement (<i>ridha</i>) between the parties, even if conducted online in writing or via chat.	An agreement is born upon reaching an agreement, even electronically (ITE Law, Article 1, number 17 concerning Electronic Transactions).

Aspects	Islamic Law	Civil Law
Dispute resolution	Resolved through the principle of <i>islah</i> (peace) first. If this cannot be achieved, the dispute can be submitted to a religious court or Sharia arbitration institution.	Resolved through litigation (general courts) or non-litigation mechanisms (arbitration, mediation, BPSK). The ITE Law also provides a legal basis for criminal enforcement.

From the table above, both Islamic law and civil law emphasize the importance of clarity, agreement, and fairness in transactions. The main difference lies in the more explicit moral and ethical values of Islamic law.

Conclusion

E-commerce transactions, from an Islamic perspective, are permissible and valid as long as they meet the pillars and conditions of a sale and purchase, such as the acceptance of the contract (*ijab qabul*), clarity of the object of the transaction, and prohibitions against practices that harm one party, such as *gharar* (unclear terms), usury (*riba*), injustice, fraud, coercion, cheating, and the like. Furthermore, the principles of justice, transparency, and accountability are the primary foundations for implementing electronic contracts according to Sharia.

Meanwhile, under Indonesian civil law, e-commerce transactions are permissible and valid under the law as long as all procedures and conditions of the sale and purchase are met. This is regulated by the principle of freedom of contract as stipulated in Article 1320 of the Civil Code, which requires agreement, legal capacity, a clear object, and a lawful cause. This study recommends legal education and strengthening regulations to protect consumers and businesses in the digital ecosystem.

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