



SIYASAH ANALYSIS OF APPLICATION LICENSING TIKTOK SHOP ACCORDING TO THE PERMENDAGRI NUMBER 31 OF 2023

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Abstract

This writing contains various forms of problems which are used as complaints experienced by several people regarding regulations or policies regarding transaction permits in the TikTok Shop social media application as the current digitalization of buying and selling. The formulation of the problem in this research is first how the provisions of Permedagri No. 31 of 2023 regarding the social media application TikTok Shop which facilitates payment transactions for consumers in commerce via electronic systems and secondly, what is the view of fiqh siyasah regarding the TikTok application which has facilitated payment transactions for consumers via electronic systems. The author uses a normative juridical approach to show that written regulations are in the form of laws. Research must be based on data or correspondence that supports research to be more systematic and not just engineering in research. And it is more accurate that research is carried out carefully and with full consideration in achieving a goal in the research.

Keywords: *Licensing, TikTik Shop, Siyasah Analysis*

A. INTRODUCTION

In accordance with changing times which are increasingly sophisticated, all activities are based on electronic systems, of course bringing significant changes to information technology which continues to develop rapidly and become increasingly superior in the world and especially in the country of Indonesia itself which feels this, likewise, in modern times, the system Information has emerged as an essential requirement for carrying out several tasks. By using the right technology, we can get very accurate data. The rapid progress of technology has had an impact on human existence in various fields. The Internet is one of the technical advances that is developing rapidly. The economic sector has been significantly impacted by the influence of internet technology. There are now more options for trade, business and commerce thanks to the digital economy, a new phase in the contemporary economy. Trading, which is often known as electronic commerce or online buying and selling transactions, is a business development in line with rapidly developing internet technology.

Today's technologically advanced world has made social media applications and online shopping and sales an important phenomenon throughout the world. The electronic equipment used in these transactions has the power to change people's way of life drastically so that shopping activities are now shifting to social media or digital buying and selling applications such as TikTok Shop which are starting to be sought after by various groups where this online shopping application is very practical, no need to come to the location and can get the product that suits your needs at an affordable price. On the one hand, what we see today is not only trading on an electronic basis, but all our activities are based on electronic systems, without us realizing that our lives are dependent on digital media. The rapid development of increasingly advanced information technology can make it easier for the millennial generation to access various things, from food, clothing, cosmetics, to skin care and others through online buying and selling social media applications. Since the previous Covid era, the economic system began to penetrate the online buying and selling application system, so that many business places were forced to close or went out of business due to the lack of purchasing power of buyers, resulting in other business actors losing their livelihoods.

In Indonesia, the rapid growth of online buying and selling social media applications has caused several challenges, especially for the retail company sector or malls that sell goods in their shops. Due to changes in consumer preferences for online buying and selling through social media programs equipped with features to streamline the transaction process, a number of retail complexes in Indonesia have gone silent. Online sales of social media programs have impacted the growth of social media in both positive and negative ways. The use of an online buying and selling platform that supports export-import trade in Indonesia and has unlimited time and geographic location can also maintain exchange rate stability. Apart from that, there has also been a significant increase in domestic trade activity. However, apart from the perceived advantages of using social media applications, there are negative impacts felt by consumers or users, namely the many acts of fraud by marketing products that are not suitable to consumers. But it all comes back to consumers who use trading services via electronic systems, are wise in shopping and ensure that the online shop has obtained a business license as regulated in Permendagri No. 31 of 2023 and considers the ratings and reviews given by other consumers regarding the shop's level of trust.

However, there is a problem that the author wants to examine further in this online shopping application, namely the TikTok Shop application which provides features or facilities for electronic payments or transactions. As we know, TikTok is only a social media platform and can promote services and goods for consumers, entrepreneurs. If we relate it to article 21 paragraph (3) in Minister of Home Affairs Regulation no. 31 of 2023 reads "PPMSE in its electronic system must not have transaction payment facilities in the Social-Commerce business". In Government Regulation Article 60 paragraph (1) No. 80 of 2019, explains that payments via online electronic systems are permitted, and in paragraph (4) organizers must obtain prior permission from the relevant authorities in accordance with statutory regulations.

So it can be understood from Minister of Home Affairs Regulation no. 31 of 2023 article 21 paragraph (3) only reaffirms the Government Regulations which regulate Payments via Electronic Systems. It is not intended to prohibit or prohibit organizers from providing e-Pay (Electronic Payment) payment features, but organizers are required to comply with the rules and regulations relating to payment and banking systems, and ask for permission first from the relevant authorities. The orientation of the confirmation of Permendagri No. 31 of 2023 article 21 paragraph (3) is in terms of minimizing or preventing opportunities for fraud and abuse of authority through electronic system trading channels that are individually profitable. For example, currently TikTok Shop still provides direct trade transaction services in the TikTok application, users can directly select, order and pay shopping bills in the TikTok application via TikTok Shop or electronic payment systems. The TikTok shop is still operating by continuing to carry out transactions within the application, because it is one of the closing points for the TikTok Shop.

As for evidence that TikTok Shop does not have an electronic transaction permit, reported by CNNC News Indonesia on January 26 2024, Friday, 15:11, stated that "TikTok Shop apparently does not yet have a permit. Furthermore, Zulkifli Hasan, Minister of Trade, emphasized that TikTok is not e-commerce. As a result, TikTok is unable to offer sales services on its platform, especially in terms of electronic payment options." The author can draw the conclusion that the implementation of e-pay available in the TikTok application from the agency authorized in the field of payment/banking systems has not received permission as should be regulated in Article 60 paragraphs (1) and (4) PP No. 80 of 2019. There is no permission given to TikTok, why is that? TikTok is only a social media platform that displays or advertises products as an intermediary for other online buying and selling applications. The statement from the Minister of Trade is that TikTok is prohibited from selling itself, let alone providing electronic payment features, and the TikTok media platform must be separate from the online buying and selling transaction platform. But in reality

TikTok Shop is operating again and there has been no further firm action or response from TikTok Shop despite an appeal by the Minister of Trade.

TikTok Shop is prohibited from operating because its role as a social media platform is only for promotion or advertising of products/goods or services, TikTok does not have a PMSE (Trading Via Electronic System) permit thereby preventing it from carrying out commercial operations involving in-app transactions. Ibn Qayyim emphasized that the trading system must include ideas of justice, moral principles in the business sector, cooperative ventures, the benefits of individual worker property ownership, and government economic involvement. The purpose of Ibn Qayyim's theory, in the concept of benefit presented by Ibnu Qayyim, is that this theory of benefit is Islamic legal philosophy which highlights the main goal of the Shari'a to achieve truth and benefit and reject evil and evil. Positive values for people's lives include justice, certainty and usefulness which can achieve the welfare of human life when the law is present in everyday life. Economic activity is an activity to obtain human life in the future. Furthermore, in the economy, government intervention in economic cooperation and the division of labor is a social responsibility which is considered very important in building a human economy and individual property ownership. The assets owned by individuals must be able to use their assets as best as possible and provide their assets for the benefit of society and not necessarily just for themselves.

Like the Hadith of Rasulullah SAW about a person who owns joint assets (kongsi) and one of his employers wants to release him but the other employer does not agree to his release, for this reason Rasulullah SAW gave an appropriate amount of value to that person according to the value of the share of each partner in the partnership. Regarding *Siyasah Dusturiyyah*, a regulation which was conveyed by the Prophet Muhammad SAW must be implemented well for the people, as the regulation was born based on the needs of the community, not merely for the interests or profits of the ruler, so that a fair attitude is maintained without any party being harmed, it was created. a rule that emphasizes the rights and obligations of each caliph and his people without limiting these rights and obligations so that an absolute authoritarian attitude does not occur. However, the author is of the opinion that the policies conveyed by the Prophet Muhammad SAW prioritize the benefit of the people, why is that because the regulations are made based on what the people need, not only for the interests of the authorities, starting from the economic/trade, defense, international relations and other sectors, prioritizing the interests his people and his people must follow these rules.

Likewise, if *Siyasah Dusturiyyah* is linked to current government policy, it still cannot be realized according to the concept of *Siyasah Dusturiyyah*, so the government must put more emphasis on the existence and effectiveness of these regulations to be more convincing to the public that the regulations must be implemented optimally, thus the resulting policy to be more integrated and not create errors in implementing regulations and in every regulation the government must be stricter about misuse of policies so that these policies are effective in the future, such as one of the policies regarding licensing of buying and selling transactions for the TikTok Shop social media application, which in fact is still not effective. as regulated in the law. Based on the explanation that has been presented, the author conducted research whose results will be published in a journal with the title "SIYASAH ANALYSIS OF TIKTOK SHOP APPLICATION LICENSING ACCORDING TO PERMENDAGRI NUMBER 31 OF 2023".

B. FORMULATION OF THE PROBLEM

Based on what has been described above, the conclusions drawn on the problem are:

1. What are the provisions of Minister of Home Affairs Regulation No. 31 of 2023 regarding the TikTok Shop social media application which facilitates payment transactions for consumers in trading via electronic systems?

2. What is the opinion according to siyasah fiqh of the Tik Tok application which has facilitated payment transactions for consumers via electronic systems?

C. RESEARCH METHODS

In scientific subjects, research methods are techniques used by practitioners. In conducting research, research techniques are essentially a set of guidelines that must be adhered to. It is important to remember to concentrate on finding solutions to problems that do not have a clear legal framework. Research must be based on data or correspondence that supports research to be more systematic and not just engineering in research. And it is more accurate that research is carried out carefully and with full consideration in achieving a goal.

1. Types of research

The author uses a normative juridical approach in this research to show that written regulations are in the form of laws, with research focused on using Permendagri no. 31 of 2023 and looks at aspects of fiqh siyasah from the opinions of figures and legal reasoning in the topic of discussion rather than research. As well as other supporting materials in the form of secondary data such as library references as a source of research data that is collected and examines and lays down the law, namely regarding norms, rules and principles of court decisions, statutory regulations and legal theory.

2. Data analysis

Qualitative descriptive analysis was used to examine data collected from articles and literature searches. This involves describing the main problem in detail, classifying and selecting data based on its truth and quality, then linking it to theories discovered through literature research to find solutions.

D. RESULTS AND DISCUSSION

1. Provisions of Minister of Home Affairs Regulation No. 31 of 2023 regarding the TikTok Shop social media application which facilitates payment transactions for consumers.

Entrepreneurs are experiencing very dynamic progress by providing online marketplace shopping and not just relying on marketing shophouses or shops in shopping centers so that it can be reached by the people of Indonesia and all corners of the world which makes it easier to carry out transactions electronically. It doesn't stop there, entrepreneurs also use social media (social-commerce) to carry out promotions. Entrepreneurs must also comply with all existing rules in the chosen marketplace and also legislation. These marketplaces and social media represent new ideas that allow entrepreneurs to more easily promote their goods nationally.

As a result of developments in information and technology, changes have occurred in trading activities in Indonesia which have given rise to many different types of transactions, business models, procedures and sales techniques. One of them is TikTok, which became popular in 2019. A social media platform that allows users to share short music videos with other people, in this case for the purpose of spreading news and marketing. Despite this, TikTok is growing rapidly thanks to the entry of new services, such as TikTok Shop, a marketplace for buying and selling.

Trading operations that occur in additional features of the TikTok application are still regulated by the old Minister of Trade (Permendag) in statutory regulations No. 50 of 2022. There are no restrictions on transaction facilities in the social media system, so the additional feature in the form of TikTok Shop which is implemented by TikTok does not violate legislation. Buying and selling transactions on the TikTok Shop continue to increase in digital business in Indonesia, because it provides attractive shopping services by taking advantage of current dominating content trends and also developing ideas from

collaborating content creators which have sparked attention from the Indonesian and global millennial generation.

The popularity of business on Tiktokshop among the Indonesian people has had a positive influence and opened up many opportunities for the Indonesian people as a means of promotion, one of which is the ability to empower local MSMEs. Field results revealed an increase of around 50% from previous income in sales of MSME products and services using TikTokshop. Mr. Edy Misero, who is the Secretary General of the Indonesian MSME Association (Akumindo), said that the integration of social networks and e-commerce is a big problem at Tiktok Shop, this is exacerbated by the low prices of imported goods which do not match the prices prevailing in Indonesia. The Minister of MSMEs, among other things, responded to the Tiktok shop issue by asking the Ministry of Trade to update the PSMEs laws and regulations. Regulation Number 31 of 2023 was released by the Ministry of Trade in September that year with the aim of protecting regional MSMEs and ensuring the security of user data.

1. Payment transactions cannot be processed directly by social trading applications or platforms within their systems. Social commerce is limited to the promotion of products and services. In accordance with Article 21 paragraph (3) of the Minister of Trade Regulation Number 31 of 2023, this means that you can only make any type of social commerce payment via a platform that has received permission from the government.
2. Regulates the granting of business permits, promotions, as well as direction and supervision to entrepreneurs who carry out digital transactions. Therefore, social commerce must comply with government regulations regarding licensing and supervision. Meta Group, which has only been known as social media such as Facebook, Instagram and WhatsApp, immediately applied for a social trading permit after implementing these trading rules. Since TikTok's authorization is limited to social media, a similar situation also occurs.
3. The aim of Minister of Trade Regulation Number 31 of 2023 is to maintain a healthy level of market competitiveness. Apart from having an impact on local online retailers, the proliferation of cheap imported goods in Tiktok stores has also worsened the condition of offline MSMEs whose income is still falling. Stricter requirements for cross-border commodities include a minimum goods price of USD 100 (one hundred US dollars) per unit for Freight On Board (FOB) (Article 19 paragraph 2). Foreign representative offices have obligations, such as having a head office in Indonesia.
4. maintain consumer protection when using electronic systems to trade. PPMSE must comply with statutory regulations and apply the values of healthy competition between entrepreneurs. One of the common problems in social commerce is the issue of fraud. Thus, advertisements must not mislead regarding quantity, quality, ingredients, usefulness or price in accordance with these trade standards. Advertisements that are too "overclaimed" to be inconsistent with the product's legitimacy are often seen in the TikTok store itself. It is necessary to use Indonesian in product descriptions, advertisements, etc. to prevent misunderstandings. In addition, it is important to consider the security of user data. Social commerce must ensure that PPMSE and/or its affiliated businesses cannot misuse user data stored on its digital footprint.
5. Given the undeniable impact of digitalization, it is important to emphasize and educate nearby MSMEs about digitalization. Local MSMEs must quickly adapt to current market trends.

Analysis of the decision of Permendagri No. 31 of 2023 concerning PSME, carrying out buying and selling transactions on social media application platforms is an action that is strictly prohibited, the provision of trading services is only limited to

commercial or promotional goods by expanding the reach of the trading market to the general public, but is not permitted as a transaction tool. etc. In particular, providing buying and selling transaction services has its own platform available with the aim of stopping abuse of authority that harms other people when carrying out the buying and selling process. In accordance with Minister of Trade Regulation Number 31 of 2023 Article 1 Paragraph 17, social media is only allowed to advertise certain services or goods and feature facilities according to their respective uses. However, social media is actually classified as social-commerce, even though it is not permitted to facilitate transactions between buyers and sellers. As a result, TikTok is subject to strict regulations based on Article 21 Paragraph (3) of the Minister of Trade Regulation No. 31 of 2023 which states that PPMSE that use social-commerce are not allowed to have payment features on their platforms. Therefore, social media and the marketplace must be separated to avoid competition and data leaks which fall into two categories: intentional threats from external sources such as cyber attacks such as viruses and hacks, and unintentional or negligent internal data leaks.

2. **Siyasa fiqh's view of the Tik Tok application which has facilitated payment transactions for consumers via electronic systems.**

As time goes by, the population is increasing, it is not surprising that developments in terms of technological, economic and cultural aspects are increasingly advanced, but on the one hand, this progress is very unfortunate, its empowerment is misused by irresponsible individuals who take the opportunity to take advantage of individuals by involving other people or causing harm. certain parties, it's really ironic. One of those experiencing this impact is in the world of economics, the Indonesian economy is always relied on as a role for the progress of the country among other Asian countries, in terms of the role of the country's progress the economy is now more important than other sectors and for the first time the Indonesian economy has spread to the world.

Digitalization, marked by capital market/commerce competition between several marketplaces, other online shopping applications or other social media apps, is proof of technological progress which has played a major role in the country. The emergence of buying and selling goods through electronic media is an interesting event in the economic sector. Electronic commerce or e-commerce, is a description of this type of commerce. Similar to traditional commerce, e-commerce involves transactions between parties who do not meet physically but rather communicate via electronic channels, especially the internet. The Hanafiyyah and Hanabilah schools are of the opinion that this type of buying and selling is permissible from the perspective of Islamic law, regardless of the amount, as long as it has formed customs (urf) among the community. The Malikiyyah believe that as long as there is an indication of agreement and desire from all parties carrying out a buying and selling transaction, then *ba'i al-mu'athah* is permitted. The Syafi'i school requires consent and *qabul* as evidence in buying and selling transactions as a statement and firm signal between the seller and the buyer.

The beliefs of the Hanafi school of scholars tend to limit transactions that are not limited according to the current style of behavior in society. This is different from the views of many *ulama* regarding trade transactions which require consent and *qabul*. As long as both parties to the transaction show evidence of mutual agreement, the thinking of Maliki school academics is also the same as that of the Hanafi school. However, the author states that this perspective has weaknesses because it does not take into account the customs of society when deciding whether or not to accept *Ba'i al-Mu'athah*. If people in the community do not develop buying and selling practices, this may become confusing for those in business. However, adhering to the Shafi'i school of thought will make it increasingly difficult for modern society to carry out economic activities on small

transactions by limiting the use of *ba'i al-mu'athah*. Likewise, if we relate it to the TikTik Shop application as a buying and selling platform that still applies a transaction system, these transactions actually cause confusion or doubt on the part of consumers in shopping and security is not guaranteed regarding internal and external security, as explained in Article 21 Paragraph (3) of the Minister of Home Affairs. No. 31 of 2023 concerning PMSE. The intention of the Minister of Home Affairs above is to prohibit social media applications such as TikTok Shop, one of which is not permitted to display transaction modes in buying and selling between sellers and consumers electronically. TikTok shop social media is only limited to electronic promotions or advertisements, the Permedagri emphasizes this, in accordance with paragraph (1) of article 23 which allows entrepreneurs to produce and/or distribute electronic advertisements for advertising, marketing or other purposes. And thus the TikTok Shop company permit was not registered by the minister of trade and was declared illegal as the first paragraph of Article 21 stipulates that business actors involved in PMSE must comply with the provisions of the law. According to Fiqh Siyasa's view, the problem with TikTok Shop is related to the community justice system in *muamalah* and the application or implementation of statutory regulations (*siyasa dusturiyyah*) which is not yet effective based on field observations.

E. CLOSING

1. Analysis of the decision of Permendagri No. 31 of 2023 concerning PSME, carrying out buying and selling transactions on social media application platforms is an action that is strictly prohibited, the provision of trading services is only limited to commercial or promotional goods by expanding the reach of the trading market to the general public, but is not permitted as a transaction tool. etc. In particular, the provision of buying and selling transaction services has its own platform available with the aim of preventing actions that are detrimental to other parties from individuals who abuse their authority. In fact, based on Minister of Trade Regulation Number 31 of 2023 Article 1 Paragraph 17 states that social media can only advertise goods and services and offer certain features, menus and facilities, social media is classified as social-commerce. Therefore, transactions between buyers and sellers are not allowed on social media.
2. According to the analysis of *siyasa fiqh*, which is quoted from the Syafi'i school of thought, the belief that *bai al-mu'athah* should only be used for small transactions will make it difficult for modern society to carry out economic activities. Likewise, if we relate it to the TikTik Shop application as a buying and selling platform which still applies a transaction system that makes things difficult for the public and causes confusion or doubt on the part of consumers when shopping and there is no guarantee of internal and external security, as explained in Article 21 Paragraph (3) Permendagri No. 31 of 2023 concerning PMSE, that PPMSE that uses social-commerce as its business model is not allowed to handle payments via electronic systems. According to Ibnu Qayyim, the trading system must have a concept of benefit in its regulation, meaning achieving goodness and benefit (*maslahat*) while avoiding evil and damage (*mafsadat*). When laws are in place, individuals should be able to benefit from them in a good way. Such excellence must include fairness, clarity, and the ability to achieve and improve human well-being. Economic ethical standards include government participation in the economy, worker welfare, individual property ownership, and cooperative economic activities. So the point of problem with TikTok Shop is related to the community justice system in *muamalah* and the application or implementation of statutory regulations (*siyasa dusturiyyah*) which have not yet been fully effective based on field observations.

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