

Analysis of Non-Halal Drug Use in the Perspective of Maqashid Syariah

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Abstract

Indonesia is one of the largest island countries and the largest Muslim population in the world. This is related to the consumption of pharmaceutical supplies, especially the consumption of drugs. The use of drugs to improve the quality of health not only ensures safety, quality, and efficacy but also must be available halal guarantees on the product. This research aims to find out how the study of sharia maqashid related to the use of non-halal drugs. This research method uses this type of research library research with data collection methods obtained from various sources of articles and journals reviewed. The results showed that the use of non-halal drugs are drugs that are not in accordance with the provisions of Islamic sharia, whose way of manufacture and materials are not in accordance with Islamic sharia, and are not recommended for consumption by Muslims. In terms of Maqashid al-Syariah, it is very clear that the use of such non-halal drugs can be used with the consideration that maintaining the soul to avoid deadly diseases falls into the level of dharuriyyah / primer.

Keywords: Non Halal Medicine, Maqashid Syariah

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1. INTRODUCTION

Indonesia is one of the largest island countries in the world. In addition, Indonesia is also among the countries with the largest Muslim population in the world. Based on data from the 2010 Population Census, the population of Indonesia is 237,641,326 people. Meanwhile, the Muslim population amounted to 207,176,162 people or equivalent to 87.18% of Indonesia's population. (BPS, 2020) When compared to the number of Indonesian population in the 2020 Population Census, which is 270,203,917 people, it can be predicted that the number of Muslims in the 2020 Population Census has also increased.

Indonesia as a country rich in natural resources and human resources is a gift from Allah SWT. This is a great potential for Indonesia to develop the halal industry. With a large Muslim population, this can be used as a standard in the interest of the halal industry sector from various aspects. Increased interest in the halal industry sector is part of the Islamic committee that must always be present in the daily life of Muslims. (Sulistiani, 2018)

Lately halal lifestyle is sweeping the world, not only in muslim-majority countries but also in countries with Muslim minorities. (Astuti, 2020) Indonesia is one of the countries with a Muslim-majority population that began implementing halal lifestyle. Until now, halal lifestyle trends in Indonesia include several sectors, such as the food sector, beauty, finance, tourism to the health sector. (Adinugraha & Sartika, 2019) The reliability of this product is a necessity for every consumer, especially Muslims.

Islam governs all aspects of human life. The teachings of Islam are built to realize the benefit of mankind in this world and in the Hereafter. Islam aims to form a good human personality character and uphold justice and good. (Rahayuningsih & Ghozali, 2021) In Islamic teachings, the fulfillment of everyone's needs must be in accordance with the Qur'an and Hadith. A Muslim should pay attention to the idolatry and good values (thayyib) contained in the products he will consume. (Sulistiani, 2018) This is explained in the word of Allah SWT which is contained in QS. Al-Baqarah: 168 following:

يَا أَيُّهَا النَّاسُ كُلُوا مِمَّا فِي الْأَرْضِ حَلَالًا طَيِّبًا وَلَا
تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ إِنَّهُ لَكُمْ عَدُوٌّ مُبِينٌ

Translation: "O people, eat what is lawful again good from what is on the earth, and do not follow the steps of satan; For satan is a real enemy to you.."

The reliability of the product becomes a mandatory need for every consumer, especially Muslim consumers. In the international trading system, the issue of halal certificates and labelization is getting considerable attention in order to improve the protection of Muslim consumers around the world as well as a strategy to face the challenges of globalization.(Astuti, 2020) Halal products in question are all types of objects made from elements that are in accordance with Islamic sharia, whether in the form of clothing, consumption or other needs.(Husni et al., 2013) One of the efforts of the Indonesian government to provide guarantees for food products is the establishment of the Indonesian Ulama Council (LPOOM MUI) Food Assessment Institute. This institution is tasked to conduct halal certification of food, medicines and cosmetics.(Faidah, 2017)

Health is an important element in human life. The United Nations Development Programme (UNDP) categorizes health as part of the measurement of the human development index. One of the things that determines the level of public health is health services that are supported by various things, such as pharmaceuticals or drug problems.(Syahrir et al., 2019) Islam encourages its people to consume halal food/ drink, medicines and cosmetics as an effort to implement healthy living. This is because, halal and good food can make the body's power to be healthy and strong against the attack of viruses or bacteria that can bring disease.(Fikri & Suryani, 2019) This is in line with the Word of God contained in QS. Al-Baqarah verse 168 mentioned above.

As explained earlier, That Indonesia is the country with the largest Muslim majority population in the world. This is related to the consumption of pharmaceutical supplies, especially the consumption of drugs. The use of drugs to improve the quality of health not only ensures safety, quality, and efficacy but also must be available halal guarantee on the product.. Halal terminology is an important and

fundamental part because it is an obligation that must be fulfilled by Muslims..(Syahrir et al., 2019)

The halal status of pharmaceutical products, especially pharmaceuticals, was a concern after the issuance of the Law on Halal Product Guarantee in Indonesia. Medicine is an ingredient used to prevent, treat, eliminate or cure the disease.(Yuniati & Handayani, 2019) But the fact related to the guarantee of halal products on drugs is still very concerning. This can be seen in a study entitled "Pharmaceutical Efforts in the Implementation of Law No. 33 of 2014 on Halal Product Guarantee". In the preliminary part of the study it was explained that for vaccine products, in accordance with MUI Fatwa No. 06 of 2010 there were only three vaccines that obtained halal certificates. Even data from LPPOM MUI explained that of the 30 thousand types of drugs registered in BPPOM and that are already circulating in the community, only 34 types of drugs are halal certified.(Hijriawati et al., 2018) Based on these data, it can be seen that halal certification in drugs still needs to be improved considering that Indonesia is a muslim-majority country.

Until now, drugs that have not been certified halal are widely circulated and consumed by the public. This is a serious concern for the Muslim community. Based on this, this study will be studied more deeply related to how the study of sharia maqashid related to the use of non-halal drugs.

2. THEORETICAL FOUNDATION

Product Page

To ensure the availability of Halal Products, officially inaugurated product materials that are declared halal, whether materials derived from animal raw materials, plants, microbes, or materials produced through chemical processes, biological processes, or genetic engineering processes. In addition, halal products are also established which is a series of activities to ensure product reliability that includes the provision of materials, processing, storage, packaging, distribution, sales, and presentation of products.(Yuniati, Y. E., & Handayani, 2019)

The idolatry of a product becomes a mandatory need for every consumer, especially Muslim consumers. Be it products in the form of food, medicine or other consumer goods. Along with the large quantity of Muslim consumers in Indonesia which amounted to 204.8 million indonesians, by itself the Indonesian market became a very large

Muslim consumer market. Therefore, the guarantee of halal products becomes an important thing to get the attention of the state. (Aziz, M., Rofiq, A., & Ghofur, 2019)

One of the most pressing issues facing Muslims is the flood of imported food products, processed beverages, medicines, and cosmetics. In line with Islamic teachings, it is required that the products consumed are guaranteed idolatry and sanctity. According to Islamic teachings, consuming halal, holy, and good is a religious order and the law is mandatory. (Mahlil, M., & Akram, 2019) In the halal product rules have existed but it is undeniable that it still does not apply to society at large, so people are still confused to get products that are truly guaranteed to the page. This is because not a few products that include illegal halal marks, food and non-food processing, the status of the page of products on the market becomes very vulnerable, because the processing process becomes very complex and involves many parties and other business actors. The production process in the industry will involve various ingredients, both raw materials, additives and auxiliary materials, which are often imported from other suppliers. (Ilyas, 2018)

Medicine in Islam

Adrift of Islamic legal status against drugs and cosmetics spread without halal label, circular license, description of BPOM- LPPOM- MUI / MPU classified as syubhat, is something that is not clear the status of idolatry or prohibition. In Islamic legal thinking using dubious medicinal and cosmetic products should be abandoned, this is an attitude of prudence and protecting oneself to be free from something forbidden. Regarding this is also sourced from the advice of the Prophet (peace be upon him) as narrated by Imam At-Tirmidhi from Al-Hasan bin Ali bin Abi Talib to leave the things that doubt and turn to things that do not doubt. (Fikri, J., 2017)

Products that are often eaten by humans and are basic necessities are food and drinks, as well as drugs eaten by people who are again in trouble with their health. The inclusion of halal labels indirectly protects business actors and shares legal certainty about the validity of the drug. Halal status of pharmaceutical products, especially drugs become attention after the enacting of the Law on Halal Product Guarantee. Drugs are a combination of ingredients or combinations of materials used to avoid disease, treat, help the enforcement of diagnoses, make it infertile or

make muscles become weak in the process of surgery. Halal labelization certification that has been tried by the Indonesian Ulema Council through LPPOM MUI and the MUI Fatwa Commission only reaches a small percentage of fine dining products, beverages, drugs, cosmetics spread in the community. LPPOM MUI as much as possible provides halal guarantees for Muslim consumers through halal certification instruments, as outlined in the MUI fatwa on the idolatry of a product in accordance with Islamic sharia with the aim of sharing the halal certainty of a product so that it wants to make safe people who consume the product. (Yuniati, Y. E., & Handayani, 2019)

A product is said to be halal if it can be proven freely from the critical point of the drug. The growth of technology in the drug manufacturing process today continues to be advanced and makes consumers unaware of the contents of drug ingredients on the market, therefore it needs to be observed the critical point of drug reliability, such as:

- a. Confirm the reliability of active ingredients, excipien materials and auxiliary materials used.
- b. Justifying the means of creation used specifically for halal products only
- c. Justifying there is no opportunity to mix and contaminate with illegal materials from bonus materials, auxiliary materials or from the facilities used.
- d. Allow the reliability of the packing materials used Melaksanakan proses pencucian serta pensucian perlengkapan cocok syariat.
- e. Allow halal auditors to carry out the audited process directly and establish their page.

The critical point of product reliability can be a reference in producing halal products before submitting the halal certification process of products to BPJPH. If the pharmaceutical industry says that as long as the illegal substance is a good drug and its use can still be tolerated, reported from the Doctor. Yusuf Qordhowi in his book Halal Haram fil Islam, about that cannot be corrected, because "as long as there are substances that have the same benefits as the illegal substance, until always the substance is declared haram", it could be the principle that must be applied in enforcing the JPH Law in drug products. (Husni et al., 2013)

Maqasid Syariah

One of the important and fundamental concepts that are the subject of Islam is the concept of Maqasid Syariah which asserts that Islam is present to realize

and maintain the maslahat of mankind. This concept has been recognized by scholars and becomes a basic reference in Islam. As for the spirit of the concept of Maqasid Shari'ah is to realize good while avoiding evil or attracting benefits and rejecting mudarat (dar'u al-mafasid wa jalb al-masalih), a term that is commensurate with the core of the Shariah Maqasid is maslahat, because Islam and maslahat like twin brothers who cannot be separated. (Musolli, 2018)

Maqashid syari'ah menurut AlKhadimi (2001: 14). terdiri dari dua kata, maqashid dan syari'ah. Kata maqashid merupakan bentuk jama' dari maqshad yang berarti maksud dan tujuan. Ia merupakan mashdar mimi yang diambil dari kata kerja qashada, yaqshidu, qashdan. Secara bahasa, maqshad mempunyai beberapa pengertian: pertama, sandaran, pengarahan (penjelasan), dan istiqamah dalam menempuh jalan. Allah ta'ala berfirman: Dan hak bagi Allah (menerangkan) jalan yang lurus, dan di antara jalan-jalan ada yang bengkok. (QS. An-Nahl (16): 9). Kedua, pertengahan, tidak berlebihan dan juga tidak kekurangan. Firman Allah: Dan sederhanalah kamu dalam berjalan. (QS. Luqman (31): 19). (Fitria, 2013)

Al-Shathibi divides maqâshid into two: the purpose of Allah (qashdu al-Syârî) and the purpose of mukallaf (qashdu almukallaf). The purpose of Allah (qashdu al-Syârî) is divided into four parts: First; qashdu al-Syârî fi wadlî al-syarî'ah (Allah's purpose in establishing the law). Second; qashdu al-Syârî fi wadlî al-syarî'ah li al-ifhâm (Allah's purpose in establishing the law is to be understood). Third; qashdu al-Syârî fi wadlî al-syarî'ah li al-taklîf bi muqtadlâha (Allah's purpose in establishing the law is to be borne with all its consequences). Fourth; qashdu al-Syârî fi dukhûli almukallaf tahta ahkâmi al-syarî'ah (god's purpose when incorporating mukallaf in the law of syarî'ah). While related to the purpose of mukallaf (qashdu al-mukallaf) Shathibi only discusses a few issues only. (Toriquddin, 2014)

With easier language, the rules of the law that God has decreed are only for the benefit of man himself. Syathibi then divides the maqashid in three gradations, namely dharuriyyat (primer), hajjiyyat (secondary) and tahsiniyyat (tertiary). Dharuriyyat is maintaining needs that are essential to human life. The basic needs are five: religion (al-din), soul (al-nafs), descendants (an-nasl), treasure (al-mal) and reason (al-aql). While Hajjiyyat is a need that is not essential, but a need that can prevent humans from the difficulties of his life. These unsuspected needs do not

threaten the five basic human needs. And if the Tahsiniyyat is a need that supports the improvement of human dignity in society and before its Lord in accordance with obedience. (Mayangsari R & Noor, 2014)

3. RESEARCH METHODS

This research uses a type of reseach library research or literature research with data collection methods obtained from various sources of articles and journals reviewed results so as to produce data in the form of secondary data. This type of reseach library research is related to the collection of library data obtained by various library information, one of which is a scientific journal. This research focuses on descriptive analysis by outlining the data then analyzed and discussed so that the data obtained can be clearly studied. (Faridatul Amiroh & Setyo Admoko, 2019) The data source in this study is secondary, which is data obtained from the results of previous research summarized and condensed into one form of research that can later be used by the next researcher as a new form in related research. (Megatro Thathit Wahyunan Widhi dkk, 2021)

4. RESULTS OF RESEARCH AND DISCUSSION

Drugs are commodities needed in health services and must always be guaranteed availability, therefore it is necessary to strengthen supervision to prevent and detect illegal products and produce products that are not in accordance with applicable laws and regulations. In practice, there are still many drug violations that are not in accordance with the laws and regulations and also violate laws such as the Consumer Rights Protection Act. In the research conducted by Fatimah and Zaila that the presence of the Law on the guarantee of Halal products which until now is still a RUUJPH is a great hope for consumer protection, especially Indonesian Muslims for the safety and security of the products consumed. (Zailia, 2017) BPOM seeks to conduct non-halal drug supervision through a joint team of other relevant agencies, with the aim of supervising commercial participants and pharmaceutical facilities that are still in circulation, rather than selling the product. (Asep Syarifuddin Hidayat dan Mustolih Siradj, 2015)

Producers in production must meet the needs or rights of the community, especially Muslims, one form of responsibility is to produce halal products.

Muslims must be sure that the products they consume are halal. If the company's products have halal certificates, this belief will arise. Drug distribution can be interpreted as distribution, and distribution can be interpreted as marketing activities that aim to advance and facilitate the delivery of goods and services from producers to consumers so that their use meets the needs (type, amount, price, location and time needed).(Mudin, 2018)

Non-halal drugs are drugs that are not in accordance with the provisions of Islamic sharia, where the way of manufacture and materials are not in accordance with Islamic sharia, and are not recommended for consumption by Muslims. Drugs that do not have halal certificates or come from materials that have not received halal certificates are very troubling for Muslims in Indonesia. With halal certificates, consumers, especially Muslim consumers, can be protected.(Rahmi Ayunda & Viola Zahra Ananda Kusuma, 2021)

Meanwhile, sharia maqashid is a fundamental thing that must be fulfilled by humans to realize the falah, namely the needs of the world and the hereafter. If all these things are not fulfilled, man will not achieve perfect happiness. In maqashid Islamic sharia also described the five main benefits of each of these ranks. These five things are explained in the order, namely religion, soul, mind, descendants, and property, then further divided into three groups of needs, namely dharuriyyah, hajiyyah and tahsiniyyah, which will be explained according to the level of importance or need.(Rafsanjani, 2016)

The use of non-halal medicines for public health has at least maslahat and mudarat when viewed at the joints of Islamic law with the aim that it wants to provide benefits for mankind. Sharia or Islamic law was created by Allah SWT aims to create the benefit of His servants both in the world and in the hereafter. Life in this world is not value-free, and certainly contains hasanah (good) or sayyi'ah (evil) in the hereafter, so it has become a study to determine every policy issued in life in the world whether it contains good or bad. In research conducted by Asep and Mustlih that consumers need food products that are safe to consume, disease-free, nutritious and healthy and bring peace inwardly that is not mixed with non-halal ingredients.(Asep Syarifuddin Hidayat dan Mustolih Siradj, 2015)

When viewed from the side of Maqashid al-Sharia, it is very clear that the use of such non-halal

drugs can be used with the consideration that maintaining the soul to avoid deadly diseases falls within the level of dharuriyyah (primer). However, our society is still very, very permissive to the halal status of medicines, although in it there may be ingredients derived from illegal goods, such as pigs. This permissive attitude may be due to an under-controlled understanding of emergency law. In Islam, the emergency has its limits..

Haram in Islam can be a halal item if in a very emergency situation, as well as animal carcasses, blood or pork that can be halal to eat if in an emergency (Qur'an Surat Al-Baqarah: 173). However, in the case of drugs it seems like this emergency law the impression is too widened and excessive, so any medicinal ingredients will be considered halal without exception, because it takes shelter behind an emergency shield. If we listen to the principle of emergency law described in the Qur'an and hadith, actually the emergency law is applied only when in very forced circumstances.

As in the case of the inhalation of animal carcasses, that is, when at least in a day overnight (for example in the middle of the desert) do not find any food, except the only carcass of the animal. However, consuming it should not be excessive, but just to be able to survive. As for the case of prescription drugs, with the increasing progress of the field of pharmacy, there are many variations and types of drugs that generally come from ingredients that are not haram. Thus, the public or doctors have many choices or alternatives in determining the right and rational type of drug to be prescribed to patients. Understanding and practicing the teachings of religion that are complete and comprehensive is needed today, not just prioritizing ego and belief, because avoiding disease is part of practicing our religious teachings.

Replacing the ingredients of medicines with halal ones is also not an easy solution. According to a number of pharmaceutical businesses, such as Bio Farma, it takes years to determine the exact replacement ingredient of a drug. In fact, in the draft Government Regulation on Halal Product Guarantee, medicines must be halal certified by 2019. Knowledge of the understanding of Maqashid and al-Sharia, etymologically can help us explain the understanding of Maqashid al-Sharia in terminology, namely the purpose or purpose of the meaning of law in Islam, this indicates that Maqashid al-Sharia is closely related to wisdom and illat.

While if we speak of Maqashid al-Syariah as one of the independent disciplines, then we will not find a concrete and comprehensive definition given by classical scholars, so we will find different versions of definitions that differ from each other, even though the whole departs from almost the same starting point. Therefore, most definitions of Maqashid al-Sharia that we get today, are more widely put forward by contemporary scholars, such as Tahir bin Asyūr who divides Maqashid al-Syariah into two parts, namely Maqashid al-Syariah Al-amanah and Maqashid al-Syariah al-khashah. The first part he means as wisdom, and the secret and purpose of the general deriving of sharia which covers all aspects of sharia without specializing in one particular field. While the second part is intended as a certain set of methods desired by al-Shari' in order to realize human benefit by specializing in one field of existing areas of sharia, such as in economics, family law. According to Allal al-Fasi, it is a method of knowing the purpose of the study of a law to ensure the benefit and prevent the existence of benefits for humans.

The laws are not made for the law itself but are made for the purpose of good. With a language that is not much different Abu Zahrah stated that the ultimate purpose of Islamic law is good. There is no law that is narrated in either the Qur'an or hadith, but in it there is good. The above statement further reinforces al-Syatibi's statement that the Shari'ah is actually aimed at realizing the benefit of mankind in this world and the hereafter. All obligations are created in order to realize the benefit of the servant. There is no law of God that has no purpose. It can be said that the content of maqasid al-Shari'ah is a benefit. Through the analysis of maqasid al-Shari'ah, the benefit is not only seen in a mere technical sense but in the efforts of dynamics and legal development, maqasid al-Shari'ah is seen as something that contains the philosophical value of the laws that God entrusts to man.

Indonesia is one of the countries that have many cases of drug abuse. This abuse case is increasingly increasing both in terms of quantity and quality. One form of abuse that is often found in Indonesia is the use of narcotics. Initially narcotics were used only as drugs and were used according to a doctor's prescription. But today narcotics are no longer used as drugs but as something for pleasure that only affects human health. Narcotics are considered haram because the substances contained in them if used excessively will have a negative impact on human

health, such as hypertension, infertility, cervical cancer, and can even cause Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS). (Sri Purwaningsih, 2001)

5. CONCLUSION

Products that are often eaten by humans are a basic need, as well as drugs eaten by people who are again in trouble with their health. The spirit of the concept of Maqasid Shari'ah is to create good while avoiding evil or attracting benefits and rejecting mudarat. Non-halal medicines are drugs that are not in accordance with the provisions of Islamic sharia, whose way of manufacture and materials are not in accordance with Islamic sharia, and are not recommended for consumption by Muslims. *In terms of Maqashid al-Shariah, it is very clear that the use of such non-halal drugs can be used with the consideration that maintaining the soul to avoid deadly diseases falls within the level of dharuriyyah / primer.* But our society until now is still very, very permissive to the halal status of drugs, although in it there may be ingredients derived from illegal goods, such as pigs.

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