



STRICT LIABILITY AND PRODUCT SAFETY: THE CASE OF DANGEROUS SYRUP IN INDONESIA IN THE *MAQĀSID AL-SHARĪ'AH* PERSPECTIVE

Rahmatiah HL, Tri Subenra Arbani, Risnah, and Rahmatul Akbar

Abstrak: Indonesia menghadapi tantangan serius dalam mencegah efek samping berdampak buruk dari obat yang mengandung bahan kimia berbahaya. Studi ini mengkaji kasus sirup obat batuk yang dikaitkan dengan kematian anak di Indonesia. Penelitian kualitatif ini bersumber dari studi dokumen, pemberitaan, dan pernyataan resmi dari pihak terkait melalui pendekatan *maqāsid al-sharī'ah* dan *strict liability theory*. Studi ini mengindikasikan bahwa penerapan prinsip pertanggungjawaban ketat memastikan bahwa produsen bertanggung jawab secara hukum atas kualitas dan keamanan produk yang mengutamakan keselamatan konsumen, terutama bagi anak-anak yang rentan terhadap produk berbahaya. Integrasi antara *strict liability* dan prinsip *maqāsid al-sharī'ah* mendorong tindakan preventif untuk melindungi masyarakat dari dampak negatif produk berbahaya. Selain itu, pengawasan makanan dan obat memerlukan kerangka hukum yang lebih komprehensif dan berorientasi pada kesehatan dan perlindungan konsumen. Hal ini dilakukan untuk menggali pandangan hukum Islam yang holistik dan etis serta berkontribusi positif dalam menciptakan lingkungan yang lebih aman dan melindungi masyarakat secara luas.

Kata kunci: *Maqāsid al-sharī'ah*; keamanan produk; akuntabilitas ketat, perlindungan konsumen

Abstract: Indonesia faces serious challenges in preventing side effects from drugs containing dangerous chemicals. This study examines the case of cough syrup, which has been linked to child deaths in Indonesia. This qualitative research comes from document studies, news reports and official statements from related parties using the *maqāṣid al-sharī'ah* approach and strict liability theory. This study indicates that applying the principle of strict liability ensures that manufacturers are legally responsible for the quality and safety of products that prioritize consumer safety, especially for children vulnerable to dangerous products. Integrating strict liability and the principles of *maqāṣid al-sharī'ah* encourages preventive action to protect society from the negative impacts of dangerous products. In addition, food and drug control requires a legal framework that is more comprehensive and oriented towards health and consumer protection. This is done to explore a holistic and ethical view of Islamic law and contribute positively to creating a safer environment and protecting society.

Keywords: *Maqāṣid al-sharī'ah*; product safety; strict accountability, consumer protection

Introduction

As a result of globalization, the pharmaceutical and food industries have grown rapidly, contributing significantly to society's welfare. However, this development is also accompanied by risks to consumer safety, as in the case of cough syrup in Indonesia. Lately, Indonesians faced a serious issue regarding the product safety of cough syrup for children, leading to the death of a number of children. This has raised concerns regarding supervision effectiveness and manufacturers' accountability for product safety (Afzal, 2018).

In October 2022, the Indonesian Ministry of Health reported an increase in mysterious kidney failure cases (acute kidney injury/AKI) among children, which reached 304 cases as of 31 October 2022. Likewise, the number of deaths related to the case reached 159 children, an increase from previously reported, reaching 157 children (Nurhayati, 2022). This case has raised public concerns and doubts about the quality and safety of medicines in the market (Hartono, 2021). This is a fundamental problem in the medical field in Indonesia. The government is obliged to guarantee public health as a form of government accountability in consumer protection law (Putri et al., 2023).

Regarding more robust consumer protection, it is necessary to consider the strict liability framework underlying the industrial responsibility for their product safety. These laws emphasize producers' liability regardless of proven fault or negligence, providing stronger consumer protection. From an Islamic legal perspective, such a violation is against *maqāṣid al-sharī'ah* principles, especially in protecting offspring. The combination of strict liability and *maqāṣid al-sharī'ah* results in a more comprehensive solution to respond to product safety challenges, protect consumer rights, and ensure industrial sustainability. At the same time, it also considers the value of prosperity and justice.

In Indonesia, the implementation of the strict liability principles in the child cough syrup case raises the question of whether drug manufacturers are responsible for the losses suffered by consumers. Adhitama et al. (2023) explain that strict liability is a legal provision that a manufacturer can be considered responsible for losses caused by its product without fault. For example, the responsibility can be considered valid if it can be shown that the product contains dangerous

and detrimental chemicals to consumers, per the provisions of consumer protection regulations.

However, implementing strict liability principles also raises questions regarding the limitations that may not be adequate for drug manufacturers and whether drug manufacturers can be considered solely responsible parties. Is it acceptable if they can prove that they have carried out rigorous product testing and complied with the safety standards set by regulatory bodies? Meanwhile, what about the limitation related to inadequate supervision of medicinal products and consumer protection on the part of the government?

In consumer protection theory, there are principles guaranteeing consumer rights. One of them is the principle of product safety. This principle emphasizes that producers are obliged to ensure that the products are safe and do not endanger consumers. If it turns out that the product causes harm, the manufacturer is expected to be responsible for the loss. There is also the principle of causality, stating that the losses must have a causal relationship with the producers' actions or the conditions resulting from the product consumption. In the context of child cough syrups containing dangerous chemicals, drug manufacturers must be able to prove that the harm is not caused by factors other than the products they produce (Alfannurzuhaid et al., 2016). This research aims to analyze the issue using the strict liability and *maqāṣid al-sharī'ah* theories. It is expected that this research will contribute to the discussion of implementing Islamic law as it provides practical guidance to stakeholders to create a safer and more sustainable environment for families in Indonesia (Holijah, H., & Rizal, M., 2022). Furthermore, this study contributes to understanding complex legal health issues and guides policy development (Widyaningsih, 2023).

Method

This study conducted library research where researchers analyzed the problem through document studies, news reports, and official statements from related parties. Furthermore, a doctrinal legal approach was made to look more into a case of cough syrups that lead to kidney failures among children. This issue was analyzed using the strict liability procedure and *maqāṣid al-sharī'ah*.

The document study focuses on the laws and regulations, such as Law No. 36 of 2009 on Health and Law No. 8 of 1999 on Consumer Protection. In addition, Government Regulation No. 51 of 1999 on Food Security, Government Regulation No. 43 of 2014 on Food Sovereignty, Decree of the Minister of Health No. 469/Menkes/SK/IV/2007 on Guidelines for Traditional Medicines Registration, and Minister of Health Regulation No. 2406/MENKES /PER/XII/2011 on Quality and Safety Requirements for Medicine Products were also being studied. The literature review focused on reading and analyzing news reports and journal articles that discussed a related issue. At this stage, researchers explored and quoted any necessary statements from parties linked with the case.

Integration of Strict Liability and *Maqāṣid al-Sharī'ah* Principles

The protection and the safety of consumers is the ultimate goal of shariah. Applying strict liability principles is not sufficient to guarantee product safety; sharia principles need to be involved. In order to prevent consumers from dangerous products, the concept of strict liability and *maqāṣid al-sharī'ah* principles need to be elaborated further.

The concept of strict liability or absolute responsibility differs from the general criminal responsibility system, which requires the presence of intent or negligence. Only the defendant's knowledge and actions are required in absolute criminal responsibility. If the perpetrator knows or is aware of the potential harm that may impact other parties, it is sufficient to demand their responsibility. There is no need for the element of intent or negligence on the perpetrator's part, but merely the act resulted in a negative impact on others (Diana, 2011).

The strict liability principle can be found in some Indonesian and foreign laws with diverse formulations. The Indonesian Criminal Act does not provide more complete rules regarding the limits of criminal acts subject to strict liability. Apart from that, Indonesia has not set a regulation regarding "defence" as one of the characteristics of the principle of strict liability. Rofiq argues that the strict liability in the Indonesian Criminal Code requires limitations, measures, and defences. This ensures which acts are subject to the strict liability principle, considering it as a balance to the principle of 'no crime without fault' (Rofiq and Pujiyono (2023)). The principle of strict liability has the

potential to be further implemented in the Indonesian criminal justice system. Furthermore, generally, the strict liability principle is suitable to be implemented for offences related to the environment, corporations, and consumer protection (Polinsky, 2018; Alberini & Austin, 2018; Akey & Appel, 2021; Hafrida, et al., 2020; Sinaga, et al., 2020).

The formulation of the strict liability principle in the Indonesian Criminal Act can be found in Article 37 Letter a. It is stated that "in cases determined by law, every person can be sentenced because the elements of a criminal act have been fulfilled without regard to any errors." Applying strict liability also opens up space for abuse and violation of human rights if clear limitations do not accompany it. Therefore, it is necessary to carry out an in-depth study so that this principle can go hand in hand with general principles in criminal law, such as legality and the principle of presumption of innocence. Balance in the application of strict liability is necessary to create justice for all parties (Rofiq & Pujiyono, 2022)

The concept of strict liability in enforcing environmental law in Indonesia is governed by Law No. 32 of 2009 on Environmental Protection and Management. This principle holds individuals or companies accountable for their activities involving hazardous and toxic substances, hazardous waste, or activities posing a serious environmental threat without finding fault. Unlike a negligence claim, under strict liability focuses on whether environmental damage occurred due to the perpetrator's activities, regardless of a proven legal violation. The application of strict liability in environmental law is aimed at ensuring accountability for environmental damage and is an essential aspect of environmental law enforcement in Indonesia (Al Fikri, 2022).

In Indonesian environmental law, this concept has been regulated in several regulations, such as Law No. 23 of 2009. The strict liability principle has several characteristics, including 1) it does not require proof of fault on the perpetrator's part, 2) it requires compensation, and 3) it can be applied in cases where a company violates environmental laws and causes damage. However, academics and practitioners consider applying the principle in environmental law problematic. In some cases, the strict liability principle is mixed with the due diligence principle. On the other hand, the principle is considered more beneficial for the victims, as they do not need to prove the perpetrator's fault.

Meanwhile, *maqāṣid al-sharī'ah* are the goals established by Islamic law to be realized for the benefit of humanity. *Maqāṣid al-sharī'ah* is used as a guide in establishing laws and evaluating new arising problems. According to al-Shāṭibī (n.d), it consists of three levels, namely: *daruriyyāt* (primary) to protect religion, soul, mind, lineage and property; *ḥajiyāt* (secondary), eliminating the difficulties of the people; *tahsinīyāt* (complimentary), upholding moral values and benefit. Applying the *maqāṣid al-sharī'ah* concept can help determine Islamic law to be suitable for the dynamics of the times and able to realize the benefit of the people. *maqāṣid al-sharī'ah* believes that all Islamic law has a noble aim: for the good of humans.

The concept of *maqāṣid al-sharī'ah* is crucial in establishing Islamic law and relevant for application in sharia economics and finance. Jasser Auda (2008) criticized the classical *maqāṣid*, which was trapped in the benefit of the individual and unable to answer world problems. There are six dimensions of *maqāṣid al-sharī'ah*: cognitive nature, interrelatedness, wholeness, openness, multi-dimensionality and purposefulness.

In line with this, Mohammad Hashim Kamali (2008), a *fiqh* and *uṣul al-fiqh* expert, stated that *maqāṣid al-sharī'ah* values such as justice, benefit and universalism are suitable for sharia financial industry to make it more inclusive and sustainable. Thus, the concept of *maqāṣid al-sharī'ah* is crucial in Islamic law and relevant to contemporary Islamic economic and financial regulations to realize their actual benefits.

A different perspective on viewing *maqāṣid al-sharī'ah* in economic activities is offered by Muttaqin et al. (2023) when relating the economy to disaster. However, that particular study refers to Jasser Auda's concept of *maqāṣid al-sharī'ah*, consisting of seven frameworks. These are *maqāṣid* (objectives), *mafāhim* (concept), *fī'ah* (groups), *sunan ilāhiyah* (universal law), *qiyam* (values), *hujjāj* (proofs), and *awāmīr* (commands) (Muttaqin et al., 2023). Muttaqin et al. see that these frameworks allow a better understanding of Divine messages in the Quran and reality.

Consumer Protection

Consumer protection is laws and regulations setting up the rights and obligations of consumers and producers (Sidobalok, 2014: 39). Legal protection means that legal subjects receive protection for their rights

as living creatures. Meanwhile, legal protection aims to avoid abuse by certain irresponsible parties. In addition, consumer legal protection means efforts to fulfill consumer rights that may still not be fulfilled (Sudewi et al., 2020).

Sidabalok (2014) believes that consumer protection takes the form of laws that regulate the rights and obligations of consumers and producers. This law exists as an effort to ensure the realization of legal protection for the interests of consumers. Meanwhile, according to Shidarta (2016), consumer protection is a legal regulation to regulate relationships and problems between various parties related to consumer goods or services in social life.

In Indonesia, consumer rights are regulated in Law No. 8 of 1999 concerning Consumer Protection, based on the 1945 Constitution Article 5 paragraph (1), Article 21 paragraph (1), Article 27, and Article 33. The Constitution mentions the right to choose goods, receive compensation, appropriate goods/services, the truth regarding all definite information, and obtain services without discrimination.

The legal basis for establishing consumer protection principles is regulated in Article 2 of Law No. 8 of 1999 concerning Consumer Protection. These principles are benefit, justice, balance, security and safety, and legal certainty. The recent rise in online shopping fraud cases shows weak consumer protection in Indonesia. The methods vary, ranging from counterfeit goods and goods that do not match the order to the seller disappearing after payment. This harms many consumers without fear due to the lack of enforcement.

Various crimes and frauds that harm consumers are still prevalent. According to data from the National Consumer Protection Agency (BPKN), there are thousands or even millions of complaints about this matter yearly. Criminal acts of counterfeiting goods, fraud, selling substandard products, or those that endanger the health and safety of consumers are like an iceberg phenomenon. Many cases are not revealed and reported. The fact is that consumers' complaints submitted to BPKN from 2005 to May 2023 were 408, with the most complaints in the housing sector. These practices are detrimental to Indonesian consumers regarding financial health and even life considerations. The mode of crime is becoming more complex with the development of technology

and digital platforms. This serious threat requires special and serious handling from the government.

As a regulator, the government must tighten supervision of product circulation, improve the quality of law enforcement, and provide strict sanctions for perpetrators of crimes against consumers. On the other hand, business actors must also comply with consumer protection regulations and be ethical in trading to maintain the trust and rights of Indonesian consumers. Likewise, cases of poisoning and the circulation of dangerous food and drinks are still high in Indonesia. Weak supervision and law enforcement in the food sector have resulted in many consumer victims. Dangerous counterfeit products are still easily circulated freely and threaten the safety of consumers' lives.

Consumer protection in Indonesia is governed by various laws and regulations to safeguard consumer rights. Some key concepts of consumer protection in Indonesian law include Consumer Protection Law No. 8 of 1999, consumer rights, labelling and advertising, dispute resolution mechanism, consumer protection agency, and penalties and sanctions.

Consumer Protection in Law No. 8 of 1999 serves as the primary foundation regulating the rights and obligations of consumers in Indonesia. The law establishes fundamental consumer protection principles, such as the right to clear and accurate information, the right to safe products/services, the right to compensation, and so on. Furthermore, regarding consumer rights, consumers have the right to receive accurate, precise, and non-misleading information about the goods/services offered. Consumers have the right to obtain safe products/services that do not harm their health and safety. Finally, the consumers have rights to compensation in case of losses due to products/services not meeting standards or posing risks.

In terms of labelling and advertising, consumer protection laws regulate clear and truthful labelling of products, enabling consumers to make decisions. Furthermore, deceptive or harmful advertising is prohibited. Regarding the responsibility of producers and sellers, both are responsible for the safety and quality of the goods/services they produce or offer. Finally, the producers have obligations to provide accurate and clear information to consumers.

For dispute resolution mechanisms, Consumer Protection Law

provides mechanisms for dispute resolution, such as commercial courts or other consumer dispute resolution agencies. Consumer protection agencies, such as the Settlement Agency (BPSPK), oversee and implement consumer protection at the national level. Regarding penalties and sanctions, the Consumer Protection Law includes those for consumer protection violations. Consumer protection in Indonesia continues to evolve in response to market dynamics and consumer needs. The enforcement of Consumer Protection Laws is crucial to ensuring fairness and safety for consumers in transactions.

The Strict Liability in Product Safety

In Indonesia, children's medicine has been regulated by a number of laws and regulations. One is Law No. 36 of 2009 on Health, which regulates drug and food safety. The law emphasizes that medicine and food must be of safe quality and beneficial for human health. Apart from that, there are also Law No. 8 of 1999 on Consumer Protection, Government Regulation No. 51 of 1999 on Food Security, Government Regulation No. 43 of 2014 on Food Sovereignty, Decree of the Minister of Health No. 469/Menkes/SK/IV/2007 on Guidelines for Traditional Medicines Registration, and Minister of Health Regulation No. 2406/MENKES /PER/XII/2011 on Quality and Safety Requirements for Medicine Products.

In the context of children's medicinal syrups causing kidney failure, the provisions regarding strict liability in consumer protection can be applied to drug manufacturers. For example, Article 18 Paragraph (2) of Law No. 8 of 1999 on Consumer Protection confirms that producers are responsible for losses arising from their products (Ihsan & Ifrani, 2018). This shows that child cough syrup manufacturers containing dangerous chemicals can be subject to absolute responsibility for the losses consumers suffer (Widnyana et al., 2021). Regulation No. 36 of 2009 on Health stipulates that The Food and Drug Supervisory Agency (BPOM) is responsible for providing guarantees for the quality, effectiveness and safety of medicines, including monitoring medicines circulating on the market.

BPOM plays a vital role in monitoring public health through monitoring medicinal products sold on the market. In the event that cough syrup is dangerous for child consumers' health, the role and

responsibility of BPOM have become increasingly important (Suriangka, 2018). BPOM is also authorized to provide certification and distribution permits for medicinal products deemed safe and suitable for consumption. However, BPOM still faces obstacles in its duties (Dermawan, 2021). One of the challenges often faced is limited human and technological resources. In addition, there are obstacles in coordination between the Food and Drug Supervisory Agency and other related agencies, such as the Ministry of Health and the Ministry of Industry, in supervising medicinal products. In the case of potentially dangerous cough syrup to children's health, BPOM is advised to increase supervision of medicinal products on the market. Preventive measures must be implemented more strictly (Liviandari & Husni, 2023).

BPOM must also take firm action against drug manufacturers who violate regulations and market products that do not meet safety standards. Besides that, improving medicinal product certification and monitoring systems is also an important step. This can be done by improving drug product certification standards, including clinical trials and laboratory testing. Stricter supervision of drug factories in Indonesia is also needed to ensure that drug production complies with established standards (Oktavia, 2023). In this case, BPOM requires cooperation with related parties, drug manufacturers, medical personnel and the community. BPOM needs to increase outreach and educate the public about the importance of using safe and quality medicinal products (Wheny, 2023).

In the principle of strict liability, producers or distributors who cause harm to consumers of products can be held responsible without proving that there was an error or negligence in the production or distribution of the product. Thus, BPOM's supervision role needs to be strengthened (Machmud, 2019). If errors or negligence are found in supervision, BPOM should be administratively responsible and can be subject to sanctions in accordance with applicable regulations (Nadilla, 2019).

Absolute accountability means that a person or business entity can be considered responsible for the losses they cause without proving their fault (Juita et al., n.d.). However, the case of mal ingredients of cough syrup became an issue because not all losses can be held absolute responsibility. At this stage, the particular medication producers have fulfilled the requirements set by BPOM in the drug registration process. As a result, the manufacturer has obtained permission from

BPOM to produce and spread their products. In this situation, the drug manufacturer may be held responsible for losses consumers suffer based on error or negligence as nonabsolute accountability (Manihuruk, 2020).

Similar cases involving cough syrup, risking children's health, also occurred in other countries, such as cases of fake medicine in India and China, which caused death and harm to consumers (Rahman, et al., 2018). This shows that drug and food safety problems occur not only in Indonesia but also in other countries that have different regulatory systems. Therefore, it is necessary to compare with other countries to see the advantages and disadvantages of the applicable regulatory system. In this case, BPOM can strengthen cooperation with drug and food regulatory agencies in other countries to obtain helpful information and experience in improving Indonesia's drug and food control system (Reichenbach et al., 2019; Malem Karo Sekali, 2020).

The medical supervision system in Indonesia still faces challenges and weaknesses. Even though there are regulatory agencies responsible for drug control, a lack of resources, capabilities and coordination between agencies often becomes an obstacle in identifying and preventing the entry of dangerous drugs onto the market. A number of cases of kidney failure among children due to the dangerous substance in cough syrups were revealed after the negative impact felt by consumers, which indicated gaps in the existing monitoring system.

To increase the role and responsibility of BPOM, several proposed solutions that can be implemented involve various aspects. First, it is necessary to increase supervision and control over the import of medicines and food into Indonesia. This can be achieved by implementing a more stringent and routine quality inspection and testing process. Second, transparency and accountability must be increased in carrying out BPOM's duties. This includes strengthening reporting and complaint systems from consumers so that the public can be more involved in monitoring.

Furthermore, cooperation with related agencies, such as the police and public prosecution office, also needs to be strengthened in taking action against manufacturers or dealers of drugs and food that do not meet safety standards. It is also vital to increase education and outreach to the public regarding the importance of choosing and using safe and quality medicine and food products. This step is expected to create

public awareness of the risks that can arise from using unsafe products. Finally, involving the community in drug and food monitoring is also vital. Facilitating public participation in product testing and providing information related to drug and food safety are steps that need strengthening to create a more holistic and effective monitoring system.

The case of cough syrups for children shows that some of these medications had successfully passed the supervision process and obtained marketing permits from regulatory agencies. However, the case implied weaknesses in product evaluation and feasibility testing, resulting in the circulation of unsafe drugs in the market with high health risks. There is a need to increase capacity and coordination between regulatory authorities to monitor pharmaceutical products more effectively. Closer cooperation with related parties, such as manufacturers, distributors and medical institutions, also needs to be strengthened so that they are more proactive in reporting and monitoring the impact of products on the market. Finally, technology and advanced information application systems can also increase the effectiveness of monitoring and early detection of dangerous products (Putri et al., 2023).

***Maqāṣid al-Sharī'ah* Perspective on Family Protection in Drug Cases Containing Dangerous Chemicals**

Najmuddīn al-Ṭūfī stated that the goal of Islamic law is the benefit, so all forms of benefit (supported or not supported by the sacred texts) must be achieved without going into detail. Al-Ṭūfī's view of benefit is a separate and independent argument outside the sacred texts. Epistemologically, al-Ṭūfī prioritizes reasons over sacred revelation in determining *maṣlahah* or benefit. In the context of children's cough syrup, al-Ṭūfī's perspective would consider the perspective of health, safety and compliance with Islamic principles. Al-Ṭūfī's perspective emphasizes the need to safeguard children's safety and ensure that the drugs used do not pose any harm (Najmuddīn al-Ṭūfī, nd.).

By combining legal and ethical principles, food and drug control can be more effective and proactive in protecting public health and caring for families. To create more potent consumer protection, food and drug manufacturers are expected to have greater awareness of not adequately addressing their social needs in producing safe and

beneficial products. Regulatory bodies must strengthen supervision and law enforcement.

The combination of the strict liability principle and *maqāṣid al-sharī'ah* in food and drug control can be considered a comprehensive and fair approach to achieving the main goals of Islamic law, namely protecting health and family. In the framework of this study, both principles complement each other. The strict liability acts as a legal framework for producers to emphasize product quality and safety. At the same time, *maqāṣid al-sharī'ah* functions as an ethical guideline that directs the protection of human life and offspring.

However, the existing regulations cannot fully guarantee the safety of medicinal products in Indonesia. Several factors causing the lack of safe treatment in Indonesia are the lack of supervision, law enforcement, and unethical business practices. Apart from that, there is no improvement in the certification and supervision system for medicinal products sold in Indonesia to guarantee the safety of medicinal products sold and avoid cases of no safe medicines occurring in the future (Suriangka, 2018).-

In the cough syrup case context, *maqāṣid al-sharī'ah* emphasizes the need for attention and responsibility of all parties, including the government, producers and the public. At this stage, the government, BPOM, should deal with quality assurance of particular products when the producers send their products to be tested. Moreover, the manufacturers also take a severe response as responsibility when the government or community finds mal ingredients in their product. Preventive ways also need to be provided to address the issue. Furthermore, through understanding *maqāṣid al-sharī'ah*, pharmaceutical companies are expected to prioritize product quality and safety, and their operations answer social problems to protect the health and welfare of families (Sulistiani, 2019).

There needs to be broader awareness and understanding of the principles of *maqāṣid al-sharī'ah* among the public and decision-makers. Then, this principle is translated into concrete actions in pharmaceutical industry policies and practices and encouraging active public participation in monitoring and reporting dangerous medicinal products. There must also be a synergy between legal ethics and deep religious values to maintain a sustainable and prosperous family (Noyes et al., 2019). The *maqāṣid al-sharī'ah* draft also shows that Islamic law is flexible and can adapt to

changing times and the social environment. The principle of *maqāṣid al-sharī'ah* allows Islamic legal experts to use *ijtihad* (creative thinking and interpretation) in formulating legal decisions that follow sharia. The aim is to ensure that Islamic law remains relevant and applicable in addressing modern-day problems (Mardiantari & Dwilestari, 2021). In the context of family protection regarding the case of dangerous child syrup, the principles of *hifz al-nafs* and *hifz al-nasl* teach that maintaining and protecting the health of family members, especially children, is a significant obligation. This principle also emphasizes the need to protect descendants and future family generations to ensure the survival and continuity of society (Fariana, 2021).

Maqāṣid al-sharī'ah can provide an ethical basis for drug manufacturers and regulators to prioritize the safety and quality of pharmaceutical products. This is in accordance with the main aim of Islamic law to protect human life and health. The *hifz al-mal* principle does not sufficiently demand producers' moral responsibility because they focus on financial profits and consider their products' social and health impacts (Djalaluddin et al., 2023).

Implementing *maqāṣid al-sharī'ah* in family protection also reminds us of the importance of synergy between law and ethics in creating a harmonious life. By considering moral values and sharia objectives, a more holistic and effective legal foundation can be built so that people can live more prosperously and with dignity in accordance with Islamic teachings. From the perspective of *maqāṣid al-sharī'ah* principles, protecting human health and welfare is the primary goal of Islamic law. The concept of *hifz al-nafs* (protecting the soul) in *maqāṣid al-sharī'ah* emphasizes the need for strong public and family health protection. Integrating strict liability with *maqāṣid al-sharī'ah* presents a more ethical and moral dimension in the law where drug manufacturers do not have sufficient moral responsibility to ensure products are safe for the health and care of consumers' families (Bukido et al., 2023).

Conclusion

Applying the strict liability principle ensures that producers are legally responsible for the quality and safety of their products and is also in accordance with the primary objective of *maqāṣid al-sharī'ah*, namely the protection of life (*Hifz al-Nafs*). This integration of manufacturers

prioritizes consumer safety, especially for children vulnerable to dangerous products. Apart from that, the strict liability principle also underlines the insufficient social and moral response of drug and food producers in meeting product quality and safety standards by *maqāṣid al-sharī'ah* principles. This study also highlights the vital role of regulatory bodies and active community participation in food and drug control. In the context of *maqāṣid al-sharī'ah*, health protection and family care are the main goals of Islamic law. Integrating strict liability and *maqāṣid al-sharī'ah* principles encourages preventive action to protect the public from the negative impacts of dangerous products. Thus, integration steps are needed between strict liability and *maqāṣid al-sharī'ah* in the case of syrup drugs, which are dangerous for children in Indonesia. Apart from that, food and drug control also requires a legal framework that is more comprehensive and oriented towards health and consumer protection. This is done to emphasize Islamic law's holistic and ethical view and positively contribute to creating a safer and more beneficial environment for society. Finally, researchers hope that integrating these elements can inspire other parties and countries to strengthen consumer protection and family care from Islamic law's perspective and *maqāṣid al-sharī'ah*'s perspective.

References

- Auda, J. (2008). *Maqasid al-Shariah: An Introductory Guide*. International Institute of Islamic Thought (IIIT)
- Adhitama, L., Rahmad, D., Pratama, TA, & Purnamasari, DM (2023). Penentuan Rute Penarikan Obat Penyebab Gagal Ginjal Akut pada Anak di Fasilitas Kesehatan Kota Yogyakarta. *Prosiding SAINTEK*, 2 (1), 352–360.
- Afzal, M. (2018). Perlindungan Hukum Bagi Pasien Dalam Kelalaian Dokter Terhadap Pelayanan Kesehatan Dari Aspek Hukum Pidana. *Jurnal Ilmiah Mandala Pendidikan*, 2 (1), 420. <https://doi.org/10.58258/jime.v2i1.149>
- Akey, P., & Appel, I. (2021). The Limits of Limited Liability: Evidence From Industrial Pollution. *The Journal of Finance*, 76(1), 5-55.
- Alberini, A., & Austin, D. H. (2018). Strict Liability As A Deterrent In Toxic Waste Management: Empirical Evidence From Accident And Spill Data. In *Economics and Liability for Environmental Problems* (pp. 397-425). Routledge.
- Alfannurzuhaid, M., Turisno, BE, Suharto, R., Studi, P., Ilmu, S., Hukum, F., & Diponegoro, U. (2016). Perlindungan Konsumen Terhadap Peredaran Obat Tanpa Izin Edar Yang Dijual Secara Online Di Indonesia. Dalam *Jurnal Hukum Diponegoro* (Vol. 5, Edisi 3, hlm. 1–12).

- Al Fikri, M. A. (2022). Implementation of Strict Liability by Companies in Cases of Environmental Damage in Indonesia: An Overview of State Administrative Law in Indonesia. *Indonesian State Law Review (ISLRev)*, 5(2), 41-52.
- Asnawi, UF, & Ibrahim, RR (2018). Implementasi Jaminan Produk Pangan Halal di Jambi. *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan*, 18 (2), 211. <https://doi.org/10.18326/ijtihad.v18i2.211-226>
- Bukido, R., Haris, C., Rosyadi, MAR, & Suleman, Z. (2023). Penerimaan Batasan Usia Pernikahan dalam Hukum Perkawinan di Indonesia. *Samarah*, 7 (1), 146–174. <https://doi.org/10.22373/sjkh.v7i1.15245>
- Cahyono, I. (2019). Peran Badan Pegawai Obat dan Makanan terhadap Peredaran Obat Tradisional yang Mengandung Bahan Kimia Obat Berbahaya. *Kosmik Hukum*, 19 (2), 110–117.
- Dermawan, R. (2021). Perlindungan Konsumen terhadap Konsumsi Minuman Beralkohol. *Opini Hukum dan Hak Asasi Manusia*, 1 (2), 17–24.
- Decree of the Minister of Health No. 469/Menkes/SK/IV/2007 on Guidelines for Traditional Medicines Registration
- Djalaluddin, MM, Mas'ud, B., Sumardi, D., Bararah, I., & Kamus, K. (2023). Penerapan Hukuman Ta'zir Sebagai Penguat Pendidikan dalam Hukum Islam. *Samarah*, 7 (1), 399–417. <https://doi.org/10.22373/sjkh.v7i1.15101>
- Eleanora, FN (2018). Prinsip Tanggung Jawab Mutlak Pelaku Usaha Terhadap Ketentuan Pasal 27 Uu No. 8 Tahun 1999 Tentang Perlindungan Konsumen. *Krtha Bhayangkara*, 12 (2), 207–228. <https://doi.org/10.31599/krtha.v12i2.26>
- Fadzli, SDNM, Harun, MAW, Baharuddin, AS, Baharuddin, AS, & Adnan, MRAR (2021). Produk Makanan Ubah Suai Genetik (Gmf) dalam Perspektif Konsep Halalan Toyyiban Berdasarkan Penilaian Maqasid Hifz an Nafs: Produk Pangan Hasil Rekayasa Genetik (Gmf) dalam Konsep Halalan Toyyiban Perspektif Berdasarkan Evaluasi Maqasid Hifz an Nafs. *Jurnal Syariah dan Hukum Malaysia*, 9 (1), 73–85. <https://doi.org/10.33102/mjsl.vol9no1.284>
- Fariana, A. (2021). Politik Hukum Sebagai Katalis dalam Pembentukan Sistem Hukum Ekonomi Syariah Di Era Orde Baru dan Reformasi Indonesia. *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan*, 21 (2), 197–212. <https://doi.org/10.18326/ijtihad.v21i2.197-212>
- Fitriani, HY (2020). Pertanggungjawaban Pidana Korporasi dalam Tindak (Studi Kasus Pencemaran Lingkungan Oleh Pt . Rayon Utama. *Jurnal Pascasarjana Hukum UNS*, VIII (2), 64–73.
- Government Regulation No. 51 of 1999 on Food Security
- Government Regulation No. 43 of 2014 on Food Sovereignty
- Gumanti, R. (2018). Maqasid Al-Syariah Menurut Jasser Auda (Pendekatan Sistem dalam Hukum Islam). *Jurnal Al-Himayah*, 2 (1), 98.
- Hafrida, H., Helmi, H., & Permatasari, B. (2020). The implementation of the strict-liability principle to the perpetrators of forest and land burning. *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 7(3), 314-333.

- Hartono. (2021). Efektifitas Perlindungan Konsumen Terhadap Produk Kosmetik yang Tidak Memiliki Izin Edar. *Meta-Yuridis*, 4 (1), 54–72.
- Holijah, H., & Rizal, M. (2022). Islamic Compensation Concept: The Consumer Dispute Settlement Pattern in Indonesia. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 6(1), 98-114.
- Ihsan, RN, & Ifrani. (2018). *Prinsip Jawab Tanggung Jawab Mutlak Strict Liability*. 3 (2), 302–322.
- Juita, SR, Muryati, DT, & Triwati, A. (nd). Asas Strict Liability dalam Pertanggungjawaban Pidana Pada Korporasi Pelaku Tindak Pidana Lingkungan Hidup. *Repositori.Usm.Ac.Id*, 1–16. [https://repository.usm.ac.id/files/journalnas/A017/20180529041245-Sistem-Pertanggungjawaban-Pidana-pada-Tindak-Pidana-Lingkungan-Hidup-\(Suatu-Reorientasi-tentang-Asas-Strict-Liability\).pdf](https://repository.usm.ac.id/files/journalnas/A017/20180529041245-Sistem-Pertanggungjawaban-Pidana-pada-Tindak-Pidana-Lingkungan-Hidup-(Suatu-Reorientasi-tentang-Asas-Strict-Liability).pdf)
- Kamali, M. H. (2008). *Maqasid Al-Shariah Made Simple* (Vol. 13). International Institute of Islamic Thought (IIIT).
- Kapan, V. (2023). Perlindungan Hukum Konsumen Terhadap Kosmetik. *Rektum*, 5 (1), 995–1010.
- Latukau, F. (2021). Penerapan Prinsip Strict Liability dalam Hukum Lingkungan Internasional dan Nasional Mengenai Lingkungan Laut. *Ilmu Hukum Kyadiren*, 3 (1), 45–54.
- Law No. 36 of 2009 on Health
- Law No. 8 of 1999 on Consumer Protection
- Liviandari, R., & Husni, P. (2023). Strategi Pencegahan dan Peningkatan Pengawasan BPOM Terkait Kasus Cemaran EG/DEG dalam Sirup Obat. *Journal of Pharmaceutical and Sciences*, 1906-1911.
- Malem Karo Sekali, S. (2020). Arrangement of Authority for Investigators of the National Drug and Food Control Agency (BPOM) in Law Enforcement in the Field of Drugs, Food and Beverages. *Open J. Legal Stud.*, 3, 35.
- Manihuruk, MF (2020). Penegakan Hukum dan Hak Asasi Manusia dengan Paradigma Pancasila terhadap Tindakan Penolakan Pemakaman Jenazah Korban Covid-19. *Jurnal Christian Humaniora*, 4 (2), 45.
- Mardiantari, A., & Dwilestari, I. (2021). Hak Anak untuk Mendapatkan ASI Eksklusif dalam Perspektif Hukum Islam. *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan*, 21 (2), 231–246. <https://doi.org/10.18326/ijtihad.v21i2.231-246>
- Marilang, TSA (2021). Menetapkan Omnibus Law di Indonesia: Tanggung Jawab Ketat dalam Hukum Lingkungan Hidup. *Jurnal Hukum, Etika dan Peraturan*, 24 (1), 153.
- Marzuki, PM (2017). *Metode Penelitian Hukum*. Kencana.
- Minister of Health Regulation No. 2406/MENKES /PER/XII/2011 on Quality and Safety Requirements for Medicine Products
- Muhammad Ibnu Musa Al-Khowarizi. (2022). Penerapan Asas Tanggung Jawab Mutlak (Strict Liability) dalam Kasus Pencemaran Lingkungan (Analisis

- Hukum Terhadap Putusan No. 107/Pdt.G/LH/2019/PN Jmb). *Dinamika* 28(9). 4463–4481.
- Muttaqin, A. A., Samsudin, M. A., Salleh, A. D., & Ahmad, A. A. (2023). The Relationship of Disaster to the Islamic Economic System: An Analysis on Aspect of Maqāṣid Shari'ah Framework. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 7(1), 216-238.
- Najmuddin al-Tūfi. (nd.). *Al-Intishārāt al-Islāmiyyah fī 'Ilm Muqāranah al-Adyān*, Kairo: Mathba'ah Dār al-Bayān.
- Nadilla, S. (2019). Pelokalan Hak Asasi Manusia Melalui Partisipasi Publik dalam Kebijakan Berbasis Hak Asasi Manusia. *Jurnal HAM*, 10 (1), 85. <https://doi.org/10.30641/ham.2019.10.85-98>
- Nurhayati, N. P. S., Berlia, G. M., Sasongko, F. F., & Valentine, E. (2022). Pemasaran Obat dalam Usaha Farmasi: Persoalan Profesionalisme dan Etika Bisnis. *Das Sollen: Jurnal Kajian Kontemporer Hukum dan Masyarakat*, 1(01).
- Noyes, J., et. al. (2019). Mensintesis Bukti Kuantitatif dan Kualitatif Untuk Memberikan Pedoman Mengenai Intervensi yang Kompleks: Memperjelas Tujuan, Merancang dan Menguraikan Beberapa Metode. *BMJ Global Health*, 4 (Tambahan 1), e000893–e000893. <https://doi.org/10.1136/bmjgh-2018-000893>
- Oktavia. (2023). Regulasi Perlindungan Hukum Terhadap Konsumen dalam Pembelian Obat Melalui E-Commercial. *Jurnal JPK*, 5 (1), 680.
- Papathomas, TV, & Gorea, A. (2019). Subhat Pendapatan Lembaga Keuangan Syariah Menurut Hukum Ganda (La Formal dan Syariah). *Sains*, 19 (2), 411–428.
- Pribadi, T. et. al. (2022). Penyuluhan Kesehatan Tentang Jajanan Sehat dan Jajanan Tidak Sehat. *Jurnal Kepedulian Kesehatan Masyarakat*, 2 (4), 196–202. <https://e-jurnal.iphorr.com/index.php/phc>
- Putri, N., Nurhayati, S., Berlia, GM, & Sasongko, FF (2023). Pemasaran Obat dalam Usaha Farmasi: Persoalan Profesionalisme dan Etika Bisnis. *Dassollen: Jurnal Kontemporer Hukum dan Masyarakat*, 1 (1), 1–16. <https://doi.org/10.11111/dassollen.xxxxxxx>
- Polinsky, A. M. (2018). Strict Liability Vs. Negligence in A Market Setting. In *Economics And Liability For Environmental Problems* Routledge.
- Rahman, M. S., et. al. (2018). The Health Consequences of Falsified medicines-a study of the published literature. *Tropical Medicine & International Health*, 23(12), 1294-1303.
- Reichenbach, A., et. al.,(2019). Perlindungan Konsumen terhadap Peredaran Obat Tradisional Berbahan Kimia Obat menurut Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen. *Lex Privatum*, 561 (3), S2–S3.
- Rofiq, A., & Pujiyono, P. (2023). Strict Liability as a Counterbalance to the Principle of Error in Indonesian Criminal Law. *Journal of Judicial Review*, 24(2), 319-332.
- Roihanah, R. (2019). Analisis Yuridis Perlindungan Konsumen Terhadap Peredaran

- Obat Tradisional Berbahan Kimia Obat. dalam *Kodifikasi 13(1)* <https://doi.org/10.21154/kodifikasi.v13i1.1681>
- Roza, ID, Ibrahim, I., & Nggeboe, F. (2017). Penerapan Asas Pertanggungjawaban Mutlak (Kewajiban Absolut) dalam Undang-Undang Nomor 32 Tahun 2009 Terhadap Perusakan dan Pencemaran Lingkungan *Legalitas: Jurnal Hukum, I*, 132–202. <http://legalitas.unbari.ac.id/index.php/Legalitas/article/view/79%0A>
- Sinaga, H. D. P., Wirawan, A., & Pramugar, R. N. (2020). Recontruction of Corporate Criminal Liability in Indonesia. *International Journal of Advanced Science and Technology, 29(8)*, 1231-1240.
- Sitti, N., & Musyfica, I. (2021). Kewajiban Pendaftaran Sertifikasi Halal Pada Badan Penyelenggara Jaminan Produk Halal; Perspektif Maqāṣid al-Syari'ah. *Shautuna: Jurnal Ilmiah Mahasiswa perbandingan Mazhab dan Hukum, 2* (2), 449–462. <http://journal.uinalauddin.ac.id/index.php/shautuna/article/view/18842>
- Sulistiani, SL (2019). Analisis Maqashid Syariah dalam Pengembangan Hukum Industri Halal Di Indonesia. *Hukum dan Keadilan, 3* (2), 91–97. <https://doi.org/10.23917/laj.v3i2.7223>
- Suriangka, A. (2018). Perlindungan Konsumen terhadap Penyaluran Obat Keras Daftar G oleh Badan POM di Makassar. *Yurisprudensi, 4* (2), 24.
- Syahrul Machmud. (2019). Tindakan Preventif dan Represif Non-Yustisial Penegakan Hukum Administrasi Oleh Eksekutif. *Jurnal Hukum Media Justitia Nusantara, 62–77*.
- Persatuan Bangsa-Bangsa. (nd). Deklarasi Universal Hak Asasi Manusia (UDHR) 1948. Majelis Umum PBB.
- Al-Shātībī. (nd.). *Al-Muwāfaqāt fi Uṣūl al-Aḥkām*, Beirut: Dār al-Kutub al-Ilmiyyah.
- Utami, A. (2022). Perlindungan Hukum terhadap Konsumen atas Penjualan Obat-obatan Ilegal secara Online. *Klasula, 1* (2), 97.
- Widnyana, PRW, Agung, AAI, & Astiti, NGKS (2021). Tinjauan Yuridis Pertanggungjawaban Mutlak (Strict Liability) dalam Hukum Perlindungan Konsumen. *Jurnal Konstruksi Hukum, 2* (2), 244–249. <https://doi.org/10.22225/jkh.2.2.3214.244-249>
- Widyaningsih, DA (2023). Sertifikasi Halal Perspektif Maqashid Syariah. *Falah: Jurnal Ekonomi Syariah, 4* (1), 61–72.

Rahmatiah HL¹, Tri Suhenra Arbani², Risnah³, and Rahmatul Akbar⁴

^{1,2,3}Universitas Islam Negeri Alauddin Makassar, Indonesia

⁴Universitas Islam Negeri Ar-Raniry Banda Aceh, Indonesia

Email: ¹rahmatiah.rahmatiah69@gmail.com, ²tri.suhendra@uin-alauddin.ac.id

³risnah@uin-alauddin.ac.id, ⁴rahmatul.akbar@ar-raniry.ac.id