

**THE LEGAL ASPECTS OF BUYING AND SELLING LIVESTOCK OFF
THE PERSPECTIVE OF FIQH SYAFI'I**

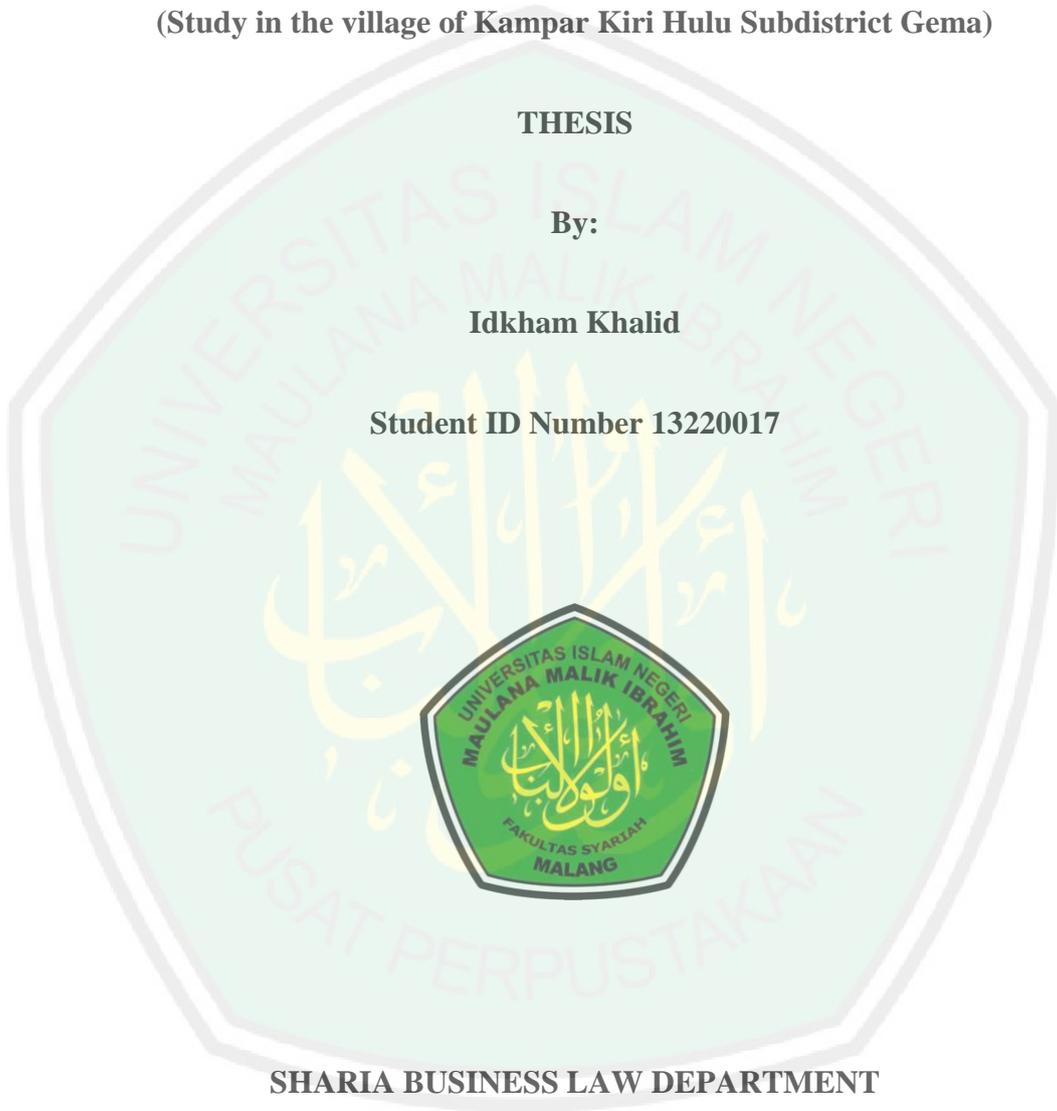
(Study in the village of Kampar Kiri Hulu Subdistrict Gema)

THESIS

By:

Idkham Khalid

Student ID Number 13220017



SHARIA BUSINESS LAW DEPARTMENT

SHARIA FACULTY

STATE ISLAMIC UNIVERSITY OF

MAULANA MALIK IBRAHIM MALANG

2017

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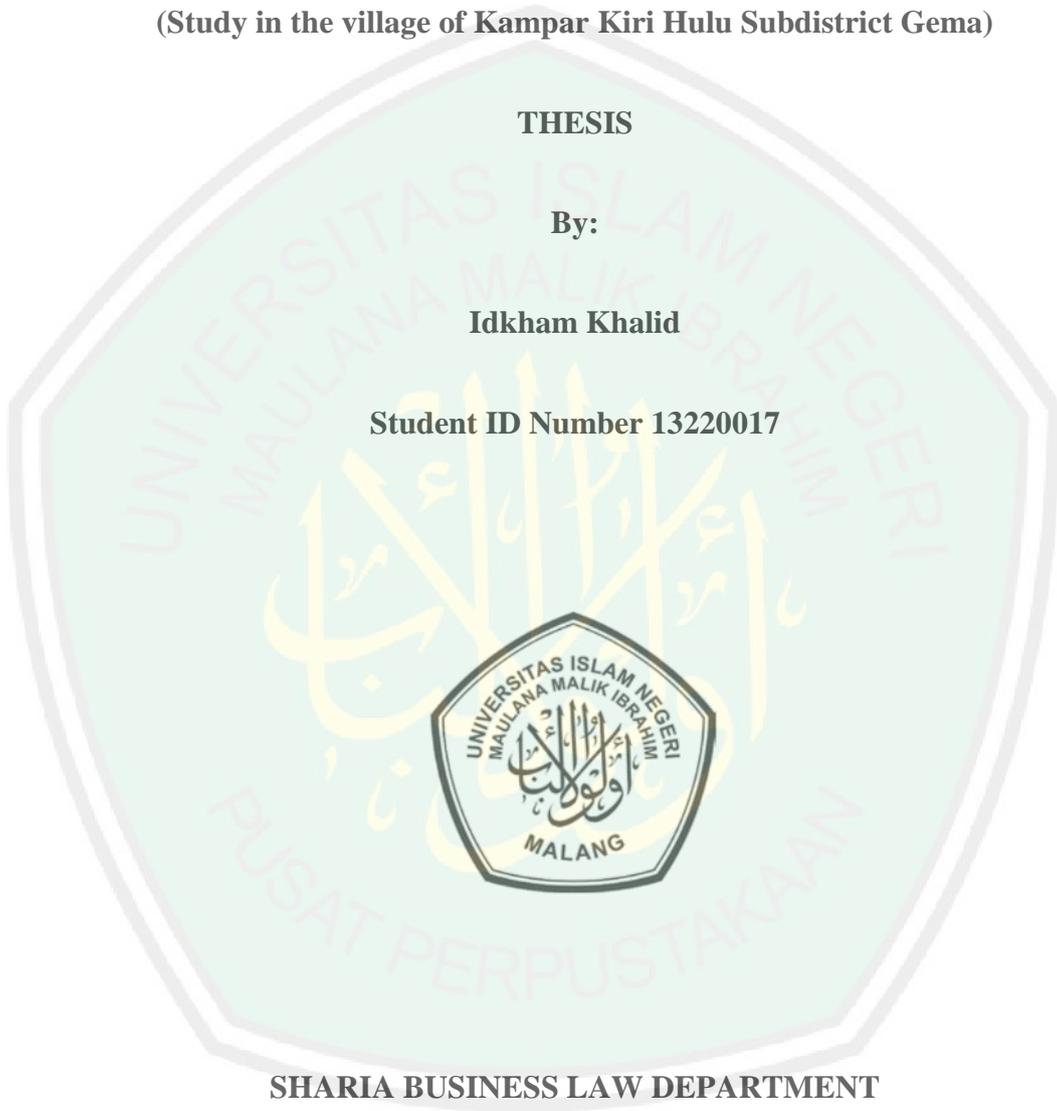
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2017

STATEMENT OF THE AUTHENTICITY

In the name of Allah SWT,

With consciousness and responsibility towards the development of science, the author declares that the thesis entitled:

**THE LEGAL ASPECTS OF BUYING AND SELLING LIVESTOCK OFF
THE PERSPECTIVE OF FIQH SYAFI'I (Study in the village of Kampar
Kiri Hulu Subdistrict Gema)**

Is truly the author's original work. It does not incorporate any material previously written or published by another person. If it is proven to be another person's work, duplication, plagiarism, this thesis and my degree as the result of this action will be deemed legally invalid.

Malang, 9 June 2017

Author,



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APPROVAL SHEET

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**THE LEGAL ASPECTS OF BUYING AND SELLING LIVESTOCK OFF
THE PERSPECTIVE OF FIQH SYAFI'I (Study in the village of Kampar
Kiri Hulu Subdistrict Gema)**

The supervisor states that this thesis has met the scientific requirements to be proposed and to be tested by the Thesis Board of Examiners.

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THE PERSPECTIVE OF FIQH SYAFI'I (Study in the village of Kampar
Kiri Hulu Subdistrict Gema)**

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3	1 March 2017	Review Chapter I	
4	8 March 2017	Chapter II	
5	15 March 2017	Review chapter II and Chapter III	
6	22 March 2017	Review Chapter III	
7	7 April 2017	Chapter IV&V	
8	24 May 2017	Review Chapter IV&V	
9	2 June 2017	Abstract	
10	2 June 2017	Review of all chapters	

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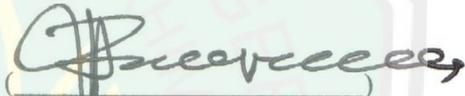
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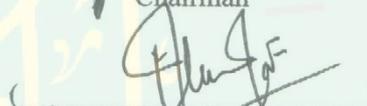
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MOTTO

"يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ

تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا"

(النساء: ٢٩)



THE DEDICATION PAGE

All praise, with all honesty and humility, I dedicate this thesis to:

Beloved father "KHATMI AMRIL"

Beloved mother "INDRA PUSPITA, S.Pd."

My big brother dear "MUHAMMAD AKRAM" and my little

brother dearest "AFIFFUDDIN"

And all my family and my friends in the village of Kampar Kiri

Hulu Sub-district Gema and at the STATE ISLAMIC

UNIVERSITY OF MAULANA MALIK IBRAHIM was

unfortunate.

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All praise due to Allah (SWT), the Cherisher and Sustainer of all the world. There is neither might nor power but with Allah The Great, The Exalted. With only His Grace and Guidance, this thesis entitled “The Utilization of Instagram Bot Followers According to *Fiqh Al-Muamalah*” could be completed. *Shalawat* and *salaam* may deliver to the Prophet Muhammad (PBUH) who had brought us from the darkness into the lightness, in this life. May us be together with those who believe and receive intercession from Him in the day of Judgment. Amîn.

With all the support and help, discussions, and guidance from all parties involved during the process of completing this thesis, the author wishes to express his utmost gratitude to the following:

1. Prof. Dr. H. Mudjia Rahardjo, M.Si, as Rector of State Islamic University of Maulana Malik Ibrahim of Malang.
2. Dr. H. Roibin, M.HI, as Dean of the Sharia Faculty of State Islamic University of Maulana Malik Ibrahim of Malang.
3. Dr. H. Mohamad Nur Yasin, S.H, M. Ag, as head of the Sharia Business Law Department of the Sharia Faculty of State Islamic University of Maulana Malik Ibrahim of Malang.
4. Assembly examiners Dr. H. Mohamad Nur Yasin, S.H, M.Ag as chairman of examination, Dra. Jundiani, S.H, M.Hum. as main examiner of examination and Iffaty Nasyi'ah, M.H. as secretary of examination.

5. My teacher Iffaty Nasyi'ah, M.H, as supervisor who has guided the author during the thesis work.
6. All lecturers for their sincere and dedicated teaching and supervisory efforts. May Allah (SWT) shower them with His Blessings. The administrative staffs of the Sharia Faculty of State Islamic University of Maulana Malik Ibrahim of Malang. The author expresses gratitude for all their support and co-operation during the time of completing this thesis.
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9. To all the parties a lot of support and help writers accomplish the task late research from beginning to end. and the parties are not able to call one by one writer who has helped the author completed the writing of the thesis.

Hopefully, by imparting what has been learned during the course of study in the Sharia Faculty of State Islamic University Maulana Malik Ibrahim Malang, it will benefit all readers and the author herself. Realizing the fact that errors and weakness is impartial to being human, and that this thesis is

still far from perfection, the author appreciates constructive criticism and suggestions for the improvement of this thesis.

Malang, 9 June 2017

Author,

Idkham Khalid
NIM 13220017



TRANSLITERATION GUIDANCE

A. General

The transliteration guide which is used by the Sharia Faculty of State Islamic University, Maulana Malik Ibrahim Malang, is the EYD plus. This usage is based on the Consensus Directive (Surat Keputusan Bersama/SKB) from the Minister of Religion, Minister of Education and Culture of Republic of Indonesia, dated January 22, 1998, No. 158/1987 and 0543. b/U/1987, which is also found in the Arabic Transliteration Guide book, INIS Fellow 1992.

B. Consonants

ا = unsigned	ش = sy	ن = n
ب = b	ص = sh	و = w
ت = t	ض = dl	ه = h
ث = ts	ط = th	ي = y
ج = j	ظ = dh	
ح = <u>h</u>	ع = ‘ (comma facing up)	
خ = kh	غ = gh	
د = d	ف = f	
ذ = dz	ق = q	
ر = r	ك = k	
ز = z	ل = l	
س = s	م = m	

The hamzah (ء) which is usually represented by and *alif*, when it is at the beginning of a word, henceforth it is transliterated following its vocal pronouncing and not represented in writing. However, when it is in the middle or end of a word, it is represented by a coma facing upwards (ˆ), as oppose to a comma (,) which replaces the “ع”

C. Vocal, long and Diftong

In every written Arabic text in the *latin* form, its vowels *fathah* is written with “a”, *kasrah* with “i”, and *dlommah* with “u”, whereas elongated vowels are written such as:

Elongated (a) vowel = â for example قال becomes qâla

Elongated (î) vowel = î for example قيل becomes qîla

Elongated (u) vowel = û for example دون becomes dûna

Specially for the pronouncing of *ya' nisbat* (in association), it cannot represented by "i", unless it is written as "iy" so as to represent the *ya' nisbat* at the end. The same goes for sound of a diftong, *wawu* and *ya'* after *fathah* it is written as "aw" da "ay". Study the following examples:

Diftong (aw) = و for example قول becomes qawlun

Diftong (ay) = ي for example خير becomes khayrun

D. Ta' marbûthah (ة)

Ta' marbûthah is transliterated as “ṭ” if it is in the middle of word, but if it is *Ta' marbûthah* at the end, then it is transliterated as “h”. For example: الرسالة للمدرسة will be *al-risalaṭ li al-mudarrisah*, or if it happens to be in the

middle of a phrase which constitutes *mudlaf and mudlaf ilayh*, then the transliteration will be using “t” which is enjoined with the previous word, for example *في رحمة الله* becomes *fi rahmatillah*.

E. Definite Article

Arabic has only one article, “al” (ال) and it written in small letters, unless at the beginning of word while “al” in the phrase of lafadh jalalah (speaking of God) which is in the middle of a sentence and supported by and (idhafah), then it is not written. Study the following:

1. Al-Imâm al-Bukhâriy said....
2. Al-Bukhâriy explains in the prologue of his book....
3. *Masyâ' Allâh kâna wa mâ lam yasya' lam yakun.*
4. *Billâh 'azza wa jalla*

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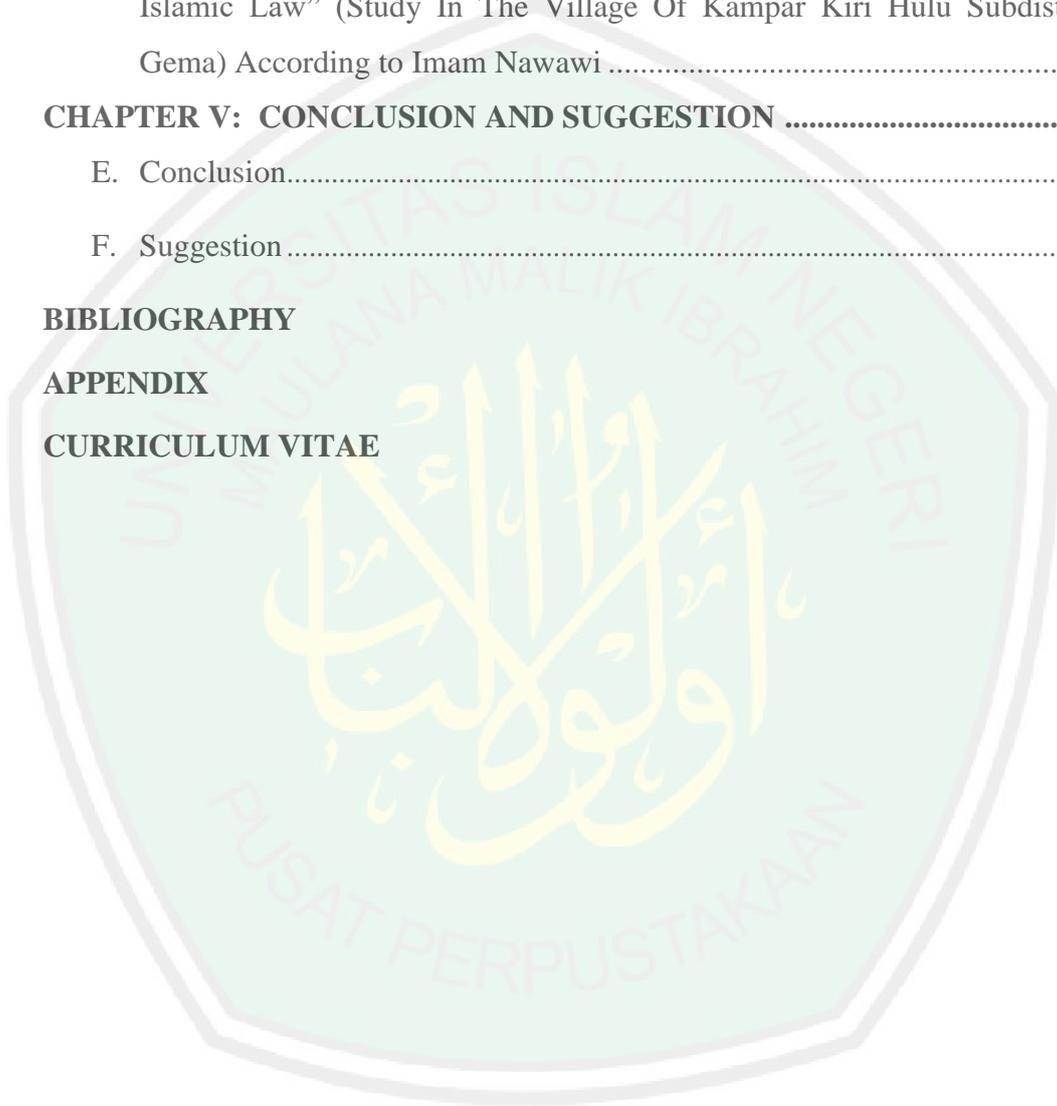
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BIBLIOGRAPHY

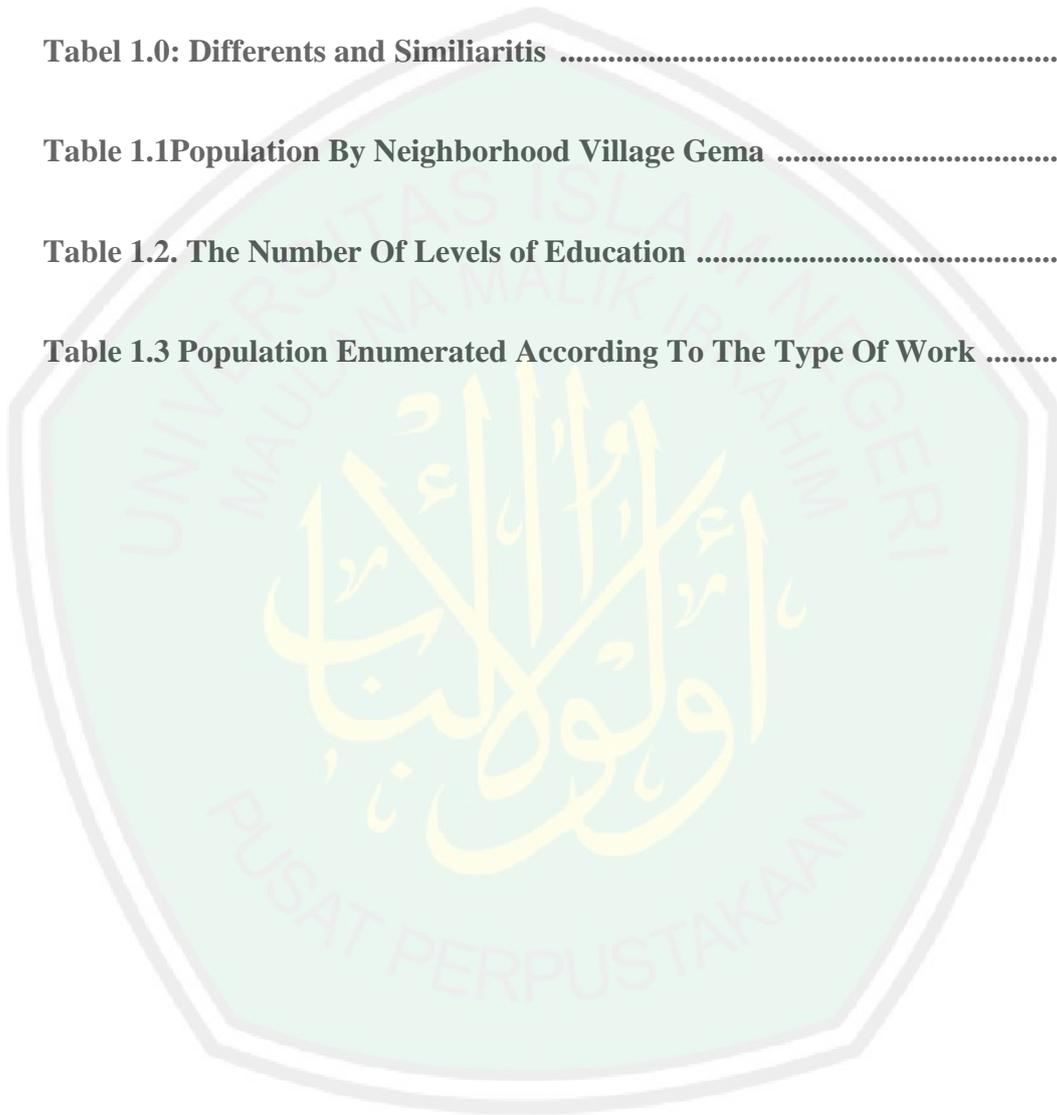
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ABSTRACT

Idkham Khalid, 13220017, *The Legal Aspects of Buying and Selling Livestock Off The Study of Islamic Law (Study In The Village Of Kampar Kiri Hulu Subdistrict Gema)*” Thesis, Sharia Bussines Law Department, Sharia Faculty, State Islamic University of Maulana Malik Ibrahim of Malang. Supervisor: Iffaty Nasyi’ah, MH

Keywords: legal aspects, buying and selling Livestock off, Islamic law.

This research aims to find out how the practice of buying and selling off the farm animals in the village of Kampar Kiri Hulu Subdistrict Gema, and also how to view Shafi Fiqh to the practice of buying and selling. In this study belongs into the kinds of empirical research, by using the juridical sociological approach. In this study, the primary data source used is the information from the informant, is equipped with a secondary data source. Data collection is a two way, interviews. So is the case with engineering data processing using inspection data, classification data, data verification. After processing the data then next step is to analyse the data obtained. The results obtained from this research is that selling off the farm animals with half (half portion), quarter (one quarter section) an eighth (one eighth part), and seperenambelas (a sixteen section) from animals the supplied according to Shafi’i, Imam Nawawi in Al-Minhaj al-Thalibin that the selling that took place in the village of Kampar Kiri Hulu Subdistrict Gema do not comply with Islamic law because of several factors first, the object of the sale should not be half except not diminished the value and benefits of such items. The second is: goods that become the object of sale and purchase are not known clearly from the aspect of the size and nature. Should the community leaders in this local scholars, to give a briefing or information about Islamic law, especially in the field of muamalah particularly with regard to the sale to avoid mistakes that can cause the breakdown of contract.

الملخص

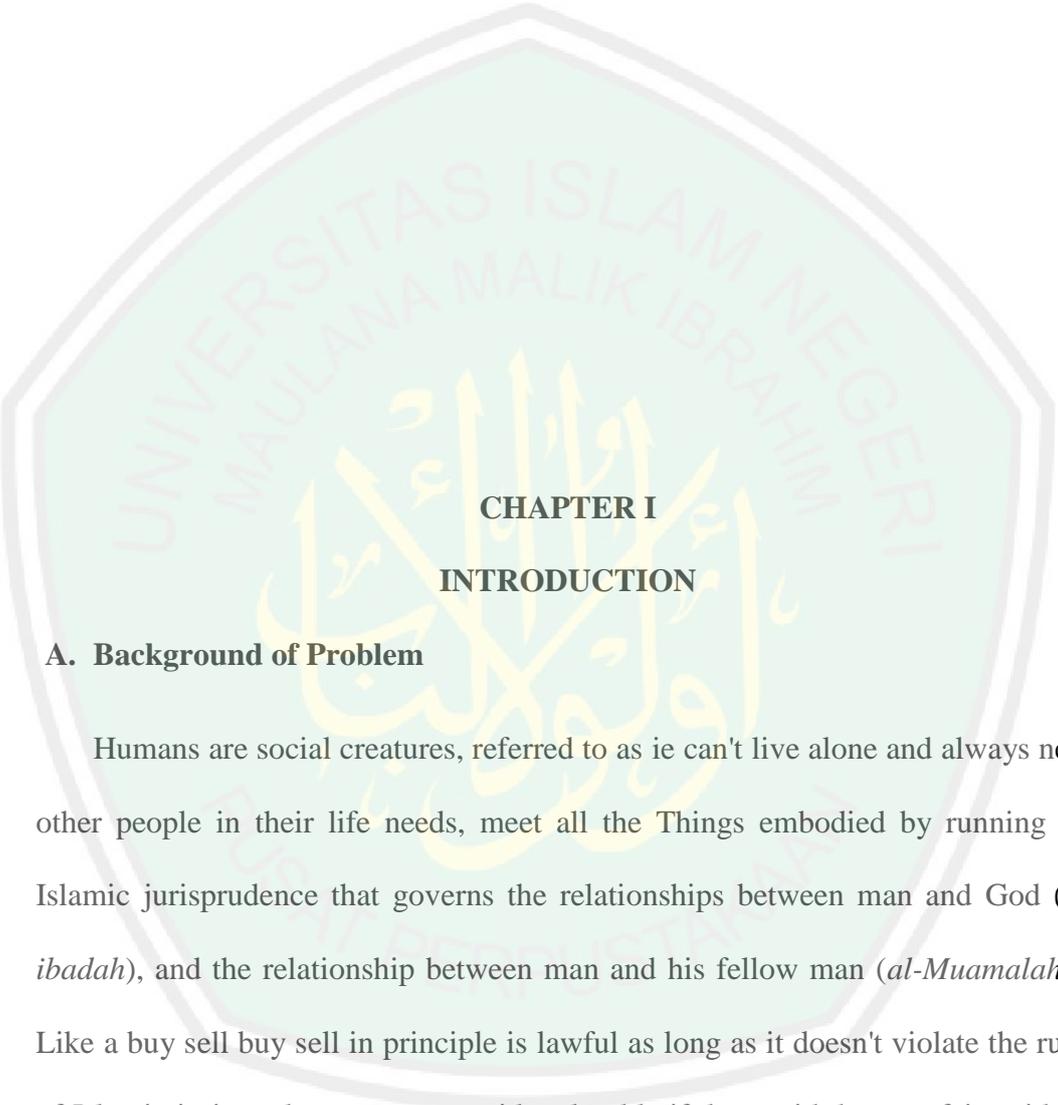
خالد، إدخام، 13220017، الجانب القانوني عن بيع المواشي الإصدارية عند الحكم الإسلامي (دراسة في قرية جيما (Gema) نواحي كامبار كيري هولو (Kampar Kiri Hulu))، بحث جامعي، شعبة الحكم الإقتصادي الإسلامي، كلية الشريعة، جامعة الإسلامية الحكومية مولانا مالك إبراهيم مالانج. المشرفة: عفاقي ناشئة الماجستير. الكلمات الرئيسية: تصرف، الجانب القانوني، بيع المواشي الإصدارية، الحكم الإسلامي.

بيع الماشية هو النشاط الذي يمارس عادة في الأسواق أو مزرعته مباشرة. ثم بعد شرائها، يملكها المشتري كلياً كاملاً. وحالة أخرى في قرية جيما كامبار كيري هولو، كان فيها الإصدار في مزرعة مواشيهم، وتسمى بالمواشي الإصدارية. وهكذا، تُباع المواشي بجهاز نصفها أو ربعها أو ثمنها أو سادس عشرها. كان المشكلان في هذا البحث. الأول هو كيف تطبق بيع المواشي الإصدارية في قرية جيما نواحي كامبار كيري هولو. والثاني هو كيف نظرة الحكم الإسلامي عن تطبيق بيع المواشي الإصدارية في قرية جيما نواحي كامبار كيري هولو؟ هذا البحث من أنواع البحث التجريبي (field research)، ويستخدم نهج الاجتماعي القانوني (yuridis sosiologis). وجمعت البيانات بالمراقبة والمقابلات إلى المدعى عليه (البائع والمشتري مواشي إصدارية في قرية جيما نواحي كامبار كيري هولو)، والوثائق في شكل صور. ثم تحلل البيانات بطريق الوصف النوعي وتأخذ النتائج من هذا التحليل. والحاصل، أن بيع المواشي الإصدارية بجهاز نصفها أو ربعها أو ثمنها أو سادس عشرها في قرية جيما نواحي كامبار كيري هولو لا يتفق مع الحكم الإسلامي عند الإمام النووي في كتابه "منهاج الطالبين". لأنه يشترط في باب البيع بأن لا يصح بيع نصف معين إلا بغير النقص في منفعه. في حين أن تطبيق بيع الماشية أو الجاموس التي وقعت في قرية جيما كامبار كيري هولو هو جزء منها. فلا يصح البيع بغير صحة مبيعه. وهكذا، لا يُعلم المبيع علماً ظاهراً من مقداره وصفاته، أي لا يعلم من الماشية أو الجاموس المبيعة أي منها للبائع وللمشتري؟. وتحالفها الماشية التي يشتريها المشتري للاستهلاك، فيقاسمها قسامين بالاتفاق.

ABSTRAK

Idkham Khalid, 13220017, *Aspek Hukum Jual Beli Hewan Ternak Lepas Perspektif Fiqih Syafi'i (Studi di Desa Gema Kecamatan Kampar Kiri Hulu)*, Skripsi, Jurusan Hukum Bisnis Syariah, Fakultas Syariah, UIN Maulana Malik Ibrahim Malang. Pembimbing: Iffaty Nasyi'ah, MH.
Kata Kunci: Aspek Hukum, Jual-beli Hewan Ternak Lepas, Hukum Islam

Penelitian ini bertujuan untuk mengetahui bagaimana praktek jual-beli hewan ternak lepas di desa Gema Kecamatan Kampar Kiri Hulu, dan juga bagaimana pandangan fiqh mazhab Syafi'i terhadap praktek jual-beli tersebut. Dalam penelitian ini tergolong ke dalam jenis penelitian empiris, dengan menggunakan pendekatan yuridis sosiologis. Dalam penelitian ini, sumber data primer yang digunakan adalah informasi dari para informan, dilengkapi dengan sumber data sekunder. Pengumpulan data ditempuh dengan dua jalan, wawancara. Begitu halnya dengan teknik pengolahan data menggunakan pemeriksaan data, klasifikasi data, verifikasi data. Setelah mengolah data maka langkah selanjutnya adalah menganalisis data yang diperoleh. Hasil yang didapat dari penelitian ini bahwa jual beli hewan ternak lepas dengan ketentuan separuh (setengah bagian), seperempat (satu perempat bagian) seperdelapan (satu perdelapan bagian), dan seperenambelas (satu perenambelas bagian) dari hewan yang diperjualbelikan tersebut menurut mazhab syafi'i yakni, dalam kitab Imam Nawawi Minhaj al-Thalibin bahwa jual beli yang terjadi di desa Gema Kecamatan Kampar Kiri Hulu tidak sesuai dengan hukum Islam karena beberapa faktor pertama, Objek jual beli tidak boleh separuhnya kecuali tidak berkurang nilai dan manfaat dari barang tersebut. Kedua ialah: barang yang menjadi objek jual beli tidak diketahui secara jelas dari aspek ukuran dan sifatnya. Rekomendasi hendaknya para tokoh masyarakat dalam hal ini para ulama setempat, agar lebih memberikan pengarahan atau informasi mengenai hukum Islam terutama dalam bidang muamalah khususnya yang berkaitan dengan jual beli agar terhindar dari kesalahan yang dapat menyebabkan rusaknya akad.



CHAPTER I

INTRODUCTION

A. Background of Problem

Humans are social creatures, referred to as ie can't live alone and always need other people in their life needs, meet all the Things embodied by running the Islamic jurisprudence that governs the relationships between man and God (*al-ibadah*), and the relationship between man and his fellow man (*al-Muamalah*).¹ Like a buy sell buy sell in principle is lawful as long as it doesn't violate the rules of Islamic jurisprudence, even considered noble if done with honest, fair, without any element of fraud among the parties.

Speaking of selling, buying and selling is one form of embodiment i.e., muamalah masalah that are prescribed. Selling has been around since long ago,

¹ Sahal Mahfudh, *Nuansa Fiqh Sosial*, cet-IV, (Yogyakarta, Lkis, 2014), P. xxxii

although its form varies. Selling also justified and valid since the days of the Prophet Muhammad to the present. Buy sell progression over thought and the fulfillment of the needs of the community. In the process the transaction involves at least between seller and buyer,, both must meet the tenets and terms of sale and purchase are legal in Islamic jurisprudence. God Almighty has justify the practice of buying and selling and in accordance with the Shari'ah. In surah al-Baqarah verse 275 Allah SWT said:

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

Meaning: ... And God justifies selling and proscribed usury ... (Q.S. al-Baqarah : 275)²

Buy sell declared valid if it meets the pillars and the terms of sale. Pillars and selling means something must exist in. When one of the tenets of the sale are not met, the sale is not valid according to the rules of Shari'ah.

The village of Gema is one of the villages located in the subdistrict of Kampar Kiri Hulu, Kampar Regency is a village surrounded by hills and crystal clear rivers. And some areas on the outskirts of the village there is a pretty extensive pastures with lush grass. The majority of the inhabitants of this village made their living as farmers, typically residents have gardens planted with gema of corn, cassava, palm oil. In addition to farming cattle as they also had cows, Buffalo, goats and more.

² Q.S. Al-Baqarah (2): 275

In General, farm animals like cows, buffaloes, goats and others, in livestock or pasturing in cages and fed, drinking by their owners every day. Yet another case with farm animals loose (wild) in the village of Gema. Freelance (wild) cattle is fed the farm animals by way of releasing it around the countryside without a piece of string or in other words not in the cage. And the left are off (wild) foraging around the village. Because of their farm animals in livestock off the (wild) then the citizens who had crops such as maize, cassava and others had to put up a fence that can prevent incoming livestock and damage to crops. The usual live cattle and foraging in groups or packs and inhabits meadows on the outskirts of the village and occasionally skirted the ghetto residents. There are several pastures where livestock lives villagers Gema this, and each of the Meadow there is a guard who believed the villagers or the usual look and keeps their livestock or commonly referred to as "*ketua padang* (the person who oversees farm animals in a pasture)".

Buy and sell livestock is an activity that is already known by the public at large. After the sale has been met with agreement and carried out legally, then the animals become property of the buyer while the buyer's money paid for the property of the seller. Yet another case which occurred in the village of Kamar Kiri Hulu Subdistrict Gema this. In addition to buying and selling livestock as above, no such thing as buying and selling of cattle "half" (half), "a quarter (quarter)," "one-eighth (one-eighth part)" from one tail of dollars traded livestock. In this transaction the seller usually there are farm animals for example; a Buffalo offered to citizens for purchase the buffalo half (half piece) or on the contrary the

buyer asked the owner of the Buffalo, Buffalo owner could want to do sell it half (half portion). The seller then estimates the price in accordance with age, and the rates in force in the village, or ask ordinary citizens into the seller's cattle to the slaughterhouse animals. Once the price is already known, because half the deal (half portion), then the buyer bought half of the price estimates. Then the buffaloes remained in the flock by the seller. The majority of the population made their living as farmers Gema and has already installed the fence so that the cattle of the citizens does not damage the plants. And when the Buffalo come in and ruin the citizens, then plant the seller keep cattle paint indemnity to owners of gardens residents who have entered the Buffalo. And if the sick water buffalo, stolen, even die how the rights and obligations of the parties. Then what are the legal aspects of selling and selling off farm animals (wild), and what if examined in Islamic law.

As we know that selling it was considered valid according to Sharia or Islamic law with provisions of the pillars-the pillars of selling and selling terms. When a transaction of buying and selling did not meet one of the pillars or conditions of sale the sale the rather flawed. After buying and selling of dollars traded goods is wholly owned by the buyer. But the fact that occurred in the village of Gema that farm animals sold are not wholly owned by the buyer but rather by half. And this is not in accordance with the tenets and terms of sale and purchase in the Islamic jurisprudence. Therefore the researchers assume this case is very important to researched.

Based on the background of the above researchers interested in conducting research entitled: **“The Legal Aspects of Buying and Selling Livestock Off The Study of Islamic Law” (Study In The Village Of Kampar Kiri Hulu Subdistrict Gema).**

B. Scope and Limitation

From the background above is obtained that the description of the dimensions of the problem is so vast. But the author aware of time limitations and capabilities, then the author looked at the need to give limitation issues in a clear and focused. The limitations problem in this proposal are:

Researcher limiting related studies of Islamic law, Islamic law is Islamic Law is about the *Muamalah* and discuss the sale and purchase contract. As for the use of researchers in the writing of this research is Shafi'i.³ in Fiqh Syafi'i.

C. Statement of Problem

1. How does the practice of selling livestock off in the village of Kampar Kiri Hulu Subdistrict Gema?
2. How does the view of fiqh Syafii against the practice of selling livestock off in the village of Kampar Kiri Hulu Subdistrict Gema ?

³ https://id.wikipedia.org/wiki/Abu_Abdullah_Muhammad_asy-Syafi%27i, diakses pada tanggal 18 mei 2017. Abu Abdullah Muhammad bin Idris asy-Syafi'i al-Muththalibi al-Qurasyi (bahasa Arab: أبو عبد الله محمد بن إدریس الشافعي المظلي القرشي) atau singkatnya Imam Asy-Syafi'i (Ashkelon, Gaza, Palestina, 150 H/767 M - Fusthat, Mesir, 204 H/819 M) adalah seorang mufti besar Sunni Islam dan juga pendiri mazhab Syafi'i. Imam Syafi'i juga tergolong kerabat dari Rasulullah, ia termasuk dalam Bani Muththalib, yaitu keturunan dari al-Muththalib, saudara dari Hasyim, yang merupakan kakek Muhammad.

D. Objective of Research

Based on the statement of the problem above, the objectives of the research are:

1. To know the practice of livestock off in the village of Kampar Kiri Hulu Subdistrict Gema.
2. To know the views of fiqh Syafii against the practice of selling livestock off in the village of Kampar Kiri Hulu Subdistrict Gema.

E. Significance of Research

Theoretically, the results of this research are expected to add information about the study of Islamic law for the rights and obligations of the parties in buying and selling pets. The results of this research can be used to increase motivation for further researchers to examine more deeply especially the unprecedented problems and resolved in this research.

While the practical benefits are benefits that can be worn or applied directly. So the practical benefits that could be drawn from this research one are the benefit to the environment of the campus State Islamic University Maulana Malik Ibrahim of Malang. This research can be used as research material for another student State Islamic University Maulana Malik Ibrahim in Islamic Economics.

The practical benefits that can be gained from the results of research for researchers themselves, researchers can find out and share the knowledge with others regarding the rights and obligations of the parties

in the practice of buying and selling pets. Other benefits that can be obtained is to increase scientific knowledge for researchers, especially in the areas of research will be carried out.

F. Operational Definition

1. Legal Aspects

Aspects of the great Dictionary of Indonesian Language means

- 1) sign,
- 2) appearance or the interpretation idea, problem, situation, and as his the consideration seen from a particular point of view.

The law in Indonesian Language Dictionary means;

- 1) rules or customs that are officially considered binding, which was confirmed by the Sovereign or the Government;
- 2) the laws, rules, and so on to organize his life society;
- 3) benchmark (rule, conditions) about events (natural and so on) to which the particular; decision
- 4) (consideration) set by the judge (in court); the verdict;

Based on this research title is "The Legal Aspects Of Buying And Selling Livestock Off The Perspective of Fiqh Syafi'i (case study in the village of Kampar Kiri Hulu subdistrict Gema)" then, is the legal aspects of this research is aimed at finding and knowing the law rather than buying

and selling livestock off happened in the village of Kampar Kiri Hulu Subdistrict Gema this. According to the study of Islamic law.

2. Selling and Buying

Buy sell according to the language of *al-Bai ' al-Tijarah and al-Mubadalah*⁴, Allah SWT said:

يَرْجُونَ تِجَارَةً لَّنْ تَبُورَ (فاطر: 29)

*They expect tijarah (trade) that will not lose (Q.S. Fathir: 29)*⁵

According to the terms (terminology) is selling is as follows.

- a. Exchanging goods with goods or goods with money by the way releasing the property rights of the one to the other on the basis of the answer.
- b. The possession of property by the way someone who in accordance with the rules of sharia.
- c. According to Ibn Qadamah trade or selling is the exchange of property with the property to be hers.

3. Livestock Off

Livestock Off is an animal that is deliberately kept as a source of food, a source of industrial raw material, or as a job aid man. The maintenance effort is referred to as cattle farms (or fisheries, for specific acupuncture group of animals) and the liquid part of the agricultural activity in General.

⁴ Hendi Suhendi, *Fiqh Muamalah* (Jakarta: Rajawali Press,) p. 67

⁵ Q.S. fathir (23): 29

Cattle can be any animals (including insects and vertebrates such as fish and the low level of Kopaska). However, in everyday conversation people usually refers to birds and mammals are Indonesia (SNI), such as chickens, geese, turkeys, or jerajak for poultry, as well as pigs, cows, goats, sheep, horses, or mules for mammals. In addition, in some areas of the world well known typical farm animals such as camels, llamas, bison, ostrich, and Dutch mice may have deliberately kept as livestock. Types of livestock vary around the world and depends on a number of factors such as climate, regional origin, slide requests, local culture, and topography.

Groups of animals other than birds and mammals observed humans also called (animals) of cattle, especially if kept in a special place and not allowed to wander in the open nature. The mention of "cattle" is usually considered "proper" when animals are kept more or less has undergone domestication, not simply taken from the wild and then kept. Into this group include silk moths, various types of freshwater fish (such as goldfish, carp, tilapia, oreochromis mossambicus, or catfish), some types of frogs (especially bullfrog), crocodiles, and a few types of snakes. Maintenance effort fish commonly referred to as the fishing or, more specifically, fish farming. Freelance terms referred to in this research is the wild. So, is the livestock off the (wild) in this study are the farm animals in the wild by Shepherd means not in a cage and without a piece of string that tied it.

4. The Perspective of Fiqh Syafi'i

Shafii Fiqh perspective here is the view of the scholars who use the shafii sect in addressing matters of Fiqh in various writers and their writings. make this shafii Fiqh as material for analyzing problems the author in the study.

G. Discussion Structure

Overall this thesis consists of five chapters. Systematic of discussion of this thesis is as follows:

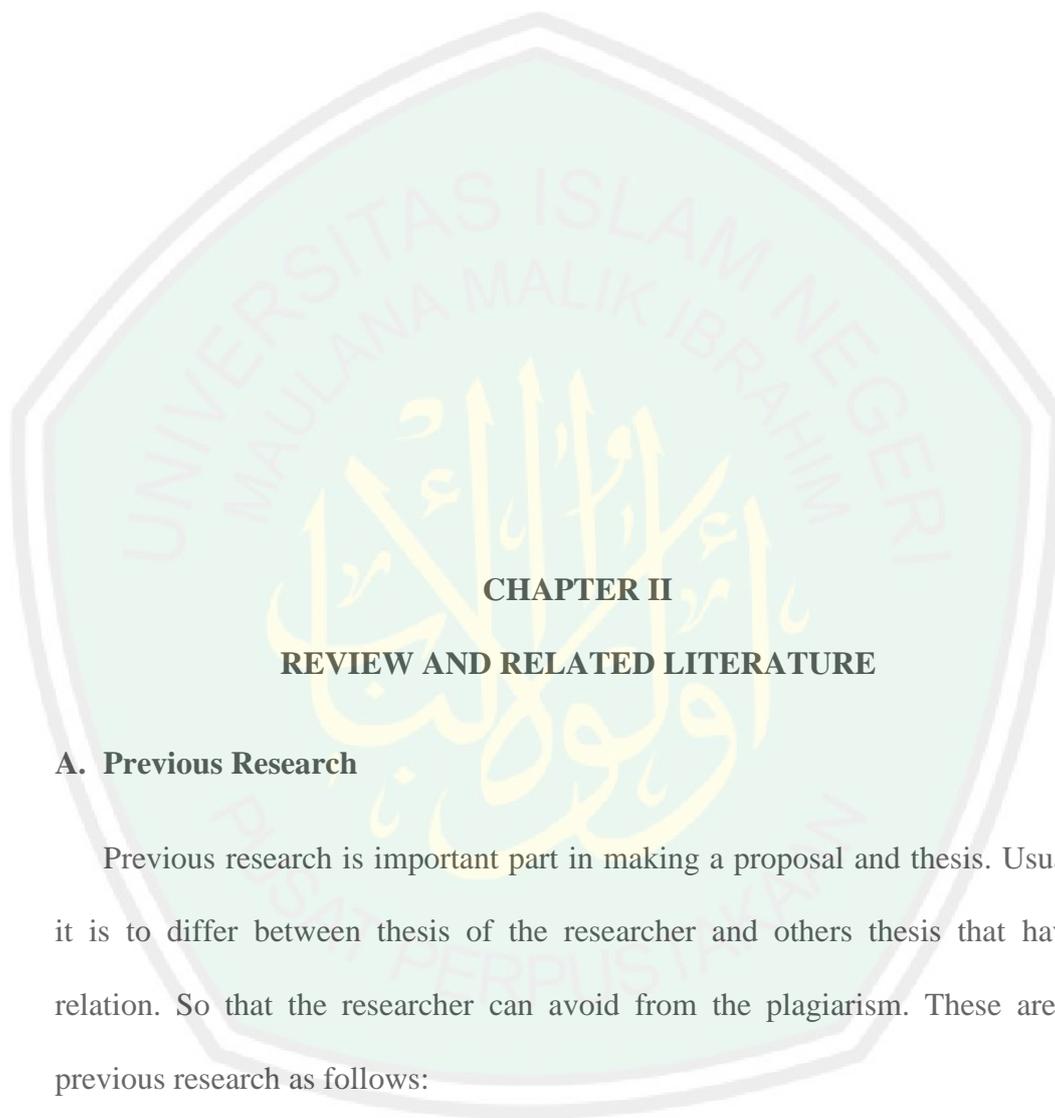
The Chapter I, is to discuss the introduction which is the abstraction of the entire contents of this thesis outlines the background to the issue, the issue, the operational definition, formulation of the problem, research objectives, the benefits of systematic research, and discussion.

In **Chapter II**, discusses the review of the literature concerning the earlier studies which have linkages with research issues and the subsequent described or expressed the original this research as well as the indicated difference and sameness with previous studies. This section also sets forth the constituent of the theories regarding the sense of buy, livestock off, the rights and obligations of the seller and the buyer, the terms and basic tenets of selling, buying and selling law, a variety of business transactions are allowed in Islamic law, a variety of jula-buy prohibited in the laws of Islamic law. The discussion in this chapter is used by the compilers as the basic framework of a sale made as a tool of analysis in the study.

Then **Chapter III**, this chapter describes the research method which consists of different types of research, research, research approaches, methods of determination of the subject, the type and source of data, data collection methods, and data processing, which is used as a constituent of referral guidelines to understand the object of research. And the reference in order to focus on objects that are examined.

Chapter IV, this chapter discusses the aspects of buying and selling livestock off the according community in the perspective of Islamic law. In this chapter contained an analysis of the practice and mechanism of the implementation loose livestock sale conducted by villagers Gema Kecamatan Kampar Kiri Hulu.

The last **Chapter V**, this chapter is closing which compilers take the conclusions of the study results, and where suggestions can provide an alternative for solutions to legal problems.



CHAPTER II

REVIEW AND RELATED LITERATURE

A. Previous Research

Previous research is important part in making a proposal and thesis. Usually, it is to differ between thesis of the researcher and others thesis that having relation. So that the researcher can avoid from the plagiarism. These are the previous research as follows:

Thesis by Abdurahman Bahri under tittle “**Analisis Pendapat Abu Hanifah Dan Imam Syafi’I Terhadap Jual Beli Kulit Hewan Kurban (Studi Kasus Di Masjid Al-Iman Hadimulyo Timur, Kecamatan Metro Pusat)**” this research was made by the student of Raden Intan Rahmat State Islamic Institute of Bandar Lampung. This research used the empirical research i.e. a research that aims to

collect the data and information with directly to the field of object research. The data collection method used interview to the management of East al-Iman Hadimulyo Mosque.

The result of this research that the selling of the skin of sacrificial animals according to the Abu Hanifah has permitted as long as the proceeds from the sale of those utilized for the construction of the mosque. While according to the Imam Syafi'I, the skin of sacrificial animals hasn't permitted to trade but contributed to the have the right received.⁶

The similiaritis is Equally discussed about selling and reviewed with the Islamic law. And the difference is against the object examined i.e., buy and sell the skin of the sacrificial animals, while researchers discuss about selling off livestock.

From the above it can be concluded previous research that the research that will be done by researcher on "*Legal Aspects of Buying and Selling Livestock off the Study of Islamic Law (Study in the Gema Village of Kampar Kiri Hulu Subdistrict)*" is not the same or different, neither the research methods nor objects that will be examined by the researcher. So the author can continue the research until finish.

The second research is "**Pendapat Ulama Beji Terhadap Praktik Jual Beli Ikan Lele Dengan Pakan Najis Di Desa, Gunung Sari, Kecamatan Beji ,**

⁶ Abdurahman Bahri, "Thesis" , <http://bahriextreme.blogspot.com/2010/01/skripsi-muamalah-bab-1.html>, accessed on 19th October 2016.

Kabupaten Pasuruan Perspektif Mazhab Syafi” by Maryam Jamilah from Maulana Malik Ibrahim State Islamic University of Malang.

In this thesis Maryam was analyzed the result of interview the opinions of scholars Beji against the practice of selling Catfish with feed odious perspectives of Madzhab Syafi'i. There are some scholars of Beji which argued that the sale is allowed but some prohibit the sale because it considers the mandatory quarantine done by the breeder before marketed, However in practice the breeders Sari Mountain does not recognize do the deposition or quarantine before being marketed. Previous research has a clear difference towards research conducted by researcher that the object of the research done by Maryam Jamilah regarding the practice of selling catfish that given the feed unclean while investigators about selling off livestock.

The similiaritis both examine the practices with Islamic law. And the difference It is located on the object of the research which is about selling catfish fed unclean feed, while the researchers discuss the tentnag and selling off livestock.

From the above it can be concluded earlier research that the research that will be done by researchers on ***“Legal Aspects of Buying and Selling Livestock off the Study of Islamic Law (Study in the Gema Village of Kampar Kiri Hulu Subdistrict)”*** is not the same or different, neither research methods nor objects that will be examined by the researcher. So the author can continue his studies until finish.

The third research is “**Jual Beli Hewan Yang Belum Tertangkap Jebakan (Jiretan) Perspektif Fiqih Mazhab Syafi’I**” by Chelsy Ayunanda from Maulana Malik Ibrahim State Islamic University of Malang. This thesis belongs into the kinds of empirical research which is used to analyze the law seen as a society patterned behavior in public life who always interact and connect in the aspect of society. The approach used in this thesis is the qualitative approach. The kind of approach used is non-doctrinal or commonly called by socio legal research. In this research the method of data analysis used is qualitative data analysis method.

The results of this research show that in practice the seller sold the animals who have not been there for him, he offers a few traps that no catch the animal. The buyer may choose a trap with a price of Rp. 10,000 (ten thousand dollars) per-trap, but when not retrieved the money received any seller can not be taken back. According to the fiqh of Madzhab al-Syafi’I as seen from the requirements and pillar of buying and selling that done by community of bonjor belongs has not met the pillar of selling that is *al-ma'qud ' alaihi*.⁷

The similiaritis is both examine the practices with Islamic law. And the difference It was on the previous research of object i.e. discusses animals that haven't yet caught on traps.

From the above it can be concluded earlier research that the research that will be done by researchers on "***Legal Aspects of Buying and Selling Livestock off***

⁷ Chelsy Ayunanda, *Jual Beli Hewan Yang Belum Tertangkap Jebakan (Jiretan) Perspektif Fiqih Mazhab Syafi’i*, (Thesis: Sharia Business Law, Sharia Faculty, Maulana Malik Ibrahim State Islamic University of Malang, 2014)

the Study of Islamic Law (Study in the Gema Village of Kampar Kiri Hulu Subdistrict)" is not the same or different, neither the research methods nor objects that will be examined by the researcher. So the author can continue his studies until finish.

The fourth research under the title "**Hukum Jual Beli Hewan Perspektif Undang-Undang No.5 Tahun 1990 Dan Fikih Empat Mazhab**" by Immawan Muhajir Kadim from Maulana Malik Ibrahim State Islamic University of Malang. This thesis belongs into this kind of normative and research approach used juridical normative analysis, this type of approach was used in this research is the conceptual approach and methods of data analysis used qualitative data analysis.

The results of this research show that we as Muslims should obey the constitution made by the Government as long as it does not conflict with our beliefs as Muslims. As well in selling animal Muslims must obey the constitution of protection animals of once the blue moon, the animals that population dropped dramatically from year to year and year of endangered species. For animal protection constitution is not contra with the Sharia principle and we as Muslims to not traded animals have absolute prohibition by the Qur'an and the Hadith.⁸

The similiaritis both examine the practice of buying and selling. And the difference It is on the research method because this research with research methods authors use motode while the normative empirical research.

⁸ Immawan Muhajir Kadim, *Hukum Jual Beli Hewan Perspektif Undang-Undang No.5 Tahun 1990 Dan Fikih Empat Mazhab*, (Thesis: Sharia Business Law, Sharia Faculty, Maulana Malik Ibrahim State Islamic University of Malang, 2014)

From the above it can be concluded earlier research that the research that will be done by researchers on "*Legal Aspects of Buying and Selling Livestock off the Study of Islamic Law (Study in the Gema Village of Kampar Kiri Hulu Subdistrict)*" is not the same or different, neither research methods nor objects that will be examined by the researcher. So that the author can continue his studies until finish.

Tabel 1.0: Differents and Similiaritis

No	Name / University / Year	Title and problem Formulation	Similiaritis	Differents
1	abdurahman Bahri IAIN Raden Intan Rahmat State Islamic Institute of Bandar Lampung. (2010)	Analisis Pendapat Abu Hanifah Dan Imam Syafi'I Terhadap Jual Beli Kulit Hewan Kurban (Studi Kasus Di Masjid Al-Iman Hadimulyo Timur, Kecamatan Metro Pusat)	Discussed about the trades and reviewed according to the Islamic law.	Object of research i.e. the skin of animals sacrifice, while the researcher discuss about the selling and buying livestock.
2	Maryam Jamilah State Islamic University of Maulana Malik Ibrahim Malang (2014)	Pendapat ulama beji terhadap praktik jual beli ikan lele dengan pakan najis di desa, gunung sari, kecamatan beji , kabupaten pasuruan perspektif mazhab Syafi'	Discussing about the practice based on the Islamic Law	Object of the research i.e. trades catfish that given the unclean, while the researcher discuss about the trades livestock.

3	Chelsy Ayunanda State Islamic University of Maulana Malik Ibrahim Malang (2014)	Jual Beli Hewan Yang Belum Tertangkap Jebakan (Jiretan) Perspektif Fiqih Mazhab Syafi'I	Discussing about the practice based on the Islamic Law	Object of the research i.e. discuss about the animals has not catch by traps.
4	Immawan Muhajir Kadim State Islamic University of Maulana Malik Ibrahim Malang (2014)	Hukum Jual Beli Hewan Perspektif Undang- Undang No.5 Tahun 1990 Dan Fiqih Empat Mazhab	Discuss about the trades in term the object of formal And based on the Islamic Law	The difference It is on the research method because this research with research methods authors use motode while the normative empirical research.

B. Review of the Literature

Madzhab of Fiqh in the literature is a term which is often interpreted as a mindset and pattern of *amaliah* which is the result of thought of a mujtahid madzhab, extracted from al-Quran and al Hadith's-Nabawiy with certain methods. In the *tabi'in* era, Islam until the supremacy era (*al-'ashru ad-dzahabi*), in which experiencing Islamic intellectual cache much progress and significant development. At that time, many of the mujtahid sprung up to innumerable in number. But over time, not all sects are able to survive. Until

today, the sect has validity in terms of history and his teachings so that deserves to be shared only four, namely Imam Abu Hanifah, Imam Malik, Imam Al-Syafi'i, and Imam Ahmad, or that we often hear the term *al-Mazhab al-Arba'ah*. Among them are the Madzhab syafi'i⁹ that is a sect of the Fiqh of the most widely embraced by the Muslims, Indonesia, Malaysia, Brunei, Southern Thailand, Somalia, Yemen, Egypt and Pakistan, India.

Imam al-Syafi'i is the third priest according to the order of date of birth. He was a supporter o against Sciences and a reformer in religion (mujaddid) in the second century Hijrah. Imam al-Syafi'I was born in the town of Gazzah in Palestine of the year 105 H.¹⁰ He was born at the time of the dynasty of the Bani Abbas, precisely at the time the powers of Abu Ja'far al-Mansur (137-159 H/754-774 M). The Priest Whose full name was Muhammad ibn Idris al- 'Abbas ibn Uthman ibn Shafi ibn al-Sa'ib ibn 'Ubayd ibn 'Abd Yazid ibn Hashim ibn 'Abd al-Muthalib ibn 'Abd Manaf.

Imam Al-Syafi'I in the Odyssey study into several areas, such as in Mecca, he learned Hadith and Fiqh. Then he was at the age of thirteen he travelled to Medina. He studied in there with Imam Malik until his died. After that he continued his journey to Iraq, he studied fiqh with ibn Muhammad al-hanafi-Hasan (disciples of Imam Abu Hanifa). After completion of the study f some of the area's "Imam al-Syafi'I returned to Mecca bringing with them the knowledge of Fiqh Iraq. Then, he teaches in the Masjidil Haram, he teaches fiqh in two

⁹ <http://www.lirboyo.net/mengenal-kontruksi-madzhab-syafii/> accessed on may 1 2017.

¹⁰ Asy-Syurbasi Ahmad, *Sejarah dan Biografi Empat Imam Mazhab*, (publised: Amzah, 1991), p. 141.

schemes, i.e. schemes the Medina and Iraq, he teach in the Masjidil Haram for 9 years.¹¹

In addition, al-Syafi'I learned to some scholar during his stay in Yemen, Mecca and Medina.¹² Among the scholars of Yemen who became a teacher of Imam al-Syafi'I are (1) Ibn Mutharraf, (2) Mazim Hisham ibn Yusuf, (3) Umar ibn Abi Salma, and (4) Yahya ibn Hasan. While the teacher of Imam Syafi'I was the first Muslim Khalid Al Zinji, a scholar of Mecca. With Odyssey study, teach and apply their knowledge to some of those areas, then he became a scholar of the great and famous.

Imam al-Syafi'I has produced several papers, among them the *Al 'Umm* collected by his student, Ar-Robi' bin Sulaiman, the book of *Ikhtilaful Hadith*, the book *Ar-Risalah*, book which discusses *Usul al-Fiqh*, the book of *al-Hujjah* which is a sect of old narrated by four scholars of Iraq; Ahmad Ibn Hanbal, Abu Tsauro, Za'farani, Al Karabisyi from Imam Syafi'i, the principle of the Madzhab: the Qur'an, the Sunnah, consensus and Qiyas. He also did not take *istihsan* (considering both a problem) as the principle of the madzhab, and he rejected the *maslahah mursalah*.

1. The concept of buying and selling according to Shafi'i

According to language, trading (البيع) is from the word بعث pronounced masdar باء-بييع means to own and buy. The original word out of Word الباع because each of the two people who did contract continues to pick up and deliver something. People doing sales and purchase are called البيعان. trades

¹¹ Jaih Mubarak, *Sejarah dan Perkembangan Hukum Islam*, (Jakarta: PT. Remaja Rosda Karya, 2000), p. 102.

¹² Asy-Syurbasi Ahmad, *Sejarah dan Biografi Empat Imam Mazhab*, p. 55

translated also "Exchange something with something." Another word of *al-bai'* is *ash-syira'*, *al-mubadah* and *at-tijarah*.

While according to Sharia, understanding business transactions (البيع) is the exchange of property with a treasure to have and give ownership. Other scholars give meanings:

- a. According to Imam al-Nawawi in al-Majmu': "Exchange of property with property for ownership". (Muhammad al-Syarbini, al-Muhtaj Mugni, juz 2, p. 2).¹³
- b. According to Ibn Qudaamah in al-Mughni: "Exchange of property with the property to make the property".(Ibn qudaamah al-Mughni, juz 3, p.559).¹⁴
- c. Wahbah al-Zuhaily¹⁵ was taken in a language with the "exchanging something with something else," the word "*al-bai'*" in Arabic is sometimes used to sense his opponents, namely the word '*al-syira*' (purchase). Thus. The word '*al-bai'*' means the selling, but at the same time buy.

Commerce is also an act of exchange-traded goods with goods or money with goods, without aiming profit. This is because the reason people sell or buy goods is to a necessity regardless of profit and lose.¹⁶

¹³ Muhammad Asy-Syarbini al-Khatib, *Mughni al-Muhtaj*, (juz II; Beirut Libanon: Daar Fikr, t. th). P. 2.

¹⁴ M.Ali Hasan, *Berbagai Macam Transaksi Dalam Islam*, (2nd published; Jakarta:Raja Grafindo Persada, 2004), p. 118.

¹⁵ Wahbah al-Zuhaily, *Al-Fiqh al-Islami wa Adillatuh*, Volume V (8th published; Damaskus:Dar al Fikr al- Mu'ashir, 2005), p. 3304

¹⁶ Ibnu Mas'ud, dkk. *Fiqih Mazhab Syafi'i*, (2nd published ; Bandung: Pustaka Setia, 2007),p.22.

Thus, it can be said that every trade can be said to be buying and selling, but not every sale can be said of the trade.

In the compilation of Economic Law of the Shaira, *bai'* is selling between objects with objects or objects with the exchange of money.¹⁷ The word of exchanges or the transition of ownership with the replacement, it contains the same purpose that transfer the rights and ownership of activities that take place on the basis of reciprocity in the will and the desire. The words "like" or "like the same according to the allowed form" means that reciprocal transaction is valid according to the predetermined manner, i.e. in likely.

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا (البقرة: 275)¹⁸

It's mean: "And Allah has allowed trading and forbidden usury.

From an understanding of the verse that God has already described justifies sale and banned usury. In the sell-buy God has advocated that this transaction to be a legitimate transaction criteria is the presence of elements like the same love or mutually agreed between both parties. As explained in the word of Allah SWT in surah al-Nisa verse 29:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا ﴿٢٩﴾¹⁹

¹⁷ Kompilasi Hukum Ekonomi Syari'ah, edisi revisi, 2010, p. 10

¹⁸ Q.S. al-Baqarah (2): 286

¹⁹ Q.S. An-Nisa (4): 29

It's mean: o you who believe! Do not devour your property among yourselves falsely, except that it be trading by your mutual consent, and do not kill your people, surely Allah is merciful to you.

So that the business of buying and selling that takes place by way of the permitted, must follow the certainty that have been determined. The provisions in question with regard to the tenets and terms and avoid a new forbidden things. Pillars and conditions to be followed refer to the instructions of the Prophet in his hadits. In the details of the pillars and the terms that there is a difference of opinion among the scholars, but other scholars place him as a condition. The difference in the placement of that there is no influence, because two is something that must be met to be valid and halal a transaction.

2. Legal basis and selling

Buying and selling is permitted based on the proofs of the Qur'an and sunnah, and consensus. As for the evidence for Al-Quran, Allah SWT says:

وَأَشْهِدُوا إِذَا تَبَايَعْتُمْ²⁰

It's mean: “and have witnesses when you barter with one another”

لَيْسَ عَلَيْكُمْ جُنَاحٌ أَنْ تَبْتَغُوا فَضْلًا مِّن رَّبِّكُمْ فَإِذَا أَفَضْتُمْ مِّنْ عَرَفَاتٍ فَاذْكُرُوا اللَّهَ
عِنْدَ الْمَشْعَرِ الْحَرَامِ وَاذْكُرُوهُ كَمَا هَدَاكُمْ وَإِنْ كُنْتُمْ مِّن قَبْلِهِ لَمَنِ الصَّالِينَ ﴿١٩٨﴾²¹

It's mean: “there is no blame on you in seeking bounty from your lord, so when you hasten on from “Arafat”, then remember Allah near the

²⁰ Q.S. al-Baqarah (2): 282

²¹ Q.S. al-Baqarah (2): 198

holy monument, and remember him as he has guided you, though before that you were certainly of erring ones”.

As for the proof from sunnah, as follow:

“the prophet Muhammad SAW ever asked about the business that the best? He answers “the effort of their own skill and well trade”²²

The intent is that the good efforts with the results of the work of our own hands and not asking or begging. And trade is good intent is not contain elements of deception and lies. Lastly, the evidence for consensus that Muslims agree that the laws of selling it is permissible and there is wisdom inside, because the human rely on goods that exist in other people and certainly that person won't give him without any return. Therefore with allowed selling then it can help satisfy everyone's needs and pay for any needs that. Humans are social creatures, are themselves so cannot live without the cooperation with the other.

In principle, the basic law is allowed to buy and sell. Imam al-Syafa'I said, "all kinds of selling his law can be if done by two parties who each have the feasibility to conduct transactions, except selling banned or forbidden by his permission is then included in the category are prohibited". But other than that the sale could be the ruling while on a form established by Allah.

3. The Pillars and Requirements of Buying and Selling

²² HR al-Bazzar and the legal is shahih according to al-Hakim from rif'at bin Rafi'. Also mentioned by Ibnu Hajar in the book *at-talkhis al-habir* from rafi' bin Khudaij and gave to Imam

Selling has pillars and conditions that must be met, so that the sale be declared valid. As for the articles of sale as follows:

- a. People who are contracting (seller and buyer).
- b. purchased items and exchange rate of replacement of goods (money)
- c. Sighat Contract (ijab and Qabul)

Ijab is the expression of seller, for example "I am selling this stuff all this"

Qabul is the expression of buyer, "I received (buying) and the price of all this".

The Scholar of Syafi'iyah gave twenty-two terms in buying and selling and is divided into terms of transactors, sighat, and terms of goods traded,²³ such as the following:

a. The requirements of people are contracted there are four i.e.:²⁴

- 1) *Rusyd*, namely the transactors are wise, and he reached puberty must be set up and its fine. Thus, invalid selling done by young children though with the aim to test it. Nor are crazy people neither the person who kept his silence because of stupidity.
- 2) Transactors shouldn't be forced incorrectly. Thus, when a forced (incorrectly) to Transact the sale then this transaction is deemed invalid.
- 3) The Islamic people who bought Al-Qur'an or such.

b. The requirements associated with the Ijab and Qabul

²³ Mughnil al-muhtaj, volume 2, p. 5-12, tuhfath thullaab, p. 141-145

²⁴ Wahbah al-Zuhaily p. 62-64

Syafi'i Fiqh scholars generally agree that the main elements of selling-buy namely the willingness of both sides. The willingness of both sides can be seen from the consent and kabul held. But officials of the cleric Imam Nawawi in the Syafi'i weakens the opinion and choose opinions that do not require ijab-kabul in sale-purchase contract. In *Fiqh al-Syafi'i madzhab* "unauthorized selling of contract except with shigat (ijab qabul) spoken".²⁵

As for the terms of the *shighah* is divided into thirteen are:²⁶

- 1) *Khitaab* (statement in the form of speech) like: "I sell you" thus if, said, "I sell to zaid", the sale is not valid.
- 2) Talks should be addressed to the seller to the buyer. Like: "I sell you", however, when it says, "I sell to your hands or your head", the sale is not valid.
- 3) Statements should be stated by qabul is from the statement of consent. Therefore, if the consent is said to, and accepted by another person who is not a representative of the person in question from the statement of consent, the sale is not valid.
- 4) The party initiating the transaction will have to mention the price, like says, "I sell these goods with the price of the".
- 5) Both parties must intend the meaning mention saying. Thus, if his tongue to pronounce the ijab or qabul but does not intend to sell or transfer ownership, therefore the trades is not valid.

²⁵ Abdurrahman Al jazairi, *Kitab fiqh 'ala Mazhahib Al Arba'ah*, volume VII (Beirut:Dar al-Fikri,tt), p.15

²⁶ Wahbah zuhaily, p. 64-65

- 6) People who begin transaction statement insisting upon its declaration, and both parties should have capability to statement *qabul* pronounced.
- 7) Should not happen a long time of separation between the statement *ijab* and *qabul* though just recorded or cue people mute with long silent. A long time of separation is the distance that confirms that the person concerned refused to pronounce *qabul*. Therefore, still not too long is okay.
- 8) Between the statement of *ijab* and *qabul* should not be interspersed with statements that are not included in the context of a transaction, although foreign statement that a bit or two parties have not yet parted from clearing houses, since that action shows don't want to continue the transaction.
- 9) The party asserting *ijab* may not modify the *ijab* statement before parties *qabul* accept it.
- 10) *Shiighah* transactions should be heard. That is, each of the parties (seller and buyer) and the people around him have to listen to each other.
- 11) There has to be alignment between *ijab* and *qabul* contents. The transaction is considered invalid if the contents of both are different.
- 12) *Shiighah* do not depend on something out of the nature of the transaction, such as if the seller says "If fulan dating, then I will sell to you this stuff".

13) Transactions may not be temporary. Thus, if the buyer says, "I sell to you, this House of a thousand dinars for one month", for example, then the transaction is not valid. Because, the sale must be valid forever without being restricted.

c. The terms of goods supplied as follows:

- 1) Goods old is halal goods
- 2) Goods supplied is something useful. The reason is that they allowed this is the benefit of the transaction itself. When the goods are no benefits even elicit regard, then there can be used as the object of the transaction.
- 3) Goods or money made this transaction object betl really has become the property of the person doing the transaction. This means that it is not permissible to sell other people's belongings.
- 4) Goods or money that made the transaction object it must have been really belong or in his reign.
- 5) Goods or money which made the transaction object should know clearly the quantity as well as quality. When in the form of something that weighed weights clear when something is measured then measurement should be clear. Should not trade in something of an unknown quantity and quality like a fish at sea, birds at the sky.

4. The Ethics of Selling

The trades has some ethics include the following:²⁷

a) Should not be exaggerated in taking advantage.

Deception in the trade of excess in the world forbidden in all religions because of things like that including fraud prohibited in all religions. However, an unbiased small deception was avoided by someone is something that shouldn't be. Because, if it barred then will not buy and sell transactions took place at all. Because selling is usually unbiased regardless of the element of deception. So that, buy and sell items containing excessive deception and can be avoided then it should be avoided.

Malikyah scholars define limits excessive deception that is one-third over, because that's the amount of the maximum limit allowed in the wills and the rest.²⁸ Thus, a good profit and bless a third advantage is to the top.

1) Interact with an Honest

That is by describing the merchandise with actually no lie when describing kinds, types, sources, and costs.

2) Being Tolerant in Interact

Namely seller being easy in determining price by means of it, so did the buyer not too harsh in deciding the terms of the sale and give the price more. Imam al-Bukhaari narrated from the hadeeth of jabir.

“Allah will bless people are tolerant when buying and selling and collect debts”.

3) Avoid the swearing even though traders were true.

²⁷ Wahbah az-zuhaili, *Fiqih Al-Islami Waadillatuhu*, translated. Abdul hayyie al-Kattani, dkk. volume V (Depok: Gema Insani, 2007) p. 25-26

²⁸ Ibnul ‘Arabi, *Ahkamul Qur’an*, volume IV, p. 1804

It is recommended to avoid the swears by Allah's name in selling, due to it including trials for the name of God. Allah said:

“Do not become the name of Allah as barrier to doing virtue, piety, and creating peace among human beings”.

Bukhari and Muslim also narrated a hadiths from Abu Hurairah:

“Swear it makes good sold out but remove the blessing of selling”

4) Increase the alms (shadaqah)

It is Sunnah for a merchant to multiply alms as Redeemer of the swear, deception, concealment of defects of goods, commit deception in pricing, or bad attitudes, and so on.

5) noted the debt and watch.

It is recommended to note down the transaction and the amount of the debt, as well as to watch buy and sell which will be paid back and record debt.

5. The rights and obligations of the seller and of the buyer

a. Rights of Buyers

The buyer's rights in the execution of the purchase agreement is contained in article 481 KUHPerdata

1) Rights received goods

The buyer has the right to receive the goods at the time of the sale, as contained in article 1481 KUHPerdata which reads: "goods in question should be left in such a State at the time of the sale. Since penyerahaan, all the results into a zealous shoppers".

2) Rights are delaying payments

The right suspend/delay of payment occurs as a result of disturbance experienced by the buyer of goods bought.

b. Obligations of the Buyer

Any purchase agreement will give rise to liability and rights for both parties and parties who made a Covenant.

c. Obligations of the Seller, namely:

1) Handing goods over the goods supplied different based on qualifying goods traded.

2) Bear or warrant the goods

Under article 1491 KUHPerdata, there are two things that must be paid or guaranteed by the seller against the goods sold, i.e.:

a. Ensure mastery of the goods sold in a safe and serene. Hidden defects guarantee over the goods, in such a way that it can become the base an annulment.

6. The Kinds of Trade

There are three kinds of selling:

- a. Sell the goods that can be seen. The ruling allowed if goods sold, rewarding and fulfilling the tenets of business transactions.
- b. Sell something that determined its nature and submitted later. This is the kind of *salam*" (the pay off more precedence in early trading), the law allowed.

- c. Sell goods that do not exist and cannot be seen by the seller and the buyer, or either of them or the item exists, but is not shown. Then this trade and should not be done, because it's hidden sales barred. Gharar trade is the sale of the unknown.²⁹

7. The kinds of trade prohibited in Islam

The sale is forbidden in islam is very numerous. The majority of scholars, as alluded to above, does not differentiate between fasid and cancel. In other words, according to legal scholars, the sale is divided into two, namely the sale and is valid and sale fasid, while according to Hanafi scholars divided the three sale, sale and valid, fasid, and cancel.³⁰

Related with selling prohibited in Islam Wahbah al-Zuhaily summarize as follows:³¹

- a. Prohibited because Ahliyah (contractors)

Scholars have agreed that the sale and purchase are categorized invalid when done by people who are reaching puberty, sentient, can choose, and be able to freely and well done. They regarded selling unauthorized purchase is the following:

- 1) Selling a madman, Fiqh Scholars agree that selling by people who are crazy. So did the like, like people drunk, and others
- 2) Sellin by small children, fuqaha' agree that trading by small children (not mumayiz) is seen to be invalid, except in the cases of mild or trivial. According to scholars Syafi'iyah, trade by children reaching

²⁹ Sohari Sahrani, *Fiqh Muamalah*, (1st publised, Bogor: publised Ghalia Indonesia, 2011), p.71.

³⁰ M.Ali Hasan, *Berbagai Macam Transaksi Dalam Islam*, p.120.

³¹ Wahbah al-Zuhaily, *Al-Fiqh al-Islami wa Adillatuh*, p. 135.

puberty, that has not been otherwise is invalid because there is no *ahliyah*. But according to scholars of the Malikis, Hanafi, and Hanbalis, sale by child was seen legitimate guardian if allowed.

- 3) Selling the blind, blind people are categorized by the trade is valid according to the majority if the goods bought were given properties (described its properties).
 - 4) Forced to buy and sell, according to Hanafi scholars, law buying and selling by people forced to buy, such as *fudhul* (sale without the express permission of the owner).
 - 5) Selling *fudhul*, that is buying and selling the property of a person without the express permission of the owner.
 - 6) Selling *Malja'*, trading that the people who were in danger.
- b. Forbidden: for *shiighah*

Fuqaha' have agreed upon a sale based on the legitimate means between parties that do contract, there is a conformity between consent and *qabul*, situated in one place, and are not separated by a separator. Sale-purchase that does not meet the provisions deemed not valid. Some of the sale that is considered invalid or disputed by scholars is as follows:

- 1) buy and sell *mua'athah*

Sale *mu'athah* is agreed upon by the parties to the contract, with regard to the goods or the price, but not wear the consent *qabul*. The majority of scholars declared invalid when there is consent and one of them.

Similarly, it is permissible to consent *qabul* with cues, deeds, or other ways of indicating means. Provide the goods and received money is seen as *shighat* by Act or gesture.

As for the scholar of Syafi'iyah argued that commerce should be accompanied by a *ijab qabul*, *shighat lafazh*, not enough with the cue, because it means the hidden nature and cannot be unknown, except by speech. They only allow trading with the cue, for people at all. Trading *al-mu'athah* is seen to be invalid according to the Hanafi scholars, however, some scholars, such as allowing Syafi'iyah Imam Nawawi. According to him, it is returned to the habit of man. So did Ibn Suraij Ar-Ruyani and allowing it in small stuff.

2) Buying and selling of goods that do not exist in the place.

Fuqaha' agree that buying and selling of goods that do not have in place is not valid because no eligible *in'iqad* (occurrence of contract). A Hadith like that narrated by Hakim Ibn Hizam above.

3) Buying and selling of munjiz

Purchase munjiz is associated with a condition or suspended at the time to come. This sale, viewed *fasid* according to Hanafi scholars, and cancel according to the majority of scholars.

c. Prohibited because *ma'qud 'alaih* (goods sold)³²

In General, the *ma'qud* peace treasure is a tool made by the person who exchanges the contract, commonly referred to as the '*mabi*' (good's trading)

³² Wahbah al-Zuhaily, *Al-Fiqh al-Islami wa Adillatuh*, p. 136

and the price. Fiqh scholars agree that selling is considered valid if *ma'qud 'alaih* was a fixed goods or beneficial, shape, can be submitted, can be seen by the people that contract, not concerned with the property of others, and there are no restrictions and syara'.

In addition, there are some issues that are agreed by most scholars, but disputed by other scholars, such as the following:

1) Buy and sell that can not be submitted

Sale of goods which cannot be delivered, like the birds in the air or fish that is in the water is not based on statute syara'.

2) Buy and sell objects which do not exist or there is no cause for concern.

The majority of scholars agree that the buying and selling of goods that do not exist or there is no cause for concern is not valid. to selling

3) Containing the elements of gharar (manipulation)

Gharar trade is the sale and containing kesamaran, elements of deception and betrayal.

4) Trading of *mulaqih* (الملاقيح) is where the goods are sold in the form of animals that are still in the male seed before intercourse with females.

5) Trading of *mudhamin* (المضامين) is a buy and sell animals that are still in the belly of its mother.

6) Trading of *muhaqolah* (المحاولة) is buying and selling the fruit still on the handle and not worthy to be eaten.

- 7) Trading of *munabadzah* (المنابذة) Exchange dates are wet with dried dates and Exchange wet wine with grapes dried by using gauge measure.
- 8) Trading of *mukhabarah* (المخابرة) is with the use of the land with muamalah in Exchange for part of what is produced by the soil.
- 9) Trading of *tsunaya* (الثنيا) is trading at a price specified, whereas the goods become the object of sale are a number of items, with the exception that it is not clear.
- 10) Trading of *'asb al-fahl* (عسبالفحل) is a buy & amp; sell animals bred to stud seedlings in the womb of a female animal in order to get the child.
- 11) Trading of *mulamasah* (الملامسة) is selling between two parties, one of which touches other party outfits reproduced traded time night and day.
- 12) Trading of *'urban* (العربان) is the sale of goods for a price, which buyers provide a down payment with a note that if the sale so held will pay the agreed prices, but if not so, the down payment to sellers who have received it in advance.
- 13) Trading of *talqi rukban* (الركبان) is the sale after buyers come to meet the seller before he came on the market and knows the market price.
- 14) Trading of people of the city with the people of the village are city people who already know the market price to sell the goods at the new village people come and do not know the price of the market.

- 15) Trading of *musharrah* (المصرة) is the name of the farm animals tied nipples milk so it appears milk a lot, this is done so that the price is higher.
- 16) Trading of *shubrah* (الصبرة) is the buying and selling of goods stacked in which the exterior looks better from the inside.
- 17) Trading of *najasy* (النجش) is trading that is ostensibly the buyer which raise the price of goods, not to buy it, but to deceive the buyer more in order to buy with high price.

8. 'Urf (custom or Habit)

'Urf (العرف) and custom (العدت) includes two words that are often discussed in the literature Usul Fiqh. Both are derived from Arabic. The word of custom already absorbed into Indonesia are raw.³³

a. the sense of ' custom 'Urf

The word of "'Urf" is derived from the word *'arafa-ya'rifu* (يعرف - عرف) often refers to the "*al-Ma'ruf*" (المعرف) with the meaning: "something". When it says *فلان اولى فلان عرفا* (Sifulan more than any other) in the '*urf* meaning that the si Fulan, better known as compared to others. The sense of "known" is closer to the notion of "recognized by others". The word of '*urf* is also contained in the Qur'an with meanings with which means the virtues (doing good), as in surat al-A'raaf (7): 199:

³³ Amir Syarifudin, *Ushul Fiqh, jilid 2* (Jakarta: Logos Wacana Ilmu, 2001), p. 363

Among Arab linguists there who equate the word of custom and *'urf*, the second word is a synonym. If both coupled to that word in a sentence, such as: the law is based on the custom (adat) and *'urf*, this does not mean the word of custom and *'urf* is different the meaning though used conjunctions "and" commonly used as words that distinguish between the two words. Because both words have the same meaning, in this example, the word of *'urf* is as the strenghtener to the word custom (adat).

b. The kinds of *'Urf*

Classifications of *'urf*. It can be viewed from multiple facets:³⁴

1) in terms of the material are wont to do. In this sense *'urf* was there are two kinds:

a) *'Urf qauli* (عرف قولي), i.e., the applicable customs in its greeting words.

b) *'Urf fi'li* (عرف فعلي) i.e. the prevailing custom in deed.

2) in terms of the scope of their use, *'urf* is divided to:

a) *'Urf al-'am* (عرف عام), a habit that has been commonly apply everywhere.

b) *'Urf al-khas* (عرف خاص), custom made by a group of people of a particular place or at a particular time; does not apply in any place or time.

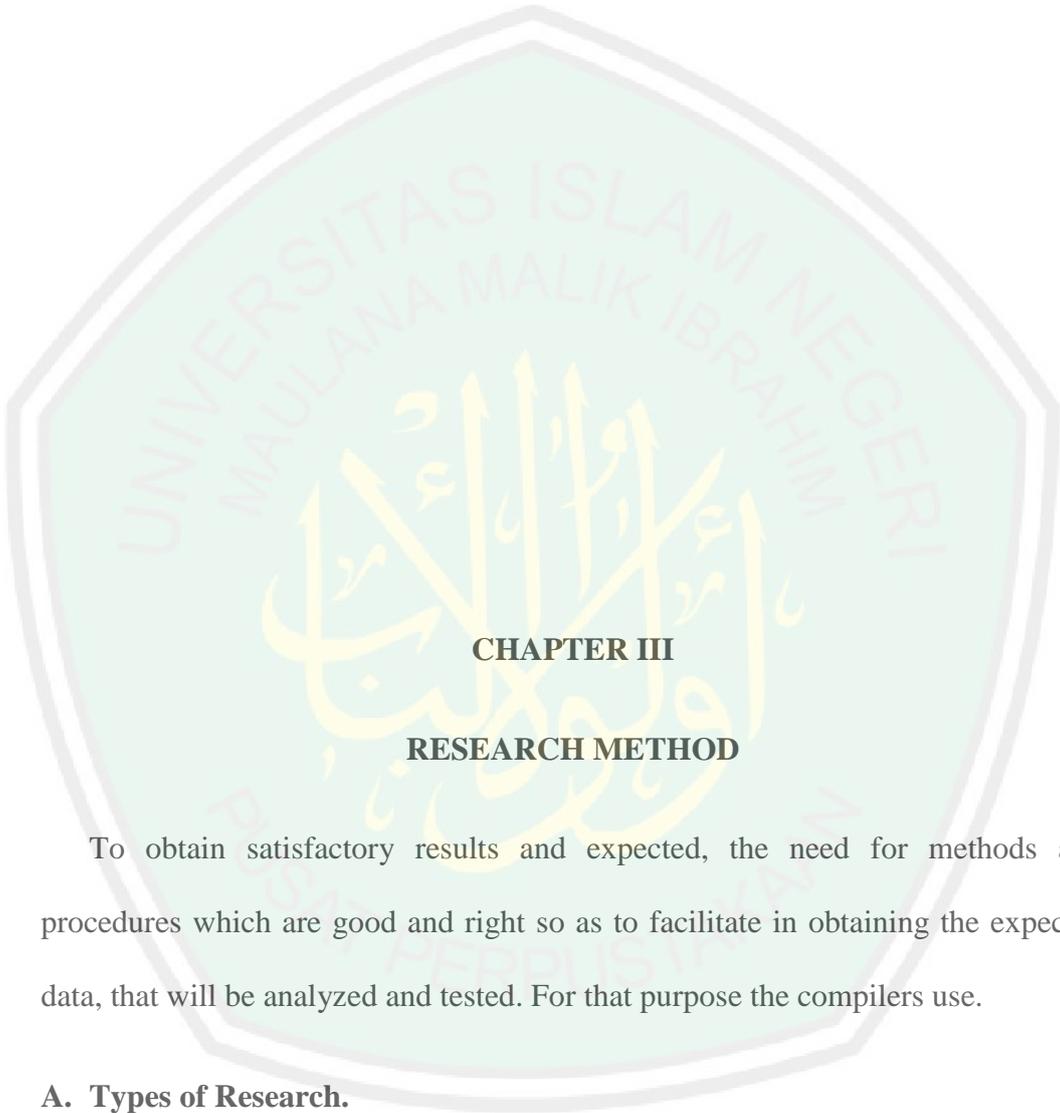
3) in terms of good and bad judgment *'urf* or divided to:

³⁴ Rahmat Syafe'I, *Ilmu Ushul Fiqih* (Bandung: Pustaka Setia, 2007), p. 128

a) '*Urf Saheeh* (عرف صحيح), namely '*urf* repeated re-do, accepted by the people, not in conflict with the law of Sharia, so an manners, and culture that is sublime.

b) '*Urf fasid* (عرف فاسد), that is '*urf* applicable in one place though uneven implementation, but contrary to sharee'ah laws, state laws, and good manners.





CHAPTER III

RESEARCH METHOD

To obtain satisfactory results and expected, the need for methods and procedures which are good and right so as to facilitate in obtaining the expected data, that will be analyzed and tested. For that purpose the compilers use.

A. Types of Research.

This type of research is empirical legal research, i.e. research with the data field as the main data source, such as interviews and observations. Empirical

research is used to analyze the law seen as a society patterned behavior in public life who always interact and connect in that aspect.³⁵

B. Research Approach

The research approach is a method or how to research. The research approach is tailored to the type of research, this research is a form of Sociological, Juridical means a research conducted towards the real state of the community or community environment with the intention and purpose to find the fact (fact-finding), which then led to the identification of (problem-identification) and eventually leads to solving problems (problem-solution).

In this approach is emphasized on the quality of the data, so that the author can specify the required, sorting and selecting which data or materials which have quality and data or materials which are not relevant to the matter of research.

C. Research Locus

This research was conducted in the village of Gema Kecamatan Kampar Kiri Hulu , Kampar Regency, Riau Province.

D. The Method of determination of the subject

To determine or select subject penelitian is good, at least there are some requirements that must be considered include:

³⁵ Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: PT Raja Grafindo Persada, 2003), p. 43

1. They've had quite a long and intensive blending in activities or research studies into fields.
2. They involved full of activities or the field.
3. They have sufficient time for the requested information.³⁶

E. Data Sources

This research uses primary data and secondary data.

1. the primary data Source

The primary data source is a data source that provides data to data-collecting by using measurement tools or direct data retrieval tool on the subject as a source of information is sought.³⁷

Primary data is the data that comes from the field. The field data were obtained from respondents. Of the respondents, i.e. persons or community groups provide answers to the questions asked researchers. The respondent is the person or society that are associated directly with the problem.

2. secondary data sources

A secondary data source is a data source that does not directly provide data to the author but rather from another party, not directly obtained by researchers and research subjects.³⁸

³⁶ Basrowi dan Suwandi, *memahami Penelitian Kualitatif*, (Jakarta: Rineka Cipta), p. 188

³⁷ Saiful Azwar, *Metode Penelitian*, (Yogyakarta: Pustaka Pelajar, 1997), p. 91

³⁸ Saiful Azwar, *Metode Penelitian*, p. 91

Secondary data is the second grades, not the main one. For example, data about the results of the deliberations conducted by the parties to the dispute. Secondary data can also be academic texts, research results, legal experts and others.³⁹

Researchers using both the data to find the information accurately related issues that are examined, and examine the results in the field with some of the theories described by the scholars of related legal aspects of buying and selling livestock.

F. Data Collecting Techniques.

There are two main things that affect research i.e. research instrument quality and the quality of data collection.⁴⁰ The technique of data collection is part of the testing process-related sources and how to obtain research data. Method of data collection that supports and related to this study:

1. Observations

Regular Observasi is defined as the systematic observations and recording with phenomena that are investigated.⁴¹ In these observations, the author of do observations directly to the research location in the village of Benjor Subdistrict Tumpang Malang, and did the recording of some required

³⁹ Salim dan Erlies Septiana Nurbani, *penerapan teori hukum pada penelitian tesis dan disertasi*, p. 25

⁴⁰ Sugiyono, *Metode Penelitian Bisnis*, (Cet.viii, Bandung :Penerbit Alfabeta, 2005), p. 129.

⁴¹ Sutrisno Hadi, *Metodologi Research 2* (cet. Ke-21; Yogyakarta: Andi Offset1992), p. 136.

data and further analyzed to answer in this research is related to the buying and selling of animals that have not yet caught on traps.

2. The interview

The interview is one of the methods of data collection by way of communication, i.e. through contact or personal relationships between data collectors (interviewer) and data source (the informant).⁴² This type of interview that writers use is free or guided interview non structured using questions that guide serves as the controller so that the interview process is not lost. This interview was conducted by asking questions about the execution of buy and sell off the farm animals in the village of Kampar Kiri Hulu Subdistrict echo of Kampar. And that will be used as the data source is a citizen who did buy and sell farm animals loose.

The method of interview is conducted to obtain information by physically face to face and ask-answer with informants. With this method, the author of plays as well as other data gatherers. In interviews, the authors also observe the behavior of the gestural informant in answering questions.

3. Documentation

Documentation is also not less important, namely to see farm animals loose in the village of Kampar Kiri Hulu subdistrict Gema. The documentation here is shaped image (photo).

⁴² Made Wirtha, *pedoman Penulisan Usulan Penelitian, skripsi, tesis*, (Yogyakarta: Andi Offset), p. 37.

G. Method of Processing Data

In this research, methods of data analysis used was qualitative. Then from the data that has been collected, and note their validity, thereafter processed in General through the steps are common:

1. Editing

In this section the author need to re-read all data obtained mainly in terms of completeness, clarity of meaning, kesesuaian and relevasinya with the other data. On this occasion the lack or error data can be equipped or repaired with the collected data.⁴³

2. Classifying

Classifying (grouping), where the data are classified based on interview results of certain categories, In this context, researchers classify the data into two, namely: the informant's statements related to the buying and selling of animals that have not been caught between the seller and the buyer, buying and selling animals and the law hasn't caught up in review according to Shafi'i Fiqh perspective.

3. Verifying

Verifying is checking of return data is already collected to obtain the validity of data.

⁴³ Nana Sudjana, Awal Kusuma, Proposal Penelitian Di Perguruan Tinggi, (Bandung: Sinar Baru Alnesindo, 2008), p.84.

Verifying used to process analysis really matured since the data is already collected already verified in advance.⁴⁴

4. Analyzing

It is the stage where the Analyzing done identification of root causes of problems with based on data analysis. The results of the analysis can be used to create a solution in conducting development and improvement process is observed.

5. Concluding

Concluding is the result of a process of research.⁴⁵ In this method the researcher make overall conclusions from the data that have been obtained from all the research activities carried out.

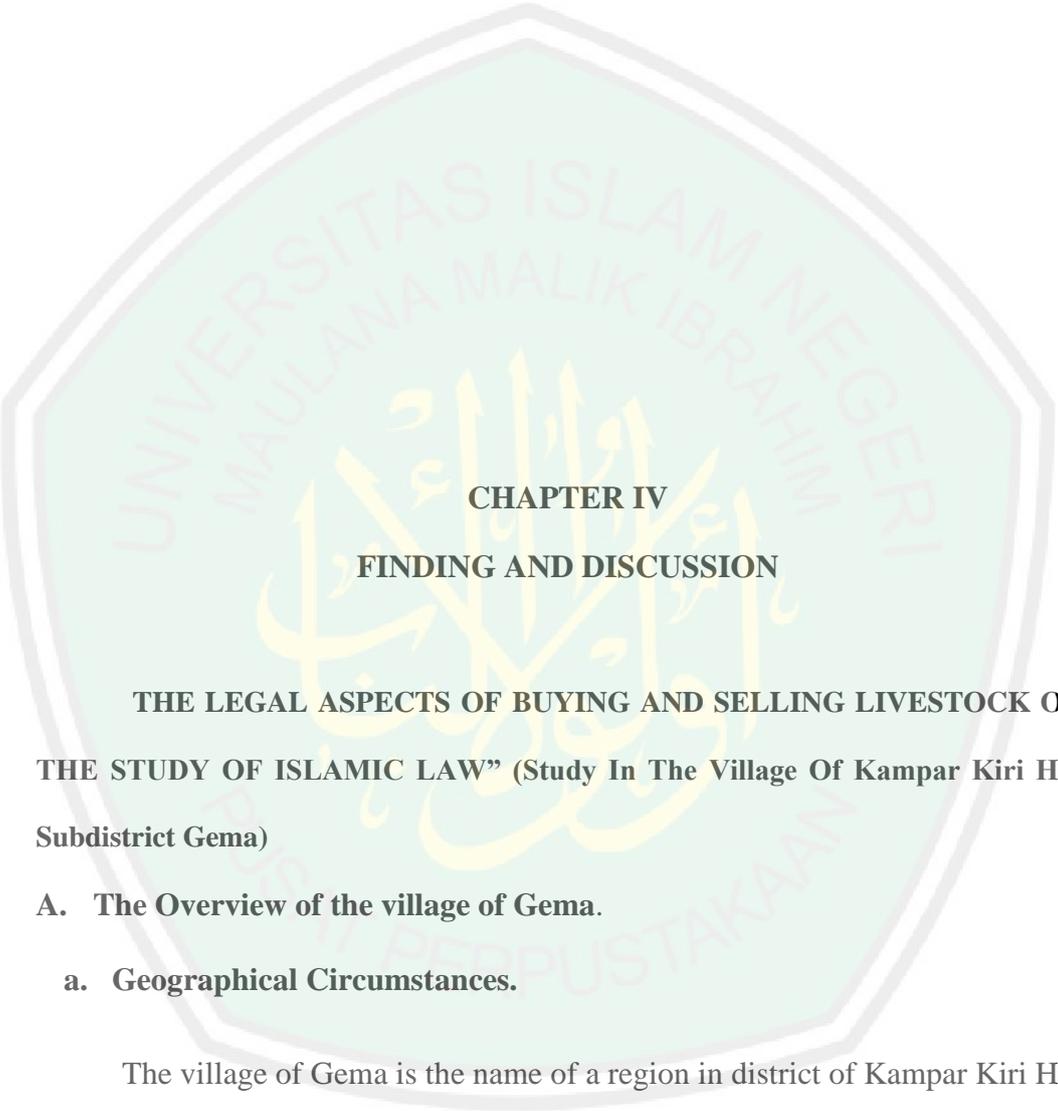
H. Test the validity of the data.

The technique of test the validity of the data that researchers use namely triangular. Triangular is a technique that utilizes data validity checks something else outside of this data for the purposes of checking or as a pembedng against that data.⁴⁶ In this case the investigators will examine the data of the interview results with books of Fiqh.

⁴⁴ Nana Sudjana, Awal Kusuma, Proposal Penelitian Di Perguruan Tinggi,p. 90.

⁴⁵ M.Iqbal Hasan, Pokok-pokok Materi Metodologi Penelitian dan Aplikasinya, (Jakarta: Ghalia Indonesia, 2002), p. 45.

⁴⁶Yusida Imran, "*kriteria dan teknik keabsahan data*", <http://yusidaimran.wordpress.com/2010/12/15/kriteria-dan-teknik-keabsahan-data/>, diakses pada tanggal 2 juni 2017.



CHAPTER IV
FINDING AND DISCUSSION

**THE LEGAL ASPECTS OF BUYING AND SELLING LIVESTOCK OFF
THE STUDY OF ISLAMIC LAW” (Study In The Village Of Kampar Kiri Hulu
Subdistrict Gema)**

A. The Overview of the village of Gema.

a. Geographical Circumstances.

The village of Gema is the name of a region in district of Kampar Kiri Hulu District of Kampar where according to some public figures previously this village was once the center of a struggle at the time of the war of independence and during the PRRI – Permesta.

- a) The village is located in the Gema area of Kampar Kiri Hulu Subdistrict of Kampar Regency, Riau Province, which borders the

villages of: just north of the Village is bordered by Domo Subdistrict of Kampar Kiri

- b) is East of the village is bordered by the TanjungBelit subdistrict of Kampar Kiri Hulu.
- c) borders the South side of the river and the village of Tanjung Sebayang Belit subdistrict of Kampar Kiri Hulu.
- d) West of TanjungBelit Village bordering the southern subdistrict of Kampar Kiri Hulu

Extensive settlement of the village of Gema is \pm 600 Ha, i.e. 15% of it land that bertopografi hilly and 85% is used for agricultural land, plantations and settlements

The village of Gemaa formed in 1962, which was at that time in Kampar led by Regent Dt. Harunsyah and to open up the area for settlement in the village of Gema implemented mutual together for 7 days. The village of GEMA from the beginning of its formation are well prepared to become the center of Government districts, it is seen from the layout of housing and zoning as well as the arrangement of the road which is well-ordered.

The village is inhabited by residents starting Gemaa beginning in 1962, which is where most of the population are local residents came from a region (the old kampong) named Sand Amo, (it is about 1 km away in the village of tanjungbelit).

b. Village Demographics

The village of Gema ranging in population at the earliest by the family in 1962, which is where most of the population are local residents came from a region (kampong lama) named Sand Amo, it is located approximately 1 km towards the village of Tanjung Belit. In addition to the residents of the old kampong moved to Kampung Baru, Gema Village gradually also in the family by the inhabitants of the neighbouring Villages.⁴⁷

In socio-cultural civic culture, village Gema still with the tribal system, where there are currently 10 tribes in the village of GEMA, including the 5 tribes is derived from Sand Amo and 5 tribes came from the village of Tanjung and Tanjung Village Belit Belit Selatan.

At first the village Gema with integrated village is part of the Cape and Cape Belit Belit South, then by 70 area is broken down into 3 villages namely Gema Village, village of Cape Taanjung and the village of Belit Belit South.

Villagers Gema coming from the same area, which still has the immediacy in customs, so that the tradition of deliberation for consensus, mutual and local wisdom is already done by the community since the early terbentuknya Village Gema.

⁴⁷ *Dokumentasi kelurahan Desa Gema, 2016*

The village has a population of GEMA as much as 1,101 inhabitants, consisting of men: 568 inhabitants and p18 KK, which tebagi in 4 areas of the village.

Table 1.1

Population By Neighborhood Village Gema⁴⁸

No	The Name of Dusun	The Number of Residents
1	Dusun I	298
2	Dusun II	255
3	Dusun III	310
4	Dusun IV	238
The total of number		1101

From the table above it can be seen that the population of the village numbered 1 hamlet applies Gema 298 inhabitants, and Hamlet II totaled 255 inhabitants, Hamlet III amounted to 310 inhabitants and the village IV amounted to 238 inhabitants. And the population is found in the hamlet III of 310 inhabitants.

⁴⁸ *The Office Of The Head Of The Village Gema 2016*

c. Education

Concerning education, Indonesia country authorized for all citizens of Indonesia to get a decent education and teaching in accordance with article 31 paragraph 1 of the 1945 Constitution states: every citizen is entitled to education. Education is an important factor in creating a human dog, let alone live a life in the era of globalization nowadays. In this connection, we see developments towards the formation of the whole person from the aspect of education that exist in society but in the village of Gema is still lacking and the lack of education means it can be seen from the following table.

Table 1.2

The Number Of Levels of Education⁴⁹

No	School level	Number of Inhabitants
1	Pra Sekolah	178
2	Elementary school	370
3	Junior high school	332
4	Senior high school	101
5	Degree	20
The total of number		1.001

⁴⁹ *The Office Of The Head Of The Village Gema 2016*

From the table above, it can be noted that in the village of Gema both private as well as State education start pre school, primary, JSS, SLTA, scholar.

d. Economics Society

Judging from the economic status of the village of Echo have a variety of jobs. It can be seen from the following table:

Tabel 1.3
Population Enumerated According To The Type Of Work⁵⁰

No	Jenis Pekerjaan	Jumlah Penduduk
1.	Farmer	842 peoples
2.	Trader	50 peoples
3.	PNS	15 peoples
4	Labour	194 peoples
The total of number		1.101

Refer to the table above shows that the number of inhabitants according to the type of work a lot in the village of Echo i.e. farmers

⁵⁰ *The Office Of The Head Of The Village Gema 2016*

amounted to 842 people. It is understood that society or population in the village Gema many who open agricultural land as a living everyday life.

e. Religion

In the field of religion, the village of Echo the majority converted to Islam. and the majority of the inhabitants of the village of the subdistrict of Kampar Kiri Hulu Gema embraced Shafi'i.

B. The practice of Selling livestock off in the village of Kampar Kiri Hulu Subdistrict Gema.

In this study there are two party speaker who became informants, to be asked regarding the practices of selling off the farm animals in the village of Kampar Kiri Hulu Subdistrict Gema.

The first party that is a party to ever sell the livestock off the second party, i.e. the party that never bought farm animals loose. Of the buyer and seller each three people. The first phase is done i.e. interviewing the parties never sells his animals after the seller completed interviewed then-party buyer..

C. The Process Of Selling Off The Farm Animals In The Village Of Kampar Kiri Hulu Subdistrict Gema.

In public life is very closely related to harmony in the running of daily life, such as Mutual, shoulders, please help, and this has become a hallmark of the villagers. But not only the unity that we often have

problems that we usually don't get it often appears on community activities. Similarly, with villagers Gema of Selling livestock. transactions that are often done by villagers echo and also some neighboring village.

Buying and selling are done with the seller offer to the buyer that the buyer or the cattle come and meet with the owners to buy livestock. Then the buyer and seller to pastures and soon saw the animals. After that, he made the approval of the first speaker of The Kabul, Mr. Ahmad Nasri aged 56 years. Never sell cattle in the village of Kampar Kiri Hulu Subdistrict Gema. The following greeting him when asked about selling cattle in the village of Kampar Kiri Hulu Subdistrict Gema:

*“tonak lopeh tu yo punyo kobau awak, punyo jawi awak balopen di padang kobau. jadi mamoli kobau atau jawi tu ado yang sapagho adonan sakaki,, ado nan saparlapan, ado juo nan sapar onambole, juo boli tonak ko la ado sajak ninik moyangughang awak ko young. Biasonyo dansanak ughang siko nan tingge di kota ughang siko, ughang desa subolah ado juo nan mboli kobau jo jawi ado”.*⁵¹

“cattle off it when we've got a water buffalo or cow, later released in the Buffalo (land of empty which is not made of gardens), so when we buy a Buffalo or cow, no such thing as sapagho (bagiandari half a tail the animal), sakaki (one quarter part of the animal), saparlapan (one-eighth part of the animal), and there are saparonambole (one per sixteen sections of the animal). Buy sell already exists since ancient times, our ancestors. Biasnaya village here, the neighbouring village, or the brother of the man who lived here ever bought a Buffalo with a cow here”.

According to Mr. Khatmi Amril age 57 years as a citizen to ever sell off livestock, he said:

⁵¹ Ahmad Nasri, *wawancara*, (Gema, February 11 2017)

*“cagho nak mamboli atau manjuo kobau jo jawi tu biasonyo ughang nak manjuo menawarkan ka pamboli soalnyo butuh piti copek. Siap tu kaduonyo ka padang kobau manengok kobau kan diboli. Dan disitu sakali ditaksir ogo kobau tu berapa, ijab kobulnya ditompek ado juo yang ijab kabulnyo di umah ndak parolu manengok langsung kobau tu di padang do condo iko ijab qabulnyo :“pembeli :den bolikobau sianu ko jo ogo sekian.”, kemudian penjual : “iyo lah den temo pit.i”. Biasonyo ughang sadansanak jadi atas dasar picayo ajo juo boli bisa dilakukan, biasanaya ado ketua padang nan menengok kobau jo jawi di sabuah padang dan inyo tontu sodo kobau jo yang punyo sakali”.*⁵²

“How to sell or buy water buffalos and cows that bianaya the seller offers to the buyers, because it took money in an urgent time. After that both (seller and buyer) see Buffalo or the sapai aka supplied. Usually the consent of Kabul was agreed on the spot. But some are doing consent qabul at home only, and based on the basis of trust because it has a family relationship, biasnya no such thing as Chairman of the field which is in charge of overseeing livestock and citizens, even he knows who owns the cattle each masiang”.

The third resource person from ever selling the livestock is MR. Makdia 40 years of age, he said:

*“den manjuo kobau gara-gara butuh piti copek dek tadosak, kalau la sapakat juo boli tako bacokau lai do kobau tadi, tu soghaan lai ka pamboli. Pamboli biaso mananggung upah nyokau kobau tadi. Tujuan juo boli sapagho atau nan lain, kobau nyo tu yo untuk ditonak indak untuk di bantai do”*⁵³

⁵² Khatmi Amril, wawancara, (Gema, February 12 2017)

⁵³ Makdiah, wawancara, (Gema, February 15 2017)

“I sold it because the buffaloes need money and urgent need. So after agreed between the parties, then the animal is captured. Then wages rather than catching the animal biasanya borne by the buyer. the purpose of selling half or laian, that animals were not slaughtered cattle for at”.

From the explanation above three interviewees yield a definition that is selling off livestock is buying animals that are still in the wild but after the agreement of the parties and selling the animals in question were arrested and later handed over to the seller together with payment. and there are also payments effected when consent qabul.

Then there is the Akkadian name selling half (half piece) or the two owners, sakaki (one quarter), sapaarlapan (one eighth), and sapa onambole (one per sixteen section).

According to Mr. Khairil Anwar aged 62 years as a party that never bought farm animals loose, he said:

*“kalau nak mamboli kobau bisa tanyo ka ketua padang, kobau siapa nan bisa diboli.baik boli sakaki atau siku kobau langsung. Mamboli kobau tu yo langsung ka umah uwang nan mamunyo kobau tu. Kalo ogo kobau tu biaso ikuik ogo ka nan panjuo kobau ka uma potong. Jadi biaso minta ka sianu tu yang naksir ogonyo”.*⁵⁴

“If I want to buy a water buffalo that usually can be asked directly to the head of the field (the person overseeing the cattle that are in a desert

⁵⁴ Khairil Anwar, *wawancara*, (Gema, February 18 2017)

region). If I buy a tu ya straight home seller direct. Keep, for the determination of price direct to the people who are experts or ordinary already did buy and sell livestock in both the village itself or it could be from the neighboring village”.

According to Mr. Idris aged 61 years, as buyers of farm animals loose said:

*“ambo boli kobau tu yo ado nan sakaki, sapagho lai juo. Sudah tu do yo samo-samo mamiliagho baanaka yia bagi dua bagi sakaki soghang atau sapagho itu tagantuang bagian punyo awak. Biaso nan kodok ambo boli yo kobau jawi ado juo jawi tapi jaghang ”.*⁵⁵

“I bought a buffalo that anyone buy sekaki (one quarter section), sapagho (half portion), after yes same kept them. Well it depends of each part. Usually that I often buy it Buffalo cows also once but rarely”.

According to Mr. Syahril age 51 years as the party that never bought farm animals loose speak was labelled an follows:

“jual boli kobau model iko go la ada sajak zaman dulu. Kalau la punya bagian awak misalnya mamboli kobau sakaki, nah samo-samo awak paliagho. Kok sakiknya soto molo. Kok masuknyo kadalam polka uhang samo bagi rato untung ugi. Atau baanaknyo awak bagi lo. Manfaatnya itu kombang biaknyo banak binaknya. Kalo tadosak awak bisa dijual dan

⁵⁵ Idris, wawancara, (Gema, February 19 2017)

*sonang mamboli karonu kalau sapagho kan dak boghek do mancindo siku o mahal kalo siku kobau”.*⁵⁶

“Buy sell the Buffalo as it has been around since ancient times. Hereditary from paternal ancestor, if we have one quarter section on the animal then must join keep them, when the animals were sick or into the garden, and we have to join the replace it and divided equally appropriate kepemilikan section. Well the perceived benefits with the sale and purchase is not necessary to buy a Buffalo tail that cost dearly, we can have farm animals like buffaloes at low prices”.

So the interview results from exposure to diatasdapat it is understood that there are two kinds of selling off the farm animals in the village of Gema, which firstly that is selling okay, like buying a cow or buffalo and without a specific provision. And the second, i.e. selling a cow or buffalo with the following conditions:

- a. Half of the parts, and selling livestock so that one tail of the animal, owned by two half parts to the seller and the other half to the buyer.
- b. One in four parts, and selling livestock so that one tail of the animal, owned by four parties. Each party has one quarter part of the animal.

⁵⁶ Syahril, *wawancara*, (Gema, February 15 2017)

- c. One in eight parts, and selling livestock so that one animal's tail is owned by eight parties. Each party has one eighth the part of the animal.
- d. One by sixteen parts. selling livestock so that one tail of the animal, owned by sixteen Parties. Each party has one eighth the part of the animal.

D. The Legal Aspects Of Buying And Selling Livestock Off The Study Of Islamic Law” (Case Study In The Village Of Kampar Kiri Hulu Subdistrict Gema) According to Imam Nawawi.

The law and the nature of the sale is divided into two kinds, namely, selling the allegedly valid (invalid) and selling the outlawed. The sale was said to be valid if it meets the terms syara ', either pillars or syarat-syaratnya, while selling unauthorized is selling that did not meet one of the tenets and terms so that buying and selling become damaged (fasid) or cancel.⁵⁷

As explained in the previous chapter, in the view of Al-shaafa'i in this regard was the opinion of Imam Nawawi, the sale can be said to be valid if it has fulfilled the tenets and their conditions. As for selling the tenets stipulated in the view of Al-shaafa'i is as follows:

- a. *Aqid* (beraqad)

In this case it is the sellers and buyers

- b. *Ma'qud Alaih* (goods sold)

⁵⁷ Rachmat Syafi'i, *Fiqh Mua'amalah*, (bandung: Pustaka Setia, 2001), p. 91-92

c. *Sighat* (Consent dan Qabul)⁵⁸

If we look at the practices that took place in the village of Kampar kiri Sub-district of upper Gema, then the tenets of the pillars can be outlined as follows: *Aqid*, i.e. that is a party to the transaction are the villagers of upper Kamparkiri Subdistrict Gema as the buyers and the seller. *Ma'qud Alaih*, object supplied in the practice of buying and selling that occurred in the village of Kamparkiri Sub-district of upper Echo is the Cattle removed freely like cows and buffaloes. *Sighat*, a pronounced Consent by the buyer is clearly that he says would like to purchase the object of sale and purchase are then *Qabul* spoken by the seller if the parties have agreed to the terms of the treasure.

Therefore, according to the researchers, the pillars of selling that occurred in the village of Kamparkiri Sub-district of upper Gema meets selling items mentioned by Imam Nawawi in his book *Minhaj al-Thalibin*.

As for the terms of the sale are determined by Imam Nawawi's *minhaj* in his book *al-thalibin* are as follows:

1. Consent such as *bi'tuka* and *malaktuka* and *isyaraytu* and *tamalaktu* *Qabul* such. In terms of consent and *qabul* then allowed to give precedence to the word meaning buyers do not have to consent and *qabul* Word seller precedence.
2. Furthermore, in Consent *Qabul*, buyers and sellers can use the words *kinayah* or *kiyasan* language in conveying the intent of selling an item

⁵⁸ Muhyiddin Abu Zakaria Yahya bin Syaraf An-Nawawi, *Minhaj al-Thalibin wa 'umdat al-Muftin*, (Beirut: Dar al-Manhaj, 2005), p. 210-211.

more sakhiih opinion. Required in utter *ijazb* and *qabul* not allowed presence of separators between the two old ones resonate (consent and *qabul*). Besides greeting between seller and buyer have to synch it means consent and *qabul* should sync words, the buyer: I bought from you this paper for 1000 dollars later the seller say *qabul* I receive a price of 1000 dollars and must not be otherwise.

3. *Aqid*, required for the transaction, he must be smart (*rusyd*)
4. The ' *Mabi* there are five terms: first, it must be sacred, second: useful, third, it is possible to be submitted. Fourth, wholly owned by the seller. The fifth, known to be clearly⁵⁹

In the practice of buying and selling that occurred in the village of *Kampar Kiri Hulu Subdistrict Gema*, or speech *sighat* used in selling is not structured like:

“den boli kobau sianu sapagho kobau dengan ogo sakian”.

“I bought a Buffalo you half the price with the”⁶⁰

Then the seller say sentences like: *qabul*

“oh iyo la den temo”.

“Oh yes I've received”⁶¹

Unlike most buy sell current that in every selling then buying and selling objects is one whole instead of half, while from the statement above that in conducting the transaction, the buyer mentioned that he wanted to buy

⁵⁹ An-Nawawi, *Minhaj al-Thalibin*, p. 211.

⁶⁰ Khatmi Amril, *wawancara*, (Gema, February 12 2017)

⁶¹ Khatmi Amril, *wawancara*, (Gema, February 12 2017)

half of a cow or buffalo released in the village of Echo. And both sides both know and willing to do the buying and selling in the absence of coercion.

That way, even though selling *sighat* happening isn't structured but between consent and *qabul* such synchronous and fit. So it is in accordance with what is mentioned by Imam Nawawi above i.e. must adda conformity between consent and *qabul*.

While the second requirement pertaining to *aqid* or people who Transact as mentioned above is he must be smart (*rasyad*) and in addition to the parties is not forced in doing the buying and selling by others. When we see in practice that occurred in the village of Kampar Kiri Hulu Subdistrict Gema, the parties to the transaction is a whole of villagers Echo Subdistrict of Kampar Kiri Hulu already married and the age range is 18 years old and above.⁶²

Views from the parties to the transaction then the researchers concluded that they are the ones who already have brains in distinguishing between the good and wrong, besides doing transaction they voluntarily desist and IE on the basis there is no element of coercion, so the second condition that is associated with the parties Transact in the village of Kampar Kiri Hulu Subdistrict Gema in accordance with the terms set forth by Imam Nawawi.

⁶² An-Nawawi, *Minhaj al-Thalibin*, p. 210.

Then the next terms are terms related to mabi ' (the object of sale and purchase): the first, to be sacred, second: useful, third, it is possible to be submitted. Fourth, wholly owned by the seller. The fifth, known to be clearly⁶³

If it is associated with the practice of buying and selling that occurred in the village of Kampar Kiri Hulu Subdistrict Gema, then it can be described as follows: first, the object of buying and selling happens the village Gema Subdistrict of Kampar Kiri Hulu is in the form of a cow and Buffalo, and the object is included in the category of sacred animals are not like dogs and pigs, therefore the first terms of the mabi ' is fulfilled in accordance with the criteria stated by Imam Nawawi.

And the second requirement of the mabi ' is a must have benefits. As explained above that in practice which occurred in the village of Kampar Kiri Hulu Subdistrict Gema mabi ' in the form of a Buffalo and cows removed free is included in the category is useful because a Buffalo or a cow can be utilized for consumption by human beings so that it complies with the criteria of the object of sale presented by Imam Nawawi in his Minhaj al-Thalibin.

While the third requirement of the mabi ' is can be handed over, then it is not valid if the goods sold are traded like goods is dighasab, so is not valid in a specific part of a selling goods such as containers and sword or. As explained in the following: Imam Nawawi.⁶⁴

وَلَا يَصِحُّ بَيْعُ نِصْفِ مُعَيَّنٍ مِنَ الْإِنَاءِ وَالسَّيْفِ وَنَحْوِهِمَا ، وَيَصِحُّ فِي الثَّوْبِ
الَّذِي لَا يَنْقُصُ بِقَطْعِهِ فِي الْأَصْحِّ ، وَلَا الْمَرْهُونِ بغيرِ إِذْنِ مُرْتَهِنِهِ ، وَلَا الْجَانِي
الْمُتَعَلِّقِ بِرَقَبَتِهِ مَالٍ فِي الْأَظْهَرِ ، وَلَا يَضُرُّ تَعَلُّقُهُ بِدَمْتِهِ ، وَكَذَا تَعَلُّقُ الْقِصَاصِ فِي
الْأَظْهَرِ .

In practice which occurred in the village of Kampar Kiri Hulu Subdistrict Gema buy sell cows or water buffalo is not done by purchasing the keseluruhan beef or buffalo will be but only bought most of the cows or water buffalo only. Usually one cow or water buffalo is divided into half, a quarter, a sixth and an eighth. Most of the residents who buy a cow or a Buffalo with a system aimed to dikembangbiakan (were spared not for consumption).

In fiqh Al-Shaafa'i in this regard follow his opinion Imam Nawawi in Al-Minhaj al Thalibin, that the goods supplied may not be half except not diminished the value and benefits of such items.⁶⁵

in the practice of selling beef or buffalo that is associated with the conditions that have been described above Imam Nawawi, then goods became the object of sale is not valid until the contract selling bought-became invalid.

الرَّابِعُ : الْمِلْكُ لِمَنْ لَهُ الْعَقْدُ ، فَبَيْعُ الْفُضُولِيِّ بَاطِلٌ ، وَفِي الْقَدِيمِ :
مَوْقُوفٌ ؛ إِنْ أَجَازَ مَالِكُهُ . . نَفَذَ ، وَإِلَّا . . فَلَا .

The terms of the fourth object is selling goods owned completely by the seller unless the trade off of other people's belongings with the permission of the owner of that item.⁶⁶

As for selling beef or buffalo happens village Gema Subdistrict of Kampar Kiri Hulu, the object being the selling is really belongs to the seller even though the Buffalo or cow in the meadow is discharged it strengthened

⁶⁵ An-Nawawi, *Minhaj al-Thalibin*, p. 211.

⁶⁶ An-Nawawi, *Minhaj al-Thalibin*, p. 211.

by the Chair of the fields (i.e. the person who oversees livestock sector in livestock pastures where he knows the whole animal that became her responsibilities).

So the terms of four related objects and selling happens the village Gema Subdistrict of Kampar Kiri Hulu is in accordance with the terms described by Imam Nawawi in *Al-Minhaj al-Thalibin* i.e. animals of dollars traded is actually the property of the seller.

And the terms of the last goods that can be sold is the essence, nature and then when the ' mabi, measuring or sell objects bought is not known either in essence, nature, measuring and then becomes invalid.⁶⁷

In the practice of buying and selling that occurred in the village of Kampar Kiri Hulu Subdistrict Gema, the seller and the buyer respectively know the essence of the traded goods namely in the form of a cow or buffalo, but on the other side of sellers and buyers not knowing with certainty the nature and size of the sale object because the buyer only convey that he only bought half of a cow or buffalo that sold and the buyer also does not define a definite part of the seller to buy so that between the seller and the buyer does not knowing clearly part of a cow or buffalo who sold the properties and size.

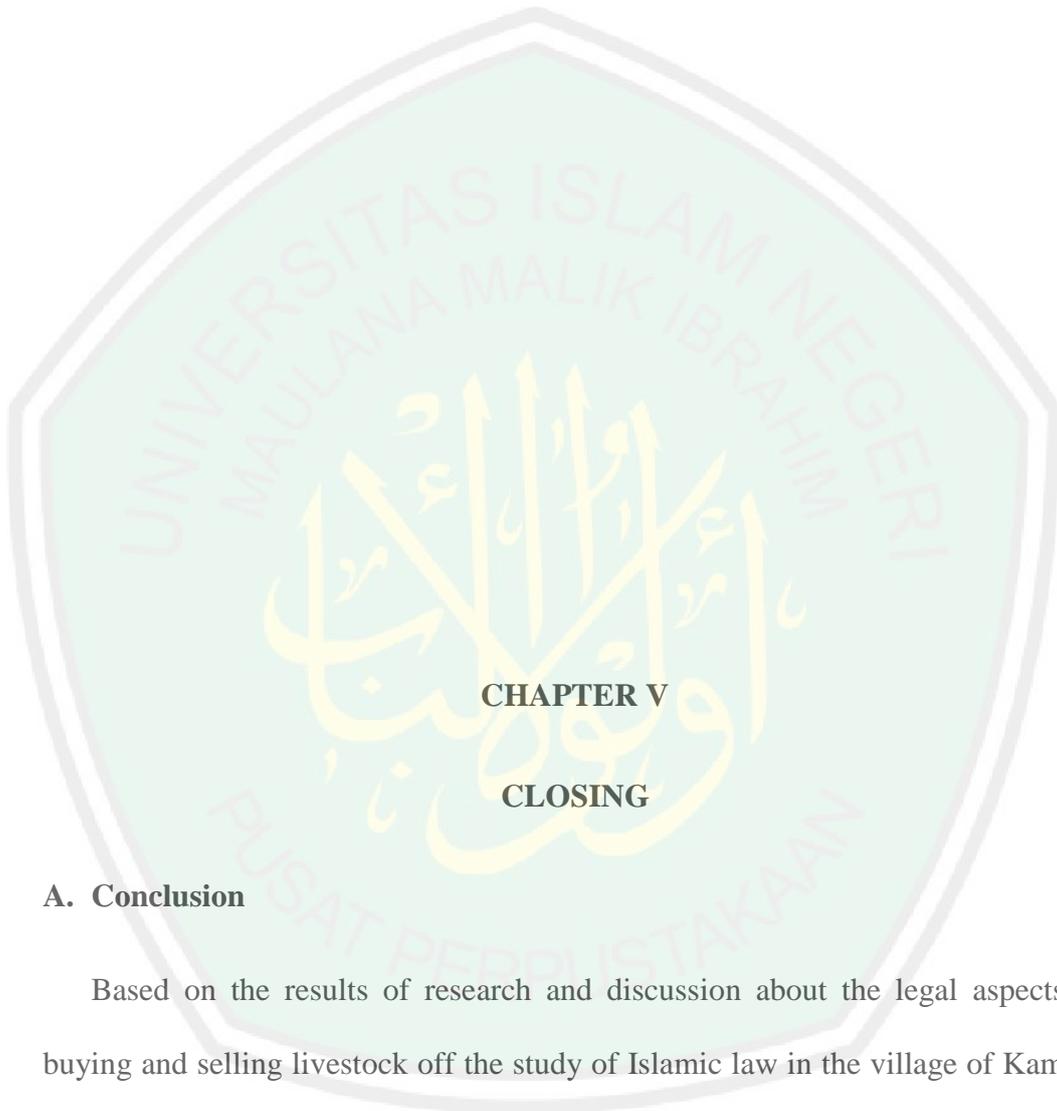
Therefore when we connect between the explanations that have been presented by Imam Nawawi above and practice that occurred in the village of Kampar Kiri Hulu Subdistrict Echo then inconsistent although his essence,

⁶⁷ An-Nawawi, *Minhaj al-Thalibin*, p. 211-212.

and selling the objects known by both parties but in nature and size, both seller and buyer do not know.

From the explanation above, then it can be concluded that the practice of buying and selling that occurred in the village of Kampar Kiri Hulu Subdistrict Gema not in accordance with Islamic law which in this case is wearing his opinion Imam Nawawi in his book Minhaj al-Thalibin due to several factors including:

- a. Selling Objects may not be half except not diminished the value and benefits of such items. While the practice of selling beef or buffalo that occurred in the village of Kampar Kiri Hulu Subdistrict Echo was part of the buy and sell objects, therefore when the goods become the object of sale is not valid then the selling contract purchasing-became invalid.
- b. Goods that become the object of sale and purchase are not known clearly from the aspect of the size and nature i.e., in this case a Buffalo or a cow that is sold is not known which parts are owned by si penjual and si buyers. Different when cows and buffalos are meant to eat then when slain, divided into two parts in accordance with the agreement.



CHAPTER V

CLOSING

A. Conclusion

Based on the results of research and discussion about the legal aspects of buying and selling livestock off the study of Islamic law in the village of **Kampar Kecamatan Upper Left Echo** then the conclusions can be drawn as follows:

1. Selling off livestock in the village of **Gemma** is regularly carried out by the villagers the subdistrict of **Kampar Kiri Hulu Gemma**. Buying and selling is done by means of the seller to sell to buyers or buyers who ask if the seller owned the animal can be sold. In practice, the seller is offering

the animal for sale with half the terms, one quarter, one in eight, or one by sixteen. After that the animal in the appraiser price according the age and price in the market. For example, the seller sold his buffaloes provided half of the part, and after it was estimated that hargu a Buffalo tail Rp. 10 million (ten million dollars) then, the price paid by the buyer is half or half of the price of one of these Buffalo tails, i.e. Rp. 5 million (five million rupiah). But animals are not on handover, but remain in pasturing or free. And selling is not for consumption but still left to live and breed.

2. The practice of selling off the farm animals that occur in the village of Kampar Kiri Hulu Subdistrict Gema Kampar according to Shafi'i perspective, namely.

The object of the sale should not be reduced except not half the value and benefits of such items. While the practice of selling beef or buffalo that occurred in the village of Kampar Kiri Hulu Subdistrict Echo was part of the buy and sell objects, therefore when the goods become the object of sale is not valid then the selling contract purchasing-became invalid.

The stuff became the object of sale and purchase are not known clearly from the aspect of the size and nature i.e., in this case a Buffalo or a cow that is sold is not known which parts are owned by the seller and the buyer. Different when cows and buffalos are meant to eat then when slain, divided into two parts in accordance with the agreement.

B. Suggestions

By having some exposure and the explanation above, the author gives suggestions for becoming a consideration that is as follows:

1. Should the community leaders in this local scholars, to give a briefing or information about Islamic law, especially in the field of *muamalah* particularly with regard to the sale to avoid mistakes that can lead to the breakdown of contract.
2. next to the researcher should be able to examine about a wide range of activities in existing *muamalah* residence researchers further, because this is very important for the society in the event she should deal to avoid errors as defined by Islamic law.

BIBLIOGRAPHY

A. Books

Alqur'an al-Karim.

Abu Zakaria Yahya bin Syaraf An-Nawawi, Muhyiddin. 2005. *Minhaj al-Thalibin wa 'umdat al-Muftin*, Beirut: Dar al-Manhaj.

Ahmad, Asy-Syurbasi. 1991. *Sejarah dan Biografi Empat Imam Mazhab*. Jakarta: Amzah,

Al-Zuhaily, Wahbah. 2005. *Al-Fiqh al-Islami wa Adillatuh, jilid V* (cet. Ke-8; Damaskus: Dar al Fikr al- Mu'ashir

Asy-Syarbini, Muhammad. *al-Khatib, Mughni al-Muhtaj. juz II*. Beirut Libanon: Daar Fikr.

Azwar, Saiful. 1997. *Metode Penelitian*. Yogyakarta: Pustaka Pelajar.

As-Syarbini, Syamsudin Muhammad bin Al-Khotib. 1997. *Mughnil al-Muhtaj*. In Maktabah Syamilah. Beirut, Lebanon: Daarul ma'rifat.

Al-Muhaqqiq, Imam Anshoria. 1310 H. *Tuhfatuth Thullaab*. In Maktabah Syamilah. Mekkah: Al-maiyah.

Al-Jazairi, Abdurrahman. 2003. *Kitab fiqh 'ala Mazhahib Al Arba'ah, jilid VII* Beirut: Dar al-Fikri,tt

Basrowi dan Suwandi, 2008. *Memahami Penelitian Kualitatif*, Jakarta: Rineka Cipta.

Hadi, Sutrisno. 1992. *Metodologi Research 2*, Cet. Ke-21. Yogyakarta: Andi Offset.

Hasan, Muhammad Ali. *Berbagai Macam Transaksi Dalam Islam*. cet. Ke- 2.

Jakarta: Raja Grafindo Persada.

Hasan, M. Iqbal. 2002. *Pokok-pokok Materi Metodologi Penelitian dan Aplikasinya*. Jakarta: Ghalia Indonesia.

Mahfudh, Sahal. 2014. *Nuansa Fiqh Sosial*, cet-IV. Yogyakarta: Lkis.

Mas'ud, Ibnu dkk. 2007. *Fiqh Mazhab Syafi'i*, cet. II ; Bandung: Pustaka Setia.

Mubarak, Jaih. 2000. *Sejarah dan Perkembangan Hukum Islam*. Jakarta: PT. Remaja Rosda Karya.

Sunggono, Bambang. 2003. *Metodologi Penelitian Hukum* Jakarta: PT Raja Grafindo Persada.

Suhendi, Hendi. 2010. *Fiqh Muamalah*. Jakarta: Rajawali Press.

Sahrani, Sohari. 2011. *Fiqh Muamalah*, cet. Ke-1, Bogor: Penerbit Ghalia Indonesia.

Syarifuddin, Amir. 2003. *Garis-Garis Besar Fiqh*. Jakarta: Kencana.

'Arabi, Ibnul. 2006. *Ahkamul Qur'an*. juz 4. Beirut, Lebanon: Daarul Kutub Al-Ilmiyah.

Sugiyono, 2005. *Metode Penelitian Bisnis*, Cet.viii. Bandung :Penerbit Alfabeta.

Sudjana, Nana Awal Kusuma, 2008. *Proposal Penelitian Di Perguruan Tinggi*. Bandung: Sinar Baru Algenesindo.

Syafi'i, Rachmat. 2001. *Fiqh Mua'amalah*, Bandung: Pustaka Setia.

Tim Redaksi. 2010. *Kompilasi Hukum Ekonomi Syariah 'ah, edisi revisi*. Jakarta:

Fokus Media

Wirtha, Made. 1992. *Pedoman Penulisan Usulan Penelitian, skripsi, tesis*.

Yogyakarta: Andi Offset.

Az-Zuhaili, Wahbah. 2007. *Fiqh Islam Waadillatuhu 5*. Translated by Abdul-

hayyie al-Kattani, cet 10. Depok: Gema Insani.

B. Dictionary

Ahmad Warson. *Al-Munawir*. Surabaya: Pustaka Progresif.

C. Paper, Thesis, Dissertation.

Chelsy Ayunanda, 2014. *Jual Beli Hewan Yang Belum Tertangkap
Jebakan (Jiretan)*

Perspektif Fiqih Mazhab Syafi'i, Skripsi: Fakultas Syari'ah Jurusan Hukum
Bisnis Syari'ah Universitas Islam Negeri Maulana Malik Ibrahim
Malang.

Immawan Muhajir Kadim. 2014. *Hukum Jual Beli Hewan Perspektif Undang-
Undang No.5 Tahun 1990 Dan Fikih Empat Mazhab*. Skripsi: Fakultas
Syari'ah Jurusan Hukum Bisnis Syari'ah Universitas Islam Negeri
Maulana Malik Ibrahim Malang.

D. Website

Kamus Besar Bahasa Indonesia <http://kbbi.web.id/kaji>. retrieved on
May 17, 2017.

<http://www.lirboyo.net/mengenal-kontruksi-madzhab-syafii/>. retrieved on May

16 2017

Yusida, Imran. *Kriteria dan teknik keabsahan data*.

<http://yusidaimran.wordpress.com/2010/12/15/kriteria-teknik-keabsahan-data/>, Retrived on june 2 2017.

Abdurahman Bahri, “Skripsi” . <http://bahriextreme.blogspot.com/2010/01/skripsi-muamalah-bab-1.html>. diakses tanggal 19 Otokber 2016.



APPENDIX

A. List of Questions

The Question For Seller's Party Animals:

1. What is the process of selling off farm animals?
2. where the process of buying and selling livestock off?
3. What are the animals in livestock are off?
4. What price you offer to the buyer?
5. How do you catch the animal?
6. What makes you keep doing and selling off farm animals?
7. Does anybody keep an eye on your farm animals?
8. Anyone who purchased the farm animals?
9. Why do you want to sell off the farm animals?
10. Since when selling off livestock is there?

Questions On Behalf Of Purchasers Of Animals:

1. How do you buy farm animals loose?
2. Where did you buy farm animals loose?
3. Who do you buy these animals?
4. What is the price of animals that are offered to you?
5. What is the purpose of these animals you bought?
6. Are you who oversees directly the animal?
7. Why did you buy the animal?
8. What are the benefits of buying and selling the animal to you?
9. What is your responsibility as a buyer?
10. Since when selling off livestock is there?

B. Documentation

1. Photos of researchers with the speaker after the interview



After doing Interview with Mr. Ahmad Nasri as a seller



After doing Interview with Mr. Makdia as a seller



After doing Interview with Mr. Makdia as a seller



After doing Interview with Mr. Khairil Anwar as a buyer.



After doing Interview with Mr. Idris as a buyer



After doing Interview with Mr. Syahril as a buyer.

2. Photos of cattles in the livestock off the village of Gema



The buffaloes at the padang



The cows around the village



At the river



At the border of the village

CURRICULUM VITAE

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Educational History

Formal Education

Elementary school No. 001 of Gema (2001-2007)

Syahrudiniyah Islamic Junior High School of Sungai Pagar Subdistrict
Kecamatan Kampar Kiri Hilir (2007 – 2010).

Madrasah Aliyah Darul Hikmah of Pekanbaru (2010 – 2013).

State Islamic University Maulana Malik Ibrahim of Malang, Sharia Faculty,
Sharia Business Law Department (2013 – 2017).

Informal Education

Madrasah Diniyah Ibtidaiyah Al-Khairat (2003-2006)