ONLINE GOLD DROPSHIP IN SHOPEE APPLICATION UNDER

PERSPECTIVE INDONESIAN ULAMA COUNCIL

(Study at the Indonesian Ulama Council (MUI) of North Sumatra Province)

Thesis

By:

Sartika Khairani Siregar

16220014



SHARIA ECONOMIC LAW DEPARTMENT

SHARIAH FACULTY

STATE ISLAMIC UNIVERSITY OF MAULANA MALIK IBRAHIM MALANG

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2020

STATEMENT OF THE AUNTENTICITY

In the name of Allah (Swt),

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

Online Gold Dropship In Shopee Application Under Perspective Indonesian Ulama

Council

(Study at the Indonesian Ulama Council (MUI) of North Sumatra Province)

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

Malang, March, 6th, 2020

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Ulama Council

(Study at the Indonesian Ulama Council (MUI) of North Sumatra Province)

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

Malang, January, 20th, 2020

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ΜΟΤΤΟ

"The world waits for your feet, study, struggle, pray, become the pride of parents and birth places. Do not underestimate and do not waste time because there is nothing more valuable than making parents proud."

~Sartika Khairani Siregar~

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In preparing this thesis the writer realizes that there are many shortcomings and mistakes and far from perfection, for that the authors really expect criticism and suggestions from readers who are building to perfect the contents of this thesis.

Hopefully this thesis is useful for all readers.

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Malang, January 20th, 2020 Author,

Sartika Khairani Siregar, NIM. 16220014

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 (SKB) from the Religious Ministry, Education Ministry and Culture Ministry of the Republic of Indonesia, dated January 22, 1998, No. 158/1987 and 0543. b/U/1987, wich is also found in the Arabic Transliteration Guide book, INIS Fellow 1992

B. Consonants

¹ = unsigned	dl = ض
ب = b	th = th
ت = t	dh = ظ
ts 🔪 = ts	ع (comma facing up) = (
ε = j	$\dot{\xi} = gh$
z = h	f = ف
$\dot{\zeta} = kh$	q = ق
= d	<u>ک</u> = k
$\dot{z} = dz$	ل = 1
j = r	م = m

z = ز	ن	= n	l
s = س	و	= v	V
sy = ش	ه	= h	l
sh = ص	ي	= y	

The hamzah (*) 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 the writing. However, when it is in the middle or end of a word, its represented by a come facing forwards('), appose to a comma (,) which replaces the"

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 *dhommah* with "u", where as elongated vowels are written such as :

Elongated (a) vowel =	â for example becomes	قال	qâla
Elongated (i) vowel =	î for example becomes	قىل	qîla
Elongated (u) vowel =	û for example becomes	دون	dûna

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

becomes qawlun قول becomes becomes becomes becomes becomes and becomes become become

becomes khayrun خبر Diftong (ay) = for example

D. Ta' marbûthah (^š)

Ta' marbûthah is translated as "t" if it is in the middle of word, but if it is ta' marbuthah at the end, then it is transliterated as "h". For example : الرسالة will be *al-risalat_almudarrisah*, or it happens to be in the middle of a phrase wich constitutes mudlaf and mudlag ilayh, then the transliteration will be using "t" which is enjoined with the previous word, for example في رحمة الله becomes *fi rahmatillah*.

E. Definate 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 noy written. Study the following :

- 1. Al- Imâm al-Bukhâriy said...
- 2. Al- Bukhâriy explains in the prologue of his book...
- 3. Billâh 'azza wa jalla.

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ABSTRAK

Sartika Khairani Siregar, 16220014, 2020. Dropship Emas Dalam Aplikasi Shopee Perspektif Majelis Ulama Indonesia (MUI) Provinsi Sumatera Utara. Skripsi. Jurusan Hukum Bisnis Syariah, Fakultas Syariah, Universitas Islam Negeri Maulana Malik Ibrahim Malang. Pembimbing Dr. H. Abbas Arfan, Lc, M.H

Kata Kunci: Dropship, Emas, Shopee, MUI

Akhir-akhir ini pengguna internet di Indonesia meningkat begitu pesatnya. Begitu halnya dengan penggunaan internet untuk menjalankan sebuah bisnis diantaranya online shop. Saat ini sudah ada banyak online shop yang bertebaran di website maupun aplikasi yang di gunakan oleh masyarakat Indonesia. Salah satu online shop yang sangat diminati adalah shopee sebagai marketplace yang menyediakan segala macam kebutuhan pembeli online dan penjualnya. Penjual diaplikasi shopee diberikan berbagai macam fasilitas untuk menjadikan toko online para penjual shopee lebih dipercaya oleh pembeli. Fasilitas lain adalah fitur dropship yang dapat diakses dengan mudah oleh para dropshipper untuk menjalankan bisnisnya dengan menggunakan aplikasi shopee sebagai tempat dropshipper untuk mendapatkan barang yang ingin dijual kembali di sosial media lainnya selain aplikasi shopee. Mudahnya akses dropship di aplikasi shopee menimbulkan beberapa permasalahan ditengah masyarakat, salah satunya adalah objek dropship yang tidak dibatasi. Sehingga barang ribawi seperti emas dapat diperjualbelikan dengan transaksi dropship di aplikasi shopee. Penelitian ini dilakukan untuk mengetahui hukum jual beli emas secara dropship menurut pendapat Majelis Ulama Indonesia (MUI) provinsi Sumatera Utara.

Penelitian ini tergolong ke dalam jenis penelitian yuridis empiris. Penelitian ini disebut penelitian lapangan dan penelitian hukum sosiologis. Pendekatan yang digunakan adalah pendekatan yuridis sosiologis dan pendekatan konseptual kaerena penelitian ini belum diatur didalam Undang-Undang Republik Indonesia Sumber data yang ada dalam penelitian ini adalah data primer, sekunder dan tersier.

Hasil Penelitian ini menunjukkan bahwa mekanisme dropship emas di aplikasi shopee memiliki beberapa tahapan yang harus dilalui oleh dropshipper untuk bisa mendapatkan emas yang diinginkan dan langsung dikirimkan kepada pembeli dengan mencantumkan identitas dropshipper sebagai pengirim dan bukan identitas pemilik emas. Tidak ada hubungan antara pemilik emas di aplikasi shopee dengan dropshipper bahkan tidak saling mengenal satu sama lain. Transaksi yang terjadi antara keduanya hanyalah transaksi jual beli. Menurut Majelis Ulama Indonesia (MUI) provinsi Sumatera Utara transaksi dropship emas di aplikasi shopee hukumnya haram. Hal ini dikarenakan emas adalah *amwal ribawi* yang memiliki perlakuan khusus jika dijadikan objek jual beli. Jual beli emas yang sah secara syara' adalah dilakukan dengan tatap muka dan tunai.

ABSTRACT

Sartika Khairani Siregar, 16220014, 2020. Online Gold Dropship In Shopee Application Under Perspective Indonesian Ulama Council (Study at the Indonesian Ulama Council (MUI) of North Sumatra Province). Thesis. Sharia Business Law Department, Sharia Faculty, State Islamic University Of Maulana Malik Ibrahim Malang. The Supervisor Dr. H. Abbas Arfan, Lc, M.H

Keywords: Dropship, Gold Shopee, MUI

Internet users are increased fast in Indonesia recently likewise internet users for doing some business such as online shop. This time many online shop supplied some websites or apps that used by Indonesian citizens. One online shop that is in great demand is shopee as a marketplace that provides all kinds of needs of online shoppers and sellers. The seller applied shopee given various kinds of facilities to make the shop of shopee sellers more trusted by buyers. Another facility is the dropship feature that can be easily accessed by the dropshipper to start their business by using the shopee application as a place for dropshipper to get items to be resold on other social media than the shopee application. The ease of dropship access in the shopee application raises several problems in the public, one of them is the unlimited dropship object. So *amwal ribawi* like gold can be traded with dropship transactions in the shopee application. This research was conducted to determine the law of buying and selling gold by dropship in the opinion of the Indonesian Ulama Council (MUI) of North Sumatra province.

This research is classified into empirical juridical research type. This research is called field research and sociological law research. The approach used is a sociological juridical approach and conceptual approach because this research has not been regulated in the Law of the Republic of Indonesia. Data sources in this research are primary, secondary and tertiary data.

The results of this study indicate that the gold dropship mechanism in the shopee application has several steps that must be passed by the dropshipper to be able to get the desired gold and send it directly to the buyer by including the dropshipper's identity as the sender and not the identity of the gold owner. There is no relationship between the gold owner in the shopee application and the dropshipper who do not even know each other. Transactions that occured between them only buying and selling transactions. According to the Indonesian Ulama Council (MUI) of North Sumatra province the gold dropship transaction in the shopee application is unlawful. This is because gold is *amwal ribawi* which has special deal if it is used as an object of buying and selling. Legitimate buying and selling of gold is done face-to-face and cash.

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ملخص البحث

سرتيكا خيراني سريغار, 16220014, دروبشيب الذهب في منظور التطبيق Shopee من مجلس العلماء الاندونيسيين (MUI) من مقاطعة سومطرة الشمالية, بحث جامعي. قسم التجارة الشرعية، كلية الشريعة، جامعة الإسلامية الحكومية مولانا مالك إبراهيم مالانج المشرف الدكتور عباس عرفان الماحستر.

الكلمات الرئيسية: دروبشيب, الذهب, MUI, Shopee

يزداد عدد مستخدمي الإنترنت بسرعة في إندونيسيا مؤخرًا بالمثل مستخدمي الإنترنت للقيام ببعض الأعمال التجارية مثل التسوق عبر الإنترنت. يوجد الآن العديد من المتاجر عبر الإنترنت المنتشرة على مواقع الويب والتطبيقات التي يستخدمها شعب إندونيسيا. متجر واحد على الإنترنت هو الطلب الكبير هو shopee كسوق الذي يوفر جميع أنواع احتياجات المتسوقين والبائعين عبر الإنترنت. قام البائع بتطبيق صاحب المتجر الذي قدم أنواعًا مختلفة من التسهيلات لجعل باعة المتجر عبر الإنترنت أكثر ثقة من قبل المشترين. مرفق آخر هو ميزة دروبشيب التي يمكن الوصول إليها بسهولة من قبل دروبشيبر لتشغيل أعماله عن طريق استخدام التطبيق الاجتماعي الأخرى إلى جانب تطبيق على العناصر لإعادة بيعها على وسائل التواصل الاجتماعي الأخرى إلى جانب تطبيق معامي العناصر لإعادة بيعها على وسائل التواصل الاجتماعي الأخرى إلى جانب تطبيق معامي العناصر لإعادة بيعها على وسائل التواصل المنع الريبوية مثل الذهب يمكن تداولها مع المعاملات دروبشيب في التطبيق مهذا البحث لتحديد قانون بيع وشراء الذهب عن طريق وسائل التواصل السلع الريبولية مثل الذهب يمكن تداولها مع المعاملات دروبشيب في تطبيق هذا البحث الحديد قانون بيع وشراء الذهب عن طريق دروبشيب في العلماء الالدونيسيين (MUI) في مقاطعة سومطرة الشمالية.

تم تصنيف هذا البحث في نوع البحث القانوني التجريبي. يسمى هذا البحث بالبحث الميداني وبحوث القانون الاجتماعي. المنهج المستخدم هو منهج قانوني اجتماعي ونهج مفاهيمي لأن هذا البحث لم ينظم في قانون جمهورية إندونيسيا ، ومصادر البيانات في هذه الدراسة هي بيانات أولية وثانوية وثالثية.

تشير نتائج هذه الدراسة إلى أن آلية دروبشيب الذهب في تطبيق shopee لديها عدة مراحل يجب أن يمر بها دروبشيبر لتكون قادرة على الحصول على الذهب المطلوب وإرساله مباشرة إلى المشتري عن طريق تضمين هوية دروبشيبر باعتباره المرسل وليس هوية مالك الذهب. لا توجد علاقة بين مالك الذهب في التطبيق shopee ودروبشيبر الذين لا يعرفون حتى بعضهم البعض. المعاملات التي تحدث بين الاثنين هي فقط عمليات البيع والشراء. وفقًا لمجلس العلماء الإندونيسي (MUI) في مقاطعة سومطرة الشمالية ، فإن صفقة دروبشيب الذهب في طلب المتسوقين غير قانونية. وذلك لأن الذهب هو رباوي أموال الذي لديه معاملة خاصة إذا تم استخدامه ككائن للبيع والشراء. تتم عمليات البيع والشروعة للذهب وجهاً لوجه والنقد

CHAPTER I

INTRODUCTION

A. Background Of Problem

Internet users are increased fast in Indonesia recently likewise internet users for doing some business such as online shop. This time many online shop supplied some websites or apps that used by Indonesian citizens.

Websites and apps are online marketplace that providing facilities to process buy and sell transactions from various stores. In fact, online marketplace has same concept with traditional market. many people described online marketplace like department store. The existance of marketplace made Indonesian citizens easy to supply their needs even it is primary, secondary or tertiary need.

Gold is one of product sold in marketplace especially shopee app. As is known online shopping is futures sells which has that buyer must wait for some time to get his item bought. The gold is valuables which sold since old time. In fact, gold was used as a payments or a medium of exchange in buying and selling. Islam had provided a guidance about how to buy and sell the gold so as not falling into usury. Because usury is dangerous to human eventhough in the world or in afterlife.

The guidance of buy and sell a gold has explained in hadith of Rasulullah SAW generally, from Ubadah bin Shamit *radhiallahu'anhu*,that Rasulullah *Shallallahu'alaihi Wasallam* said:

Online shopping is one of trending topic in Indonesia now. some marketplace was starting to give facilities for heir customers as buyers and sellers direct. Developing online shopping in marketplace become very popular with the public because they provide comfort and security for sellers and buyers thereby reducing the risk of fraud.

One of popular marketplace in Indonesia is Shopee Indonesia application. Shopee application has several facilities for their costumers, so they are become sellers and buyers who access this application. Shopee application provides consumer services in the form of flash sells, game prizes, cashback, coin collection to the dropship feature.

Dropship feature is one of shopee facilities. Dropship is marketing technique that seller does not have any stock of merchandise. When seller get an order, he immediatly forwards an order and the delivery details of merchandise to the distributor or supplier ir manufacturer. Actually dropshipper does not know the merchandise to be sold. Dropship is a way for sellers who do not have any merchandise and capital but wan to get income and profit. This transaction has also develpoed rapidly in Indonesia since the rise of online trading. The shopee applicaton alsi provides dropship feature that connect buyer and item owner early. Dropship can be called a buying and selling agent, this can happen if the dropshipper buys the item to the owner of the item because there is a first buyer to buy the item from the dropshipper. The transaction of buying and selling gold in Shopee app is gold sells by paying some money via electronic payment tools or mini market which have

The buying and seling of gold can be done by handover the items directly and still in the contract Council. If refers to the dropship sistematics in the Shopee app, it can be known that the gold sells terms are not fullfilled. Gold is *amwal ribawi*, just like the money. But the money is not a gold and the gold is not money. In this meaning, gold can be paid by money with several methods. While explained in Prophet Muhammad hadith:

فإذَا اخْتَلَفَت هذهِ الأَصْنَافُ ، فبيعوا كيفَ سُنْتُمْ ، إذَا كانَ يدًا بِيَدٍ "If the type is different, so sell it as you like during it done by hand to hand (cash)."¹

The buying and selling of god in Shopee app is futures transaction, this is contrary with hadith of Prophet Muhammad that explained above. The meaning of cash is buyer and seller handover the gold bought directly.

One of automatic feature in Shopee app is droship feature. Dropship is one of marketing thecnique that seller does not have merchandise stock, if seller get buyer who wants to order his commodity, he order to stock owner and send details of shipping items eventhough distributors, suppliers or manufacturers. In facts, dropshipper does not know how the look the merchandise that he sells to his buyer.

¹ Muslim.or.id accessed on May, 21st 2019

This sistem is done by created personal account usually. Dropshipper mentioned large variety items offered, while the items still in other's hands who had the original merchants. Dropshipper only finding items, without any agreements with items owner. As an easy illustration, it is trade style. The items offered have not become realtor own yet, and have not received permission or requested permission from the orginal merchants owner, but he already offered the item boughts.

Inside the shopee apps the dropshipper feature is provided inside app, so many buyers can become dropshippers automatically. But the problem is the sell of gold must have a clear status such mentioned above that gold is *amwal ribawi* an if someone wants to sell a gold must have a clarity about it. According to principle, selling the gold must be based on direct transaction and giving a certificate of authenticity must wriiten by owner gold's name not dropshipper.

The function of gold certificate is guarantee the authenticity of the gold traded, so it requires the name and identity of the gold seller not from the dropshipper. This has a long term interest, if the buyer received a fake gold he has the right to claim the compensation to the seller. So it is very dangerous if the dropshipper makes a dropship transaction on online gold. This can be one of the reason why the buying and selling gold should be done by cash rather than futures and dropship.

Hakim bin Hizam asked to Prophet Muhammad SAW:

يَا رَسُولَ اللَّهِ يَأْتِينِي الرَّجُلُ فَيَسْأَلْنِي الْبَيْعَ لَيْسَ عِنْدِي أَبِيعُهُ مِنْهُ ثُمَّ أَبْتَاعُهُ لَهُ مِنْ السُّوق قَالَ لَا تَبِعْ مَا لَيْسَ عِنْدَكَ.

"O Rasullullah, there is someone came to me and asked me to sell item that I have not owned yet, with first I bought it for them from the market?, Rasulullah answered, Do not sell what you have not own." (HR. Abu Daud no. 3503, An Nasai no. 4613, Tirmidzi no. 1232 and Ibnu Majah no. 2187. Syaikh Al Albani said this hadith is right).

Indonesia Ulama Council is trusted fatwa institution of Indonesian citizen to solve religional conflict in Indonesia. This one of researcher reason to get the legal solution from the issues raised.

Based on background of problem which told above, the writer interested in conducting research around the problem that is happening with the title Online Gold Dropship In Shopee Application Under Perspective Indonesian Ulama Council (Study at the Indonesian Ulama Council (MUI) of North Sumatra Province).

B. Formulation of The Problems

- 1. How are the sistematics of gold dropship which applies in Shopee application?
- How is the opinion of Indonesian Ulama Council (MUI) of North Sumatra Province of gold dropship in shopee application?

C. The Purposes of Research

1. To know the sistematics of gold dropship which applies in Shopee application

 To know the opinion of Indonesian Ulama Council (MUI) of North Sumatra Province of gold dropship in shopee application

D. The Benefits of Research

1. Practically

This research will provide benefits for understanding and knowing to the public and citizens generally about gold online dropship sistematics under perspective Indonesian Ulama Council (MUI) of North Sumatra Province of gold dropship in shopee application.

- a. Benefit for public citizens
- Providing the education to citizens to be careful for doing buy and sell transaction especially for online shopping and dropship of gold.
- Providing the information to public citizen about gold dropship in shopee applicaton under perspective Indonesian Ulama Council (MUI) of North Sumatra
- b. Benefit for Researcher

Providinf knowledge deepper to the law of gold dropship via online under prespective Indonesia Ulama Council and more insight to finish this theme.

2. Theoretically

This research can provide theoretical understanding and knowledge for the authors in particular and the academic communities in general about gold oline dropship in Shopee app.

E. Operational Defenition

- Dropship is online buy and sell sistematic without having items sold first and does need a big material capital by using agent or dropshipper to promot seller merchandise. This transaction is done by buyer and dropshipper, than dropshipper is done the transaction with merchants owner.
- 2. Gold buy and sell is a transaction which can be differentiated into maal *ribawi* or commodity. Gold is a maal *ribawi* and may be bought and sold against it provided that it is paid not by gold and carried out in cash or face to face.
- 3. Indonesia Ulama Council is fatwa instituion in Indonesia. This trusted institution give spaces to Indonesia citizens to know some problems has not resolved in Islamic constitution or another regulation. Indonesia Ulama Council of North Sumatra Province is one of Indonesia Ulama Council in Indonesia who provides services to North Sumatra's citizens which needs to some answers from Islamic problems in their region.
- F. Systematic of discussion

Chapter I Introduction, Consist of background of problem, which told about the basic of problem generally and consist of philosophical aspect, yuridical aspect, sosiology aspect, teoritical aspect, and the legal issues that suitable with the problem. Formulation of problems, which told about short writing in the form of questions that are usually located at the beginning of the report or proposal and are usually located after the background described in the report. Research objective, that get a formula of the results of a study through the process of finding, discovering, developing, and testing a knowledge. Research benefit is the impact of achieving goals. The operational definition is a short explanation in order to understand the reader understanding the title of this proposal.

Chapter II Literature Review. This chapter is contained with the explanation about previous research that told about the similiarity and differences between the previous researchers and the author in one theme it is about the sell-purchase or exchanging of new money. This chapter also consist with theoritical framwork that told about the concept of research.

Chapter III Research Methods. Consist of Paradigm of research that is a way of thinking adopted by researchers about how research design is made and how research will be conducted. Approach of research is a frame of mind that explains how researchers view the facts of social life and the treatment of researchers towards science or theory. The source of data is the source to solve the problems that discussed in this proposal. Law material collecting technique is a way to know the matter and reason about law material with the explanation for solving the problems. The process techniques of legal material, data processing is carried out in a systematic manner against written legal materials.

CHAPTER IV Research and Discussion Results. This chapter consists of an explanation and description of the results of research that tells of the Online Gold Dropship In Shopee Application Under Perspective Indonesian Ulama Council (Study at the Indonesian Ulema Council (MUI) of North Sumatra Province) **CHAPTER V Closing**, this chapter consists of conclusions and suggestions. The conclusion must be entered from the beginning of the writing until the end of the writing.



CHAPTER II

LITERATURE REVIEW

A. Previous Research

The research proposed by writer under the title "Online Gold Dropship In Shopee Application Under Perspective Indonesian Ulama Council " is not the first research conducted and the possibility of differences in objects and research locations. This research has a difference with previous studies, it can be said that this research does not have duplications in it. Some of the previous studies are as follows.

1. Praktek Jual Beli Online Dengan Sistem Dropship Perspektif Hukum Islam Dan Kuhperdata

This research was written by Ahmad Budi Lakuanine, student of Sharia Business Departments of Islamic State University of Maulana Malik Ibrahim had the purposes to know law practice of buying and selling online with a dropship system on instagram account little_boss_sandal Perspective of Islamic Law and Civil Code. This study uses Islamic law in the form of a dropship method which is equated with the sale and purchase agreement of *wakalah bil ujroh* in Islam. Where the owner of the goods knows the dropshipper and has an agreement between the two to do the dropship system. While in this research the researcher is a dropship system with a sale and purchase agreement as well and the owner of the goods does not know the dropshipper and vice versa. The research method used is normative juridical research. The results of the study explained that the dropship system on the Little_boss_sandal instagram account is not contrary to Islamic law but is prohibited in the Civil Code because the sell made must be his own and if represented cannot exceed his authority.² While the research conducted by the author is a study of the online gold dropship in shopee application under perspective Indonesian Ulama Council

2. Tinjauan Hukum Islam Terhadap Jual Beli Emas Online Melalui Media Bukaemas Di Bukalapak

This research was written by Mulya Gustina, a Sharia Economics Law student at UIN Sunan Ampel Surabaya at 2018. The purpose of this research is to describe the practice of buying and selling non-cash gold through BukaEmas media in Bukalapak and to describe the view of Islamic law on the practice of buying and selling non-cash gold through BukaEmas media in Bukalapak.³ The method used in this study is empirical research. This research was discussed online gold trading not cash with in allowed as the result. While this research will discuss about online gold dropship in shopee application under perspective Indonesian Ulama Council. An explanation of the differences and similarities of previous studies with the author's research can be explained in the table below.

² Ahmad Budi Lakuanine, "Praktek Jual Beli *Online* Dengan Sistem Dropship Perspektif Hukum Islam dan KUHPerdata", *Skripsi*, (Malang: UIN Malang, 2018), p. 3

³ Mulya Gustina, "Tinjauan Hukum Islam Terhadap Jual Beli Emas Online Melalui Media Bukaemas Di Bukalapak", *skripsi*, (Surabaya: UIN Sunan Ampel, 2018), p. 5

3. Pandangan Majelis Ulama Indonesia (MUI) Terhadap Bunga Bank Konvensional

This research was written by Muhammad Ulin Nuha, student of Family Law Department of IAIN Tulungagung, 2015. The purpose of this research is Knowing the opinioin of Indonesia Ulama Council about the bank interest in conventional bank. This type of research is empirical research with qualitative approach. This research is done at Indonesia Ulama Council (MUI) of Tulungagung to get a result of conventional bannk interest.⁴ While the research conducted by the author is online gold dropship in shopee application under perspective Indonesian Ulama Council.

To make it easier for readers to understand the similarities and differences of previous research with the author's research, it will be explained in detail in the table below:

	Name,		18	Differences	
No	Year of	Title	Similiarity	Previous	Now
	Research	CKP	JO	Research	Research
1	Ahmad	Praktek Jual	a Sharia	This	The
	Budi	Beli Online	Economics	research is	researcher
	Lakuanine,	Dengan	Law student	used Islamic	used
	2018	Sistem	at IAIN	law and	Indonesian
	student of	Dropship	Purwokerto	Civil Code	Ulama
	Sharia	Perspektif		perspective	Council
	Business	Hukum Islam		as primary	with a gold

Table of Differences and Similarities in Previous Research

⁴ Muhammad Ulin Nuha, "Pandangan Majelis Ulama Indonesia (MUI) Terhadap Bunga Bank Konvensional", *skripsi*, (Tulungagung: IAIN Tulungagung, 2015), p. 48

	Department s of Islamic State University of Maulana Malik Ibrahim	Dan Kuhperdata		object with sandals as items sold in Instagram application	as a item sold in Shopee app
2	Mulya Gustina, 2018, a Sharia Economics Law student at UIN Sunan Ampel Surabaya	Jual Beli Emas Online	This research was told about gold transaction in marketplace	This research previous discussed about gold trading with BukaEmas feature in Bukalapak Application not cash	The researcher used Indonesian Ulama Council a basic law with a gold as a item sold in Shopee app
3	This research was written by Muhammad Ulin Nuha, 2015. Student of Family Law Department of IAIN Tulungagun g	Pandangan Majelis Ulama Indonesia (MUI) Terhadap Bunga Bank Konvensional	This research are make the Indonesian Ulama Council (MUI) as the basis for completing research results	The object of problem raised was conventional bank interest	The researcher used Indonesian Ulama Council a basic law with a gold as a item sold in Shopee app

B. Theoretical Framework

- 1. Buy and Sell (al-bai')
- a. The definition of buy and sell

The etimologie's meaning of buy and sell is change something with something. This meaning was covered to defenition of *al-syira* (buying), usually albai' is buy and sell according to people interpretation.⁵

Whereas in terms, the meaning of *al-bai* ', has different definitions from fiqh scientist, as follows:⁶

1) Ulama Hanafiyah

مبادلة مال بمال على وجه مخصوص

"Exchange of assets with assets by special way (allowed)"

2) Imam Nawawi

مقابلة مال بمال تمليكا

"Exchange of assets with assets for ownership"

3) Ibnu Qudamah

مبادلة المال بالمال تمليكا و تملَّكا

"Exchange of assets with assets to each have".

The definition of buying and selling in civil law stated in Article 1457 of the Civil Code is an agreement, by binding one party to the other party to surrender an object, and the party that has submitted the object has an obligation to pay the price according to the agreement.⁷

⁵ Ghufron A. Mas'adi, Fiqh Muamalah Kontekstual, (Jakarta: PT. RajaGrafindo Persada, 2002), p. 119

⁶ Rachmat Syafe'i, Fiqh Muamalah, (Bandung: Pustaka Setia, 2001), p. 73-74

⁷ Burhanudin, Hukum Kontrak Syariah, (Yogyakarta: BPFF, 2009), p. 68

Buying and selling or trading is one of the activities in which there are property and has been carried out from the time of the Prophet and became a source of livelihood. As the Prophet's hadith below

عن نعيم بن عبد الرحمن الأزدي قال: بلغني أن رسول الله قال: تسعة أعشار الرزق في التجارة قال نعيمٌ : العشرُ الباقي في السائمةِ ، يعني : الغنم

"From Nu'aim bin 'Abdir Rahman al-Azdi, he said: It has come to me that the Prophet sallallaahu 'alaihi Wasallam said:" Nine-tenths (90%) of sustenance is in the trade (business) ". Nu'aim said: "One tenth (10%) of the rest is in (livestock) goats"

The basic principle buy and sell in islam are giving freedom in transaction with willingnes and ar from compulsion. The meaning of freedom is a freedom for the parties to choose something in buy and sell transacrion without compulsion from any party. The elements of freedom is useful to make the buying and selling chain shorter because there are only producers and consumers. So the profits generated do not cross the number of other buying and selling chains.⁸ Buy and sell transaction can be received that transaction is right from islamic law if pillar and requierments is completed and suitable with syara'.

Some meaning which explained above can be understood that buy and sell is an activity involving two or more people by exchanging valuable items, carried out voluntarily by the parties. This transaction is carried out by giving

⁸ Ali Yafie, dkk, *Fiqh Perdagangan Bebas*, (Jakarta: Teraju, 2003), p. 5

a number of goods to the seller to the buyer and the buyer gives an amount of money in accordance with the agreement that has been agreed, then in this transaction must meet the terms and conditions in accordance with Islamic law which will be explained below.

- b. Juridical foundation of buy and sell
 - 1) Al-Qur'an

The activities of buying and selling around citizens is one activity can not be removed, because buy and sell have become needs in human life and Allah allowed buy and sell activities in human life. As written in Surah of al-Baqarah: 275

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

"whereas Allah has al<mark>lowed</mark> the sell and purchase and forbid usury"

Beside the verse above, QS. An-Nisa: 29 also the foundation of buy and sell is under below,

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ ^{تَ}وَلَا تَقْتُلُوا أَنْفُسَكُمْ ^تإِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

"O ye who believe! Squander not your wealth among yourselves in vanity, except it be a trade by mutual consent, and kill not one another. Lo! Allah is ever Merciful unto you."

2) As-Sunnah

Prophet Muhammad also alowed buy and sell activities, as written in hadith as below:
وَعَنْ رَافِعِ بْنِ خَدِيجٍ قَالَ: قِيلَ: يَا رَسُولَ اللهِ أَيُّ الْكَسْبِ أَطْيَبُ؟ قَالَ: «عَمَلُ الرَّجُلِ بِيَدِهِ وَكُلُّ بَيْعٍ مَبْرُورٍ» . رَوَاهُ أَحْمَدُ.

"From Rafi' bin Khadij said: there is a friend asked to Prophet Muhammad, O Rasulullah, What is a best job? Rasulullah answered: It is a job which done by his hand and good buy and sell."⁹

3) Ijma'

Many Ulama have agreed for allowing buy and sell with an argument that human needs others to fullfiil his necessary, eventhough it is primary, secondary or tertiary needs. Ijma' Ulama allowed buy and sell activities if inside it must be completed by changing goods with other suitable goods so every parties of buy and sell activities can get benefits from their buying and selling activities.¹⁰

c. The pillars of buy and sell

Buy and sell activities can become approved if inside it completed by principles and terms of buy and sell based on islamic law. Ulama had different meanings to determine principle of buy and sell. This differences was held between jumhur ulama and ulama Hanafiyah.

The principle of buy and sell which delivered by ulama Hanafiyah is *ijab* and *qabul. Ijab* is the phrase to buy from the buyer, while *qabul* is the phrase to sell from the seller. Ridha or willingness is a principle between buying and selling

⁹ Abu Hasan Nuruddin, *Murqat Almafatih Sharah Mushkat Almasabih*, (Lebanon: Dar al-fikri, 2002), p. 1094

¹⁰ Rachmat Syafe'i, *Fiqih Muamalah*, p. 75

according to ulama Hanafiyah. But the expression of willingness does not need to be spoken directly by the buying and selling parties, then the willingness can be expressed through consent and *qabul* that is done.¹¹

Jumhur ulama argued, there are four principles of buy and sell, those are¹²

1) People who transact

A person who has a contract in another party's transaction can also be called a person who has a contract as a guardian or representative who has the right and authority to carry out a sell transaction.

- 2) Akad (contract)
 - a) A contract is a Shighat which consists of consent and qabul. The pronunciation of lafadz in the contract is one to fulfill the validity of a Shighat, but not the full pronunciation of lafadz but in several other ways that can be done besides the pronunciation as will be explained below
 - b) Writing, carrying out the contract by writing can be done in buying and selling transactions such as buying and selling far apart then the consent and qabul on this transaction can be carried out in writing.
 - c) Gestures, if the party carrying out a sell and purchase transaction cannot say consent and qabul in oral or written, then it is possible to carry out the consent and qabul with a gesture.

¹¹ Abdul Rahman Ghazaly, dkk, Fiqh Muamalah, (Jakarta: Prenadamedia, 2010), p. 71

¹² Siswadi, "Jual Beli Dalam Perspektif Islam," Jurnal Ummul Qura, Vol III, 2, 2013, p. 63

- d) Ta'ahi, (giving each other), the purpose of giving one another when someone gives something to the other party, then he gives another item as a reward to the first party, then consent and qabul have been carried out.
- e) Lisan al-hal, several ulama argued if someone leaves his goods to other people and the people who received his goods is silence, so they have been done *ida*' (deposit) contract between someone who deposit his goof and someone who received with *dalalah al-hal*.¹³
- 3) Ma'qud 'alaih (contract object).¹⁴

Goods that are used as objects of sell and purchase must be sacred. If the object of sell and purchase is unclean, the goods being bought and sold are not valid. If the object of buying and selling is sacred and subsequently unclean, then before making a transaction the item must be purified first. In addition, the object of sell and purchase must be clearly known from the form, to the price. This opinion was expressed by Abdu al-Rahman al-Jaziri in the Book of al-Fiqh 'Ala al-Madahib al-Arba'ah quoted by Apipudin.¹⁵

4) The exchange value of substitute goods

The meaning of the exchange value of substitute goods is consist of some terms there are store of value, unit of account, medium of exchange.¹⁶

d. The terms of buy and sell

¹³ Shobirin, "Jual Beli Dalam Pandangan Islam," *Jurnal Bisnis dan Manajemen Islam*, Vol 3, 2, 2015, p. 247

¹⁴ Ahmad Wardi Muslich, *Fiqh Muamalat*, (Jakarta: Amzah, 2013), h. 180

¹⁵ Apipudin, "Konsep Jual Beli Dalam Islam", Jurnal Islaminomic, Vol V, 2, 2016, p. 84

¹⁶ Shobirin, "Jual Beli Dalam Pandangan Islam," p. 251

The terms of buy and sell in general is there is a character and benefit which required in buying and selling. If character in buying and selling was fullfilled, so that this buying and selling approved otherwise if inside it not fullfilled by characteristics, this transaction was not approved.¹⁷

There are four terms of buy and sell according to ulama Hanafiyah must be impiled so that buying and selling transaction can be approved, there are

- Term *in'aqad*, This terms must be fullfilled in buy and sell transaction to make it valid and allow in *syara*', if it not fullfill the transcation cancel. According to Ulama madzhab there are three kinds terms *in 'aqad*, there are
 - According to Jumhur ulama the person who say the transaction sentence is reasonable people and baligh but According to Imam Hanafi required enough for reasonable people.
 - b) *Qabul* must be in accordance with the consent
 - c) Consent and *qabul* must be done in one transaction and may not be separate.¹⁸
- 2) 'Akid, some requirments must be completed to make it valid are,
 - a) The party of the transaction must say, at least two people consisting of a seller and a buyer. Buying and selling is not legal if through an intermediary representative from each party, because in it there are several rights obligations

¹⁷ Ismail Nawai, Fikih Muamalah Klasik dan Kontemporer, (Bogor: Ghalia Indonesia, 2012), p. 77

¹⁸ Syaifullah, "Etika Jual Beli Dalam Islam", Studia Islamika, 11, 2, 2014, p. 378

that are contradictory and must be fulfilled by the party conducting the transaction.

- b) 'Akid must be a reasonable person and a tamyiz (one who can distinguish right from wrong), an illegal sell and purchase transaction if done with a madman and a child who cannot distinguish between good and bad.
- c) According to Hanafiyah 'akid does not have to be a baligh, children can carry out buying and selling transactions with the condition that the transaction carried out by the child provides benefits to the contract.¹⁹
- The term that must be completed is correspondence between consent and qabul, as explained in the contract theory.
- 4) The term that must be fullfilled in place is *ittihad majlis al-aqd* (are in one assembly), in contract theory it is explained that a contract agreement does not have to have a physical meeting between the seller and the buyer.
- 5) The transaction object in these Terms has several characters, the object must already be in the contract assembly. The object of the contract must be a legally valid based on syara'. The object of the transaction is in the seller's ownership and the object may not be traded if the ownership does not yet become the property of the seller. The object of buy and sell must be given to the buyer after the contract or when the contract is in progress.²⁰
- 6) Term in *syihhah*, to fulfill the legal requirements for buy and sell, there are several defects that must be taken in the transaction such as obscurity, coercion, time management, risk or speculation, losses, and other conditions that the

¹⁹ Dimyauddin Djuwaini, Pengantar Fiqh Muamalah, (Yogyakarta: Pustaka Pelajar, 2008), p. 74-75

²⁰ Dimyauddin, *Pengantar Fiqh Muamalah*, p. 76

transaction can carry out. If the sale and purchase transaction avoids the above disability, then the transaction can be approved legally by *syara* '.²¹

7) Term of *nafadz*, there are two requirments that must be completed,

- a) Property rights and authority rights. The owner of the goods must have the goods that are entirely his own and not the person who represents the owner of the goods, so that only people who have the goods can have full power over the goods that are used as transaction objects. While the right of authority is the power that can legalize or carry out a transaction that is legally granted by religion to the person who has the right of authority.²² Dimyauddin Djuwaini added the existence of territorial ownership in the terms of this *nafadz*.²³
- b) Goods that are used as objects of buy and sell should have the seller and no other person's ownership in it. If the goods to be sold have ownership other than the seller, the deferred buy and sell has not yet been realized.²⁴
- 8) Term of *luzum*.²⁵ This term can be seen after term *in aqad* and *nafadz* completed. This requirement will make the transaction sustainable or not. This condition is used as a space for one party to continue or cancel the transaction. This condition frees the parties from khiyar transactions.²⁶

e. Kinds of buy and sell

²¹ Wahbah Az-Zuhaili, Fiqih Islam Wa Adillatuhu, Jilid 5, (Damaskus: Daar Fikr, 2007), p. 55

²² Wahbah Az-Zuhaili, Fiqih Islam Wa Adillatuhu, p. 48

²³ Dimyauddin, *Pengantar Fiqh Muamalah*, p. 77

²⁴ Wahbah Az-Zuhaili, *Fiqih Islam Wa Adillatuhu*, p. 49

²⁵ Ghufron A. Mas'adi, Fiqh Muamalah Kontekstual, h. 121

²⁶ Dimyauddin, Pengantar Fiqh Muamalah, h. 81

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- Reviewed from buying and selling object, according to Imam Taqiyuddin buying and selling divided into three kinds under below

البويوع ثلاثةً بيع عين مثا هدة و بيع شيئ موصوف في الذمة و بيع غائبة لم تشاهد

"There are three kinds of buying and selling, buying and selling that is visible, buying and selling that is mentioned its properties, buying and selling that is not visible."

The visible of buying and selling is done by cash infront of parties of buying and selling with an real object. The buying and selling with mentioning its properties is called by salam agreements, this transaction is orders payments and not cash. Not visible buying and selling is forbidden in islam because an object is unknown and veguely, an object can be sold by loot cause damaged to part of buying and selling.²⁷ More explaination about *salam* will be explained under below.

- a) Salam Agreements
 - 1) Definition

The etimologies meaning of al-*salam* is al-salaf, al-taqdim (previous). Another meaning of al-*salam* is al-taslif or al-sulfat, it is meaning buyin and selling transaction which done by poor citizens. This *salam* transaction had done by some Arans, especially Madinah citizens.²⁸

²⁷ Ruf'ah Abdullah, Sohari Sahrani, Fikih Muamalah, (Bogor: Ghalia Indonesia, 2011), p. 71

²⁸ Panji Adam, Fikih Muamalah Maliyah, p. 61

In terminologies meaning many ulama have different meaning, those

are

According to ulama Syafiiyah and Hanabilah salam agreement is

عقد على موصوف بذمة مؤجل بثمن مقبوض بمجلس عقد

"The transaction must clear about the spesification of the object that the surrender is deferred, and the payment takes precedence at the contract of contract inside it "

بيع يتققدم فيه رأس المل ويتأخر المثمن لأجل

"Buy and sale transaction which payment takes precedence and surrender is deffered."²⁹

2) Juridical foundation of salam agreement

Buying and selling of *salam* is the transaction without any object in it

forum. This method is allowed as written in al-quran as follow.

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِ<mark>دَيْنٍ</mark> إِلَىٰ أَجَلٍ مُس<mark>َمَّى فَاكْ</mark>تُبُوهُ ^{عَ}

"O you who believe, if you do transaction not in cash for spesified time, you shoud write it down." (QS. Al-Baqarah:282)

It is not only allowed in al-quran, but prophet Muhammad also allowed the *salam* transaction. Ibnu Abbas said quoted by Ahmad Wardi

Muslich in his book

"I believe thats salam had become deferred in specific time, indeed, it has been permitted by Allah in the a-quran and allowed to do, then he reads this verse."³⁰

This *atsar* that narrated by Ibnu Abbas explained that *salam* buy and sell allowed which has been obtained and held by Madinah citizens. As

²⁹ Panji Adam, Fikih Muamalah Maliyah, p. 62

³⁰ Ahmad Wardi Muslich, Fiqh Muamalat, p. 244

known *salam* agreement allowed with fullfilled some terms that needs by humanlifes eventhough thhis agreement done by deferred an object sold paid first from this narration.

- 3) The principles and terms of salam
 - 1) The principle of *salam*

In fact, the principle of *salam* transaction is same with principle buying and selling. Accroding to ulama Hanafiyah the principle of buying and selling is *ijab* and *qabul*, and also for *salam* agreement. But this argument was different with jumhur ulama which argued there are 3 principles of *salam*, that consist of

- a) *muslam and muslam 'alaih* (costumer and seller)
- b) *ra'sul maal al-salam* and *muslam fiih* (main price and item orderd)
- c) *shighat* (*ijab* and *qabul*).³¹

According to Hanafiah and Hanabilah *ijab*'s meaning is using phrase of *salam* (سلام), *salaf* (سلف), *bai*' (بيخ), for example a customer said (سلام), *salaf* (أسلمت إليك في كذا) "I order this item from you" than seller said

2) The terms of *salam*

³¹ Panji Adam, Fikih Muamalah Maliyah, p. 66

³² Ahmad Wardi Muslich, Fiqh Muamalat, p. 245

Some terms of *salam* are same with buying and selling because *salam* is one of the methods of buying and selling, but there are some additional conditions contained in the *salam* agreement. Additional terms contained in the *salam* relate to *ra'sul maal al-salam* and *muslam fiih* (cost of items and ordered items). Generally, some ulama have agreed that a *salam* agreement can become valid if it meets the following six conditions:

- 1) Muslam fiih must be known by it type
- 2) The characteristics must be known
- 3) Know the size of the object
- 4) Knowing the weight (mass) of the object
- 5) Ra'sul maal can be known as its size
- 6) The place of delivery of ordered terms must be known and stated Apart from that, ulama also agreed that *salam* can be said to be valid if they are bought and sold if the object traded can be measured, weighed, measured by meter.³³
- 2) Reviewed from its subject, buying and selling is devided to three, there are oral transaction, intermediary transaction and act transaction. The meaning of oral is the deliver of ijab and qabul when parties is doing the transaction. Delivery of ijab and qabul in intermediary is allowed in syara

³³ Ahmad Wardi Muslich, Fiqh Muamalat, p. 246

such as buying and selling with expedition service, post and giro.³⁴ The example of this transaction are *wakalah* and *simsar*.

- a) Wakalah agreement
 - 1) Definition

The etimologie's definition of *wakalah* is tafwidh (surrendering, mandating, delegating). In terminology definition *wakalah* is different between several fiqh scientist, according to Imam Taqy al-Din Abu Bakr Ibn Muhammad al-Husaini *wakalah* is

تفويض ماله فعله مما يقبل النيابة الى غير م ليحفظه في حال حياته

"Surrendering a job to other people so it can be managed by him during his life"

According to Hasbi ash-Shiddiqie, *wakalah* is an agreement which is giving a authority to other people as an exchange to the principal for doing his job.³⁵ It can concluded from these arguments that *wakalah* is an agreement which choose someone to change a principal in executing his job during his life.

2) Juridical foundation of wakalah

The basic law of allowing *wakalah* as a buying and selling method in islam is human limitation to apply his job by theirselves. If someone do his job by helping other people its will get the values than do a job by him self. This is an indicate that human needs other

³⁴ Ruf'ah Abdullah, *Fikih Muamalah*, p. 72

³⁵ Abdul Rahman Ghazaly, Fiqh Muamalah, p. 187

people and can not lives without any assistances. Allowing *wakalah* agreement also written in al-quran, hadith of prophet Muhammad and ijma'. The juridical foundation of *wakalah* agreement in al-quran is as follows.

فَابْعَثُوا أَحَدَكُمْ بِوَرِقِكُمْ هَٰذِهِ إِلَى الْمَدِينَةِ فَلْيَنْظُرْ أَيُّهَا أَزْكَىٰ طَعَامًا فَلْيَأْتِكُمْ بِرِزْقٍ مِنْهُ وَلْيَتَلَطَّفْ وَلَا يُشْعِرَنَّ بِكُمْ أَحَدًا

"So order one of you to go to city with bringing your silver money, and let him see which food better, so let him bring the food for you, and let him apply a gentle and never tell your thingd to anyone."³⁶

According to Abdul Rahman Ghazaly the basic of allowing *wakalah* agreement based on ijma' ulama that saw *wakalah* as helping someone and each other in good deeds. Allah had told it in surah al-Maidah:2 as follows:

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالنَّقُوَى ^طَوَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ ⁵َوَانَّقُوا اللَّهَ ^صِإِنَّ اللَّهَ شَدِيدُ الْعِقَابِ

"And please help you in (doing) virtue and piety, and do not help in committing sins and transgressions. And fear Allah, verily Allah is severely tortured."³⁷

Juridical foundation of wakalah in hadith of prophet Muhammad

is as below.

³⁶ Panji Adam, Fikih Muamalah Maliyah, p. 296

³⁷ Abdul Rahman Ghazaly, Fiqh Muamalah, h. 188

عن أبي موسى قال : قال رسول الله صلَّى الله عليه و سلَّم إنَّ الخازين الأمين الذي يعطى ما أمريه كاملا موفرا طيبة به نفسه حتى يدفعه إلى الذي أمر له به أحد المتصدقين (رواهل ابي داود)

"From Abu Musa, he said: Rasululah shallallahu 'alaihi wa sallam said: verily blessing that can be confused is the one who gives what is ordered to him perfectly, and his heart feels willing until he gives it to the person who was ordered to be given by one of the almsgivers." (H.R. Abu Daud).³⁸

3) The principle and term of wakalah

The are differences of principle and terms of *wakalah*. According to ulama Hanafiyah, principle of *wakalah* just consist of sighat or *ijab* or *qabul*. It is different between jumhur ulama opinion which argued that principle of *wakalah* consist of:

- a) *muwakkil* or who gave representative, the condition for *muwakkil* is as the owner of the work/items to be authorized to the representative and he can do something with his possessions. The person that is meant to be able to do something on their own is someone who is baligh and sane. Thus, children and crazy people can not represent the work or objects owned because they can not act on their own.
- b) *Muwakkal* or the representative of the conditions is a person of understanding, baligh. If a designated representative is a crazy

³⁸ Panji Adam, Fikih Muamalah Maliyah, p. 297

person and is not yet an adult then a legal contract is not valid. Different opinion with ulama Hanafiyah, according to them, if the representative is a child who has intelligence and knows the difference between good and bad deeds. Then, the time agreement becomes legal.

- c) *muwakkal fih* or deeds represented, Objects that are approved in the *wakalah* agreement include the following matters.
- an act that is represented must be an act that can be done with representation, not included in worship, such as prayer, fasting and reading the al-qur'an.
- 2) the actions represented are muwakkil's property when the wakalah is entered into. then it is not valid an action or object to be sold is not yet owned by Muwakkil.
- 3) The object represented must be clear and not be vague.
- d) Shighat or *ijab qabul*, Shighat pronunciation in *wakalah* must have meaning that refers to the *wakalah* contract. For example, muwakkil said "I represent this work for you to do." In the contractual time the representative does not need to answer or say the *qabul* and this is considered valid. If the representative

answers no, for example "I can not" then the *wakalah* agreement is invalid and canceled.³⁹

b) Simsar agreement

The definition of buying and selling *simsar* is buying and selling that uses the property of others by getting certain benefits from the sale.

1) Juridical foundation of simsar

Islamic foundation of *simsar* buying and selling is written on hadith of Rasulullah saw:

عن أبن عبّاس رض في معنى السمسار قال: لابأس أن يقول بِعْ هذا الشوب بكذا فمازاد فهولك (رواه ا<mark>لبخاري)</mark>

"From Ibn Abbas r.a in the case of Simsar said: it does not matter if someone says sell this cloth at such a price. The excess of the sale price is for you (HR. Bukhari)."⁴⁰

- f. Prohibited trading
 - Buying and selling which items have not been received, buyers may not sell it. The juridical foundation of this problem is the hadith of Rasulullah SAW, he is:

لاَ تَبِعْ مَا لَيْسَ عِنْدَكَ

³⁹ Abdul Rahman Ghazaly, Fiqh Muamalah, p. 190

⁴⁰ Burhanudin, Hukum Kontrak, h. 81

"Do not sell things that you do not have. "(HR. Ahmad 15705, Nasai 4630, Abu Daud 3505, and justified by Syuaib al-Arnauth)"."

2) *Gharar* trading, this trading is forbiddden because there is something does not clear will harm the transaction parties inside it. Rasulullah saw said:

ereur with harm the transaction parties more in resolution of

"You should not buy fish in water because buying and selling like that includes gharar (cheating)."

3) *Urbun* trading (down payment), This trading is prohibited because this activity is take some down payment by cash. Rasulullah saw forbid urbun trading with his hadith, Narrated by Malik, Abu Dawud, and Ibn Majah from 'Amr bin Syu'aib from his father from his grandfather Radhiyallahu anhum, he said:

"Rasulullah saw is prohibited urbun trading."

- 4) Selling something that is not available to the seller, buying and selling is prohibited because it can hurt the buyer who wants to have the goods to be bought. Rasulullah SAW said: "*Do not sell something that is not in you* ". (HR. All Sunan writers)."
- 5) Buyers from out-of-town sellers, if a person is aware of merchandise entering his area, then he buys such goods outside his area with the intention of wanting to sell the goods again in his area at will, then this trade is not permitted because it will harm the good owner and local

people will buy. Rasulullah said: "Do not meet with traders (outside the region) and city people do not sell to villagers." (HR. Muttafaq 'alayhi)."⁴¹

g. The legal of buying and selling

Reviewed from several laws based on verses of al-quran and several hadiths of Rasulullah saw, many ulama said the legality of buy and sell is mubah (allowed) as long as pillars and terms are fullfilled.⁴²

According to Abdul Aziz Muhammad Azzam, the law of buying and selling is divided into five parts,

Buying and selling can become obligatory if those traded are in an urgent situation

- 1) Buying and selling can be sunnah if the price offered is expensive
- Buying and selling can be makruh, one of them is buying and selling Mushaf
- Buying and selling can be haram, for example, selling grapes to wine makers
- 4) Buying and selling is mubah.⁴³
- 2. The Contemporary Buy and Sell

⁴¹ Ismail Nawawi, Fikih Muamalah, p. 78-81

⁴² Enang Hidayat, *Fiqih Jual Beli*, (Bandung: PT. Remaja Rosdakarya, 2015), h. 16

⁴³ Abdul Aziz Muhammad Azzam, Fiqh Muamalat, (Jakarta: Sinar Grafika, 2010), p. 89

This buying and selling is not able in rasulullah era. Many factors were causing the developing this contemporary transaction. One of them is the existance of digital media is very developed and needed by citizens. Online shopping is one of the conclusive evidence of contemporary buying and selling. Several rules which allowing contemporary as a modern transaction of buying and selling are as belows.

a. الأصل في المعاملات الحل والإباحة

"Basic law of all muamalah transaction is lawful."

This mind is arraged of jumhur ulama, except madzhab zhahiriyah is ot arraged if they called that statement is ijma'. madzhab zhahiriyah opinion basic law of buying and selling is haram, but there are the exception its can be lawful if the transaction followed rasulullah scheme and written in al-Quran and assunnah.⁴⁴

b. Every requirments in transaction is lawful

The basis of buying and selling requirments transaction is lawful, because it is an agreements between seller and buyer who have done the transaction, The lawful requirement has consequences, masalahah, character and benefit of occured transaction. This mind is told by Jumhur.

⁴⁴ Khalid bin Ali Al-Musyaiqih, Sudah Halalkah Semua Transaksi Anda? Fiqih Muamalah Masa Kini, (Klaten: Inas Media, 2009), p. 21

The meaning og requirements in transaction every required by one of part to the next part for raising *maslahah* in transaction. Enforcements of requirements is able before doing a transaction or an agreements.⁴⁵

c. The prohibition of committing zhalim

The meaning of *zhalim* based on syara is committing of prohibitted and leaving ordered.⁴⁶ Ulama has been arraged for prohibiting *zhalim* in buying and selling with proposition under below

وَلَا تَبْخَسُوا النَّاسَ أَشْبَاءَهُمْ

"Perfect the measurements and scales, and do not harm anyone at all."⁴⁷ Rasulullah was prohibitted buying and selling cause *zhalim*, such as

- Buying and selling of najsy, this transaction is done by part who does not want to buy a merchandise with raising prices to fooling others.
- Buying and selling of tashriyah, it is a transaction with holdin animal milk before selling so it is look fat and have much milk.⁴⁸
- d. The prohibition of gharar

Gharar in terminology meanings is uncertainty result and unknown content of merchandise. The prohibition of *gharar* in buying and selling according to Ulama have some terms,

⁴⁵ Khalid, *Sudah Halalkah*, p. 23

⁴⁶ Khalid, Sudah Halalkah, p. 24

⁴⁷ QS. Al-A'raf: 85

⁴⁸ Khalid, Sudah Halalkah, p. 26

- The quantity of *gharar* in one transaction too much. Otherwise, if the quantity of *gharar* in transaction is only slightly is not affect the validity of a transaction.
- 2) Gharar is not an needed object for human general needs. The meaning "general needs" urgent needs to be met. This transaction is permissible if it can be proven that someone will not be able to meet their needs if not by carrying out transactions that contain this *gharar*.
- 3) *Gharar* is can still be avoided and not cause problems. This argument is ijma' ulama with the reason that *gharar* can not be avoided is allowed.
- 4) Ghrarar is prohibitted in non-profit transaction. This argument issued by Imam Malik and Syaikhul Islam Ibnu Taymiyah. It is different with jumhur ulama which not gave the differences between profit and non profit transaction. They argued that non profit transaction must be cleared from gharar.⁴⁹
- e. The transaction is free from usury

Usury meaning in terms is additional value and or additional time in one transaction. The division of usury according to ulama devided in two, are

 Riba *al-fadhl*, it is additional in one of usury material that change with same type in one time (cash). Then *ribawi* assets must be determined in advance to know it is include at riba *al-fadhl* or not.

⁴⁹ Khalid, Sudah Halalkah, p. 31

According to Imam Ahmad *ribawi* assets is items that can be measured and weighed. The transaction of *ribawi* assets must fullfilled some elements such as must be carried out in cash and same quantity. This argument is issued by masdzhab Hanabilah and madzhab Hanafiyah. But, Syaikhul Islam Ibnu Taimiyah argued that *ribawi* assets is items can be measured, weighed and eatable.⁵⁰

- 2) Usury of *nasi'ah*, the termination of the handover of *ribawi* assets traded with the same reason. There are two reasons of *ribawi* assets, price standard such as gold and silver. can be weighed such as date, wheat, syair and salt. To avoid usury *nasi'ah* in transactions, the exchange of goods between one category such as the exchange of gold and silver must be done in cash.⁵¹
- f. The prohibition of *maisir* (gambling)

In terminology meaning maisir is ransaction with speculative character between win and lose. The proposition of forbids gambling told in al-Quran as under below

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ

⁵⁰ Khalid, *Sudah Halalkah*, p. 35

⁵¹ Khalid, Sudah Halalkah, p. 36

"O ye who believe! Strong drink and games of chance and idols and divining arrows are only an infamy of Satan's handiwork. Leave it aside in order that ye may succeed."⁵²

Every gambling is *gharar* but every *gharar* is not gambling, so gambling is more spesific than *gharar*. Gambling in a buying and selling transaction can be found in uncertain pricing, quality of goods that are not hidden like defects in an item.

g. Honest and trustful

The good transaction of buying and selling is instill honesty and trustworthiness. The honest in muamalah transaction is clear when the expression of buying and selling part is an accordance with reality items. whereas trustful is carrying out transaction, finishing it without leaving it transaction. Honesty has been taught in islam and must be carried out in all situations and conditions, although sometimes honest must harm yourself.⁵³

3. Online Buy and Sell

According to Suherman as quoted by Tira Nur Fitria, online buy and sell is buying and selling via internet that its transaction can be able by helping electronic media to buy some goods and services.⁵⁴ Online buy and sell is a transaction with internet media and does not need the presence of the parties in the sale and only buying and selling by describing the criteria of items, types of

⁵² QS. al-Maidah: 90

⁵³ Muhammad Arifin, Sifat Perniagaan Nabi SAW, (Bogor: Darul Ilmi, 2008), p. 101

⁵⁴ Tira Nur Fitria, "Bisnis Jual Beli Online (Online Shop) Dalam Hukum Islam dan Hukum Negara", Jurnal Ilmiah Ekonomi Islam, Vol.3, 01, 2017, p. 55

items and displaying prices so that payments are made first and get futures after payment.

- a. The characteristics of online buy and sell is as follows;
 - 1) Both parties do buy and sell transaction
 - 2) Both parties exchange items, services and informations
 - 3) The main media used in transactions is the internet
- b. The advantages of online trading
 - 1) Capital efficiency, the online trading does not need bigger capital than traditional trading because it does not any infrastructure to keep merchandise but it just need internet as a capital. The online trader also does not need merchandise in his hand, he can make some relationship to the agent as a producer so as not to require a long time allocation and a large place for storage of item.
 - Online transaction, it does not need to face to face between seller and buyer directly, it just enough by electronic payment via banks such as ATM, credit card, mobile banking, etc.
 - Not limited by time, online sales can be done 24 hours non-stop with a good internet connection and can be done anywhere.
 - Efficiency of labor, the seller does not need individuals to maintain the merchandise that he sells for because the display is done through photos on display via online.

- 5) Low cost, buying and selling online is much cheaper than buying and selling offline because it does not require a lot of variable costs.
- 6) Fast transactions, the services provided by buying and selling online are in accordance with the business principle of speed and accuracy.⁵⁵
- c. The deficiencies of online trading
 - Payments, the lack of online payment is in the ordinary people, this payment will make it difficult for those who are less familiar with information technology.
 - 2) The photos shown do not match
 - 3) Citizen review, every online buyers can give an assessment to the seller by giving one until five stars honestly. This is done because of the many scams that exist in buying and selling online.
 - The deception, online buying and selling still has some deceptions, so it cause unrest for consumers online.
 - Internet users have not been evenly distributed at the national level.
 This makes it difficult for online businesses to reach remote areas.
 - Settlement of disputes between users and providers of goods / services requires a solid system.⁵⁶
- d. The rules of online trading

⁵⁵ Mudakir Iskandar Syah, *Hukum Bisnis Online Era Digital*, (Jakarta: CV. Campustaka, 2018), p. 17

⁵⁶ Mudakir Iskandar Syah, *Hukum Bisnis*, p. 18

The buy and sell of online is simmilar with offline buy and sell in their contract. Online trading also use freedom principle which every parties free to do in contract as long as does not violate the law in the form of public and moral order. Freedom principle arranged in contract law and the result of agreement classified in a valid law.

Online trading is a buy and sell that binds someone with another person, ranging from transactions, payments, delivery of goods, receipt of goods and defaults. Default in buying and selling online can be demanded by the fulfillment of achievements either legally or family. Defaults can be classified:

- 1) Do not do what you've been promised
- 2) Enter into an agreement but not all
- 3) Achieved but has been delayed
- 4) Doing something that is prohibited in the agreement

Online trading is also regulated in Law of the Republic of Indonesia Number 11 Year 2008 concerning Information and Electronic Transactions (ITE).

Law in cyberspace or also known as Cyber law also regulates the use of and use of technology, such as the internet, computers and the like. Cyber law comes from the word Cyberspace which means to reach.

The scope of cyber law is to regulate the relationship between legal subjects who utilize internet technology starting from when he entered the internet network and entered the cyber or cyberspace. Some of the laws that exist in cyberspace are as follows.

- CyberLaw is a set of rules made by a certain country, and applies to the people of that country.
- Computer Crime Art (CCA) is a provision of misuse of Information Technology applicable in Malaysia.
- Council of Europe Convention on Cybercrime, is an organization that aims to protect people from cyber crime.⁵⁷
- 4. E-Commerce Trade
 - a. The defenition of e-commerce

The development of the internet is one factor in the development of buying and selling. One of them is buying and selling e-commerce which is part of e-business. The basic understanding of e-commerce is electronic commerce or electronic commerce.

The understanding e-commerce in terminology is the buying and selling process that is done electronically by consumers and obtained from several companies with computer intermediaries. World wide internet is one of the media that can be done in e-commerce activities.⁵⁸

The implementation of e-commerce buying and selling activities includes the trading of merchandises and services with the internet as the

⁵⁷ Mudakir Iskandar Syah, *Hukum Bisnis*, p. 21-23

⁵⁸ Shabur Miftah Maulana, "Implementasi E-Commerce Sebagai Media Penjualan Online", Administrasi Bisnis, Vol. 29, 1, 2015, p. 3

main meaning as an electronic network that is widely known to the public. As a main of e-commerce buying and selling, the development of internet has a more strategic place and attracts consumers to visit diverse ecommerce sites.⁵⁹

The Applications produced by buying and selling e-commerce not only consist of individual sellers, but from groups of sellers. Now many consumer demand applications and the seller is the marketplace, which will be explained in this chapter.

b. The sistematic of e-commerce

E-commerce system is an element of digital transactions that can be managed by individuals or groups with wider consumer opportunities so that over time it will be able to penetrate greater market growth. This transaction is more effective than traditional trade because it does not stop at a place where trade is in one culture, but can pass through countries and meet diverse cultures. E-commerce trading is a transaction that can be used anywhere and anytime because it has universal standards.⁶⁰

All forms of information are e-commerce trading systems to enter into agreements between sellers and buyers through interactive information on the products being traded. Information created in e-commerce trading can take the form of online communication to produce safer and more

⁵⁹ https://www.progresstech.co.id, accessed on 18 December 2019

⁶⁰ Sandy Kosasi, "Perancangan Sistem E E-Commerce Untuk Memperluas Pasar Produk Oleh-Oleh Khas Pontianak", *SNASTIA*, Vol. 10, 24, 2015, p. 111

convenient agreements because online communication systems have an archive that can serve as evidence if one party defaults.

E-commerce system has several elements must be fullfilled to do buy and sell start from open the website untill get the product. There are:

- 1) E-products and E-services
- 2) E-Procurement
- 3) E-contracting
- 4) E-distribution
- 5) E-payment
- 6) E-Customer Relationship Management.⁶¹
- c. The principle of e-commerce developing system

System development is a process that has principles that cannot be abandoned. Some of these principles will be explained below.

- 1) The system development is adreess to the management
- 2) system development is a capital investment for a future foundation
- 3) System development requires experts
- the implementation of tasks and work processes must be carried out to achieve a developing system
- 5) system development does not require a sequence
- 6) Do not be afraid if a project is canceled

⁶¹ Shabur Miftah Maulana, "Implementasi E-Commerce Sebagai Media Penjualan Online", p. 4

 Guidelines are needed in the development of the system as documentation.⁶²

5. Dropship Agreement

Dropship is buy and sell by using agent who has not item sold phisically and and do not see, package or ship products sold to direct buyers. To become a dropshipper someone just need an internet as promot media for selling the products to buyers and the product which produced is not one's own but third part. Dropshipper or agent does not need capital to be seller but he needs to internet quota to promot.⁶³

Several parties which in dropship transaction are,

- a. Product owner
- b. Agent (dropshipper)
- c. Buyer or customer

The steps of dropship transactions are following,

a. An agreement between product owner and dropshipper

Before promoting product sold, dropshipper discussed by online chat with product owner to make an agreement that dropshipper would be an agent for his product, than product owner sent product photos sold to dropshipper.

b. The product characteristics

 ⁶² Shabur Miftah Maulana, "Implementasi E-Commerce Sebagai Media Penjualan Online", p. 5
 ⁶³ Nor Azah Jahari, "Online Dropship for Business Transaction In Malaysia: Views From Muslim Scholars", *IJIB*, Vol 1, 1, 2016, p. 15

After sending photos to dropshipper, product owner gave other characteristics of product, such as size, type, product explanation and price. Dropshipper promoted his product suitable with product information which has given by product owner but it would be different in price listed. Usually, price list of dropshipper included of profit so there is a different price between product owner and dropshipper.

c. Dropshipper and buyer transaction

If there is a buyer interested with dropshipper's product he contact dropshipper directly for asking product availability. Than dropshipper would contact product owner for asking their product availability. If a product is available and buyer agree to buy, dropshipper would send the amount to be paid by buyer included postal fee. Buyer would pay the price listed and sent it to the dropshipper.

d. Dopshipper and owner product transaction

After getting amount of money from buyer, dropshipper would send amount of money to product owner and giving buyer's identity, such as name, address, and phone number.

e. Package and shipment

The product owner will pack the order and deliver it to buyer without any intervention from dropshipper. Eventhough product owner delivers it to

buyer directly, sender identity would be written by dropshipper name and phone number.⁶⁴

6. Marketplace

Marketplace has simillarry concept with traditonal market. Marketplace is an online application or website a website that becomes a facilitator for online shop owners who want to sell their products through the marketplace. Merketplace become a place to find between sellers and buyers to facilitate buying and selling online. Because it is a place of discovery between the seller and the buyer, the marketplace owner has no responsibility for the products marketed therein. The existence of a trusted marketplace facilitates online buying and selling transactions because of the more secure security and convenience.

Some marketplaces in Indonesia are

- a. Blibli. Com
- b. Bukalapak
- c. Elevania
- d. Lazada
- e. Shopee Indonesia
- f. Tokopedia
- g. Zalora, etc

⁶⁴ Nor Azah Jahari, "Online Dropship for Business Transaction In Malaysia: Views From Muslim Scholars", p. 16

One of the marketplaces in electronic commerce and most popular especially with the people of Indonesia is Shopee. Some of the company's explanations will be described as follows.

a. The history of shopee

Shopee is an e-commerce company in Southeast Asia and is under the Southeast Asian internet company, Garena (now changed to Sea Group). Shopee was inaugurated in 2015 in Singapore with the application of the C2C mobile marketplace business. The inauguration of Shopee was followed by other Southeast Asian countries such as Indonesia, Vietnam, Thailand, Taiwan, Malaysia and the Philippines. Shopee's offer to run his business starts from fashion to people's daily needs without having to open a website through a computer.

As a subsidiary of Garena, Shopee has been running its business in Indonesia at the end of June 2015 and previously entered the Indonesian market in May 2015. Basically the Shopee company originated from Singapore. Shopee's presence in the Indonesian market brings a new shopping experience. There is a lot of public interest to shop at shopee, the download rate of this application reaches 50 million downloads in the Play Store. The increase in Shopee application downloads is very quickly. This can happen because the facilities provided by Shopee for its customers consisting of sellers and buyers are in great demand, one of which is a safe payment method and integrative regulations.

b. The general strategy

Shopee has several strategies that are generally known to users of both sellers and buyers. The strategy of this company is provides the convenience and safety of shopping for its users. In addition to focusing on shopping, shopee has several features that are very useful to facilitate users in shopping, one of which is the general appearance of Shopee which is always interesting and different every month by presenting 12.12 in December and extra free shipping. Shopee provides diverse and secure payment facilities. Integrative delivery is also one of the facilities owned by Shopee with a strategy of providing free shipping services starting from a minimum purchase of 0 rupiahs, up to 20 thousand rupiahs with a total exemption of postage costs of up to 20 thousand rupiahs.

c. Business developments

The start of Shopee's company began in 2015 as the first mobile marketplace in Southeast Asia. The development of Shopee is very rapid, in 2016 Indonesia, Thailand, Vietnam and Malaysia have developed to meet the diverse and diverse lifestyle needs of women and men. In Indonesia, Shopee is at the first level as a mobile marketplace that is highly interested by Indonesian residents with the facilities provided.⁶⁵

⁶⁵ Agus S. Soegoto, dkk, "Studi Deskriptif Motivasi Balanja Hedonis Pada Konsumen Toko Online Shopee", *EMBA*, Vol 6, 4, 2018, p. 2243

CHAPTER III

RESEARCH METHOD

The research methodology is a scientific method covering rational, empirical and systematic used by the disciplinarian to carry out a research. Research methodology has a close relationship with the procedures, techniques and research designs used. Rules or steps that must be fulfilled, research time, data sources, data acquisition, data processing and data analysis is a description of the research plan that will be carried out in the research methodology.

A. Type Of Research

The type of this resarch is doctrinal law which called by research field and sosiological law research with some purposes to know how far the law around the community goes. This doctrinal law as a interaction result between legal studies and other disciplines.⁶⁶ This research is belonging to empirical juridical research because researcher be disposed for knowing the law of gold dropship in shopee application according to Indonesian Ulama Council.

B. Approach Of Research

The approach method used in this research is the sociological approach. A sociological juridical approach is to identify and conceptualize law as a real and functional social institution in real life systems.⁶⁷ Every research must explain an

⁶⁶ Bahder Johan Nasution, Metode Penelitian Ilmu Hukum, (Bandung: Mandar Maju, 2008), p. 123

⁶⁷ Soerjono Soekanto, Pengantar Penelitian Hukum, (Jakarta: UI Press, 1981), p. 51

approach will be used so the research has a strong foundation and it is look more proportional if known the approach used.⁶⁸

The sociological juridical research is a research with in the purpose to know a law by seen research object directly or someone who understand to solve a problem in that research such as this research which directly face to face with Indonesian Ulama Council of North Sumatra to know the law of gold drpship in shopee application.

This research also used a conceptual approach. This approach is used because because there is no legal rule for the problem. The conceptual approach effers to legal principles which can be found in the views of legal scholars or legal doctrines.⁶⁹

C. The Location Of Research

This research is located at The Indonesian Ulama Council Office in North Sumatra Province precisely in Jalan MUI No. 3 Medan City. Researchers conducted research at the Indonesian Ulema Council Office of North Sumatra Province because there was no legal fatwa from the dropship transaction issued from the Indonesian Ulema Council of North Sumatra Province.

⁶⁸ Galang Taufani, Suteki, *Metodologi Penelitian Hukum*, (Jakarta: PT. Rajagrafindo Persada, 2018), p. 148

⁶⁹ A'an Efendi, Dyah Ochtorina Susanti, *Penelitian Hukum (Legal Research)*, (Jakarta: Sinar Grafika, 2014), p. 115

D. Source Of Data

legal material is the most important part in legal research. Without the existence of a legal entity, it will not be possible to find answers to legal issues that have been submitted. To solve legal issues faced, legal material is used as a source of legal research.⁷⁰ The legal material that must be present in this study consists of primary, secondary and tertiary legal materials, there are

- Primary data can be obtained from main source who understand the law of this problem in sharia. Sources of data obtained from the field directly premises interviews with
 - a) Drs. H. Ahmad Sanusi Luqman, Lc., MA as a chief of Komisi Fatwa at Indonesia Ulama Council of North Sumatra
 - b) Dr. M. Amar Adly, MA as a secretary of Komisi Fatwa at Indonesia Ulama Council of North Sumatra
 - c) Dra. Tjek Tanti, MA as member of Komisi Fatwa at Indonesia Ulama Council of North Sumatra
 - d) Yiyin as a gold seller in Shopee Application.
 - e) Mukhlis Nasution as a dropshipper
- 2. Secondary data is a source taken from books, journals to the media that has a relationship with the problem being solved. Secondary legal data sources are legal publications that are not official documents. The intended publications are textbooks, legal dictionaries, legal journals and

⁷⁰ A'an Efendi, Dyah Ochtorina Susanti, Penelitian Hukum, p: 48
comments on court decisions.⁷¹ The data is used in this research are books, journals and some social media that have a relations with sharia economics law about buy and sell in clasical and modern transction.

 tertiary law material. The author used law's dictionary, Indonesia dictionary for looking the difficult words.

E. The Thecnique Of Collecting Data

The empirical juridical has a different data collecting method with normative research, empirical juridical interpreted data as social fact in form of problem development around citizens. While the normative research a problem is found as a positive legal issue that is obtained through learning related law.⁷² This research is obtained primary and secondary data from several methods below:

1. Interview

Interview is an activity to get some informations in detail about the issues examined in research. Not only getting information but interviews are used as evidence of information and information contained in a research.⁷³ The purpose of interview is getting information about legal issues in this research, so the prepare of this interview must be clear. Preparing some questions must be arranged because this research is used directional interview.⁷⁴

⁷¹ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana Prenada Meda Grup, 2007), p. 141

⁷² Bahder Johan, Metode Penelitian, h. 166

⁷³ Wiratna Sujarweni, Metodologi Penelitian, p. 31

⁷⁴ Wiratna Sujarweni, Metodologi Penelitian, p. 32

2. Study of documents

Study of documents is data collecting method by collecting docoment saved. Several materials in this documents study are letter, photos, meeting result and etc.⁷⁵ This study uses document studies to understand research subjects as well as the general understanding of legal issues that occur in this research.

F. The Data Processing Method

This research is an empirical juridical research that has the value of legal sociology in it making data processing methods taken as qualitative research which is a manuscript presented in such a way as to make it easier for readers to know the quality of the research submitted.⁷⁶ The processing data in empirical juridical research submitted to facts or data's happen in field with detail and effective explanation. The steps of data processing method in this research are

1. Editing

Editing is recheck to documents, files, informations collected by reseacher. This way is very important to do in data processing to fix invalid data before, or valid data but not be fullfilled.⁷⁷ So, editing must be done in data processing to delete an invalid data in analyzing result.

2. Data reduction

⁷⁵ Wiratna Sujarweni, *Metodologi Penelitian*, p. 33

⁷⁶ Shidarta, Sulistyowati Irianto, *Metode Penelitian Hukum Konstelasi dan Refleksi*, (Jakarta: Yayasan Obor Indonesia, 2009), p. 299

⁷⁷ Amiruddin, Zainal Asikin, *Pengantar Metode Penelitian Hukum*, (Jakarta: PT. Rajagrafindo Persada, 2006), p. 169

Data reduction is carried out in data processing to produce a systematic analysis by compiling data based on certain concepts, themes and categories to provide a more detailed picture and make it easier for researchers to find additional data that has been obtained.⁷⁸

3. Verification

The technique used in verification are giving data triangulation, source of data, friend in a group, member check

4. Analyze of data

The analyze of data is explain data validity and benefit raised in data collected to solve the problem in this research.⁷⁹

Data analysis techniques are basically descriptive analysis, starting with grouping the same data and information according to the data taken and interpreting it to give an understanding of each data and explain the relationship to one another.

5. Conclusion

The conclusion written after obtaining tentative conclusion and verificated inside it.⁸⁰ Taking conclusion is done after finishing all of data collection. The conclusion in this research will be written in chapter V last of this research.

⁷⁸ Wiratna Sujarweni, Metodologi Penelitian, p.35

⁷⁹ Bahder Johan, *Metode Penelitian*, p. 174

⁸⁰ Wiratna Sujarweni, *Metodologi Penelitian*, p. 36

CHAPTER IV

RESEARCH RESULT AND DISCUSSION

A. Profil of Indonesia Ulama Council North Sumatra Province

Indonesia Ulama Council (MUI) a place where ulama, zu'ama, aqhniyâ' and Muslim scholars join, established on January 11, 1975 M to coincide with 28 Zulhijjah 1394 H. Born as a response to the internal conditions of pluralistic (heterogeneous) Muslims in the realm of religious thought, social organization, and the tendency to flow and political aspirations, so that Muslims are trapped in group egoism (*ananiyah hizbiyah*). This condition necessitates (*wâjib alamânah*), which is the existence of Muslim leadership as a unifying and of Muslims.

Indonesia Ulama Council (MUI) is a response to global challenges, such as the dominance of the west with the ideology of liberalism, capitalism, secularism. Coupled with the desire for the realization of a new Indonesian society, civil society (khair al-ummah) which emphasizes the values of human equality (*al-musâwah*), justice (*al-'adâlah*), and democracy (*syurâ*). In this condition the *zuama ', aghniya*, and Muslim scholars realized the importance of a shared forum as a binding common place of worship. In this environment and connection, Indonesia Ulama Council (MUI) was born in the country.

1. Vision of Indonesia Ulama Council (MUI) of North Sumatra Province

The creation of good social, national and state living conditions as a result of raising potentials and participation of Muslims through the actualization of the potential of ulama, zuama', aghniya, and Muslim scholars for the glory of Islam (*'izzul-islam wa al-muslimin*) so that full Islam can be realized. rahmat (*rahmat lil-'alamin*).

2. Mission Indonesia Ulama Council (MUI) of North Sumatra Province

Mobilizing Islamic leadership and institutions effectively, so as to be able to direct and foster Muslims who are committed to the Islamic faith, doing Islamic sharia and creating ulama as a role model in developing akhlakul karimah in order to realize a society that is khair al-ummah (the best ummah).

3. The Formation of Indonesia Ulama Council (MUI) of North Sumatra Province

General Chief : DR. H. Abdullah Syah, MA

General Vice	: DR. H. Maratua Simanjuntak			
General Vice	: DR. H. Arso, SH. M.Ag			
Chief	: Prof. DR. H. Ramli Abdul Wahid, MA			
Chief	: Ramlan Yusuf Rangkuti, MA			
Chief	: Prof. DR. H. Syahrin Harahap, MA			
Chief	: Prof. DR. H. Hasan Bakti Nasution, MA			
Chief	: H. Ivan Iskandar Batubara, SE			
Chief	: Drs. H. Palit Muda Muda, SE			
Chief	: Prof. DR. H. Fachruddin Azmi, MA			

Chief	: DR. H. Asren Nasution, MA		
Chief	: DR. H. Muhammad Sofyan, MA		
Chief	: Dra. Hj. Rusmini, MA		
Chief	: Prof. DR. Asmuni, MA		
Chief	: DR. H. Abdul Hamid Ritonga, MA		
General Secretary	: DR. H. Ardiansyah, Lc, MA		
Secretary	: DR. H. Akmaluddin Syahputra, M.Hum		
Secretary	: Dr. H. Sakhira Zandi, M.Si		
Secretary	: Dra. Hj. Wan Khairunnisah, MA		
Secretary	: DR. H. Arifinsyah, MA		
Secretary	: DR. Najamuddin, MA		
Secretary	: Dr <mark>s. H. S</mark> arwo <mark>E</mark> di, MA		
General Treasure	: H. Ahmad Husein		
Treasure	: H. Alimuddin, SE		
Treasure	: Drs. H. Sotar Nasution, MHB		

B. The Mechanism of Dropship in Shopee Application

Dropship is buy and sell by using agent who has not item sold phisically and and do not see, package or ship products sold to direct buyers. To become a dropshipper someone just need an internet as promot media for selling the products to buyers and the product which produced is not one's own but third part. Dropshipper or agent does not nedd capital to be seller but he needs to internet quota to promot.⁸¹

One of the dropshipper media to get goods to be sold is the marketplace. Various kinds of marketplaces have provided facilities to make it easier for buyers to resell the goods they get.

Shopee is one of the online merchandises marketing applications that are in great demand by many Indonesians as well as overseas communities. Many attractive offers provided by the shopee application to attract netters, not only online shoppers, some online sellers expand their sales by registering their sales account with shopee.

There are some requirments to be seller in shopee application will be explained under below.

1. Create an account, The new seller can create their new account by using shopee application on mobile phone or website of shopee at www.shopee.co.id on computer.

⁸¹ Nor Azah Jahari, "Online Dropship for Business Transaction In Malaysia: Views From Muslim Scholars", *IJIB*, Vol 1, 1, 2016, p. 15



Figure 1. The example of Shopee seller registration

2. Then, the user click "daftar" (registration) and fill the requierements such as phone number, verification which sent to user's phone number, username, password and captcha code.

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S Shopee Rate rade	Daftar Logi	ې ب
S Shopee pakalan olahra	Nomor Telepon Kirim Kode Verifikasi	sthetic daster busui
11 HARI LAGI	Kode Verifikasi	Shopee field GIONDANO GRAND LAUNCH GRAND - 720
12 PROMO	Username	DISC. 75%
12.12	Password	2 SHOPEE
1/ 100	Konfirmasi Password	HASIL PANENNYA LANGSUNG DIKIRIM KE RUMAHI TANAM SEKARANGI
	Masukkan kode captcha	
Men Sale Elektronik Murah Pulsa, Tagihan & Tiket	Dengan mendaftar, Anda setuju dengan Syarat, Ketentuan dan Kebijakan dari Shopee & Kebijakan Privasi	Grafis Ongkir Xtra Voucher
KHUSUS PENGGUN	NANTI SAJA Daftar	
PO I JBLOPO BARU	Email Facebook Google	STOK TERBATAS

Figure 2. The example of requierements of new seller

3. Prospective sellers visit the "seller center" page to complete the seller and store data that will be opened in the shopee application. The new store

profile in the shopee application includes several elements that must be completed as follows.

- a. Store name, Giving a name on the store profile must be suitable with the guidelines of Shopee, easy for the buyer to remember and in accordance with the product to be marketed.
- b. Photo description, if seller want to get the identity of the buyer, upload up to five photos and or videos to ensure the buyer of the product you are selling
- c. Store description, Create a brief and concise description to attract shoppers visiting your store. You can add various information such as store history, product type or time of reply to chat. Do not enter personal information such as e-mail and number handphone, or carry out transactions with buyers outside of Shopee.

The registration of new seller in shopee application is easy, but it is not enough to be passive sellers. Shopee seller must active in their activities by updating his product. If the seller becomes a passive user in the shopee application, the shopee will block the store. The seller's personal data is kept strictly confidential by the shopee application, so shopee can guarantee buyers who use the shopee application.

Gold sellers in the shopee application are free to use a caption that describes the details of the gold sold so that they may not become a dropship at their online shop. Usually in the caption also the seller of gold includes the requirements to become a dropshipper. As explained by Yiyin as a gold seller

in the shopee application as follows.

"Tidak saya beri nota kalau yang beli dropshipper. Tapi kalau yang beli reseller saya, saya kasih nota atas nama reseller dan dia dapat potongan harga dan poin."⁸²

("I will not give a note if I buy a dropshipper. But if I buy my reseller, I give a note on behalf of the reseller and he gets a discounted price and points.")

With the above statement it can be seen that a buyer who buys gold from a dropshipper does not get a purchase note, thus causing one of the parties to lose when the gold is to be resold. So the benefits of buying and selling in Islam in the form of mutual benefits are not met.

Different things with dropship in the Shopee app, users who become dropshipper is the buyer as well as sellers on other social media that are not Shopee applications. Dropshipper must have other social media as his online store. The profile of the online store that will be opened can be from Instagram, Facebook or the seller's website which is created to market merchandise.

The profile of the online store that will be opened can be from Instagram, Facebook or the seller's website which is deliberately created to market merchandise. No need to register or pay amount of money to shopee application or seller in shopee application. Steps to become a dropshipper in the shopee application are as follows.

⁸² Interview with Yiyin, February, 22nd, 2020

- Dropshipper must have a social media account that matches the product to be sold. The social media account used can be a business account or seller's personal account. In this research, several social media researchers can be used as a means of buying and selling online, including:
 - a. Instagram

Dropshipper must have an account to sell merchandises in Instagram. Start from registration and Fill some requirements.

Instagram	
Nomor telepon, nama pengguna, atau email	
Kata Sandi	
ATAU	
f Masuk dengan Facebook	
Lupa kata sandi?	
Tidak punya akun? Buat akun	
Dapatkan Aplikasi	
Download di PEMJKAN DI Google Play	

Figure 3. Regitration page of new user on Instagram

After registering and having an account, Instagram users can list the store description, place of delivery and contact telephone number.



Figure 4. The example of business account on instagram

b. Facebook

Dropshipper must have an account to sell merchandises on Facebook. Start from registration and Fill some requirements.

Email address or phone number	
Password	
Forgotten account?	
Create New Account	
Create a Page for a celebrity, band or business.	

Figure 5. registration page of new user on facebook

After registering and having an account, Facebook users can list the store description, place of delivery and contact telephone number.



Figure 6. The example of profile account on facebook

Then, the dropshipper can start selling by uploading photos related to products that will be sold through other online sites. Because the dropshipper is a seller who does not have the availability of goods, he can take the photos he needs by downloading photos that already exist on Google, other online stores. The photo upload used by the dropshipper is also not a single account, it can take photos from various accounts that do not have a copy right, or online shops that do not prohibit taking photos on uploads. It is also very sensitive to producing *gharar* in its transactions. Not only in gold, but in all goods that are all objects of buying and selling online.

Gold trading transactions should be done directly and in cash so that there is no element of usury and *gharar* in the transaction. If gold is sold in the manner described above, it is possible that the gold sold will be different from the gold uploaded in the seller's social account.

Some sellers will include the price offered on the photo caption of the item to be sold. The price offered is not the basic price which stated by mwerchandise owner in shopee application but the price determined by the dropshipper with his own profit. Then, the seller can determine the percentage of sales profits from 1-100% of the profits he will get. This is very different with salam agreement or *wakalah* in fiqh muamalah. The merchandise owner does not know how big the price made by dropshipper and profit he will get it.

After having an account on social media, updating posts, becoming an active seller, offering items by advertising or increasing followers, then there are buyers who visit social media dropshipper and make buying and selling transactions online.

- 2. When the buyer has agreed to the price determined by the dropshipper, he will make a number of payments in accordance with the price of the item and postage according to the address of the delivery destination.
- 3. After making a payment, the dropshipper will ask the buyer to wait several days for the item to be sent directly to the buyer by providing a shipping receipt. The delivery receipt will be accessible after the dropshipper makes a transaction to the owner of the items in the shopee application.

- TRAL LIBRARY OF MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF MALANG
- 4. The dropshipper will buy the item on shopee application after receiving amount of money from the buyer. some of the steps taken by the dropshipper are as follows.
 - a. Dropshipper opens the shopee application and looks for the object to be purchased and according to the request of the buyer, in this case the object of sale is gold bars. After getting a store and the availability of goods that match the description, the dropshipper makes a purchase.

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5 Shopee	Sleeping Care Kit Laneige Pernutih Kulit Wajah Lipstik Mayb	elline Rak Sepatu Portable Box Penyimpanan Sert	aguna speaker active	
Shopee > Aksesoris Fashion > Logam Mulia	> Emas > antam 1 gram certieye cetakan 2019 24 ka	rat ORI		
	✓ Star Seller a	ntam 1 gram certieye cetakan 2	.019 24 karat ORI	
	<u>5.0</u> *****	798 Penilaian 1,7RB Terjual		
	Rp769	0.600		
	Cicilan	24x Rp32.067 (Bunga 0%) Cicilan >		
	Pengiriman	Pengiriman Ke KOTA MALANG Ongkos Kirim Rp2.000 - Rp19.		
	Kuantitas	- 1 + 1.000 4/ Duan		
Keg01826	antam	kkan Keranjan Beli Sekarang		
	S Garansi S	Shopee Dapatkan barang pesananmu atau	uang kembali.	ø

b. The items to be bought will be put into the shopee shopping basket, to enter some promo codes if available and save when the buyer does not want to buy the item on the same day. After the item is in the shopee basket, the dropshipper can checkout for the next process.

Shopee Keranjang Belanja	сап ргодик, тегек дап токо			
📭 Pilih voucher Gratis Ongkir untuk menikmati Gratis Ongkir				
Produk	Harga Satuan	Kuantitas	Total Harga	Aksi
🗹 🖻 znahdlah 😟			🌖 Koin Shopee Da	apat Ditukarka
antam 1 gram certieye cetakan 2019 24 karat ORI	Rp769.600	- 1 +	Rp 769.600	Hapus
Potongan hingga Rp30.000 dengan min. pembelian Rp90.000 Pelajari lebih lanjut				
	🔲 Voucher	Masukkan/ Pilih Vouch	er	
	Skoin Shop	ee Tukarkan 340 Koin s	she	-RD-

c. On this check out page, the dropshipper directly enters the buyer's address instead of the dropshipper's address. It is intended that the goods are sent directly to the buyer and to reduce dropshipper costs. The postage amount will also be listed on this page, so the dropshipper can calculate how much profit he makes from this transaction.

S Shopee Checkout		
Alamat Pengiriman stika Khairani Singar (+62) 82277867366 Jalan joyosuko metro II No. 19, KOTA Krim sebagai Dropshipper	MALANG - LOWOKWARU, JAWA TIMUR, ID 6514	4 Utama UBAH
Produk Dipesan	Harga Satuan Jumlah	Subtotal Produk
Super smile	Rp769.600 1	Rp769.600
Pesan: (Opsional) Tinggalkan pesan ke penjual Opsi Pengiriman:	Reguler UBAH SiCepat REG	Rp22.000

d. The dropshipper must activate the "kirim sebagai dropshipper" (send as dropshipper) feature so that the owner of the item can change the sender's name and sender's phone number before doing a payment.Usually the dropshipper will have a conversation with the owner of

the item if he is willing to exchange the sender's name into the name of the dropshipper. As explained by the speaker Mukhlis Nasution as a gold dropshipper in the shopee application as follows.

"Saya kordinasi dengan penjualnya, bahwa nama pengirim tolong tulis nama saya, jika penjual setuju, saya beli dari tokonya."⁸³

("I coordinate with the seller, that the sender's name please write my name, if the seller agrees, I buy from the shop.")

Jual Download ikuti kami di 🚯 💿 🗢 🗢	🚇 Notifikasi	⑦ Bantuan	💮 sartikakh
S Shopee Checkout			
Alamat Pengiriman			
Sartika Khairani Siregar (+62) 82277867366 Jalan joyosuko metro II No. 19, KOTA MALANG - LOWOKWARU, JAWA	TIMUR, ID 6514	4 Utama	UBAH
Kirim sebagai Dropshipper Jama emas_mirzal Nomor Telepon (+62) 82277867366 Simpan			

This feature is very interested in a lot dropshipper for getting profit. Essentially, the owner of the item does not know that buyer or dropshipper can be trusted or not. The item owner only lists what is listed on the system and sends the item at the address requested by dropshipper.

If this transaction is carried out on an online gold trading transaction, the ownership of gold is uncertain. In fact, this is in accordance with the

⁸³ Interview with Mukhlis Nasution, February, 20th, 2020

hadith of the Prophet Muhammad described in the previous chapter, buying and selling of gold can be done directly and in cash. Judging from the transactions above, the direct element in the transaction is not found, because in it there are two buying and selling transactions in one sales object. There are two different buying and selling assemblies, namely Instagram and Shopee.

The element of cash is need in the buy and sell of gold transaction. The meaning of cash here is directly paid and immediately get gold. Over time and the development of current technology, online buying and selling transactions can be declared cash because after the buyer makes a payment, the goods will be sent immediately, even though the required mileage is a few days.

As the dropshipper explained, he is a buyer who asks the owner of the goods to change the name of the sender to the name of the dropshipper instead of the owner of the item. Means that between the dropshipper and the owner of the goods there is no *wakalah* or samsarah contract. Only agreement on the willingness of the owner of the item to exchange the name of the sender.

Judging from the pillars and terms of sale and purchase, buying and selling gold with a dropship system has the following explanation.

1) People who transact

A person who has a contract in another party's transaction can also be called a person who has a contract as a guardian or representative who has the right and authority to carry out a sell transaction.⁸⁴

Dropshipper as a seller and at the same time meet the Islamic legal requirements to enter into a sale and purchase agreement for suppliers and buyers. This can be determined seen because there are two or more people who do transactions, baligh and common sense.

2) Akad (contract)

A contract is a Shighat which consists of consent and qabul. The pronunciation of lafadz in the contract is one to fulfill the validity of a Shighat, but not the full pronunciation of lafadz but in several other ways that can be done besides the pronunciation.

This dropship agreement is the same as buying and selling done by writing because there are intermediaries online conversations that are in social media and shopee applications. Judging from the Islamic law, an illegal dropship contract is carried out with a sale and purchase agreement, because the buyer, dropshipper and seller don't know each other. But if the dropship contract is carried out with a wakalah, then this transaction is allowed in Islam because there is a representative from the supplier to the dropshipper to sell the goods he has and is done with other agreements for the benefits to be obtained by the dropshipper.

⁸⁴ Siswadi, "Jual Beli Dalam Perspektif Islam,"P. 63

3) Ma'qud 'alaih (contract object).85

Goods that are used as objects of sell and purchase must be sacred. If the object of sell and purchase is unclean, the goods being bought and sold are not valid. If the object of buying and selling is sacred and subsequently unclean, then before making a transaction the item must be purified first. In addition, the object of sell and purchase must be clearly known from the form, to the price. This opinion was expressed by Abdu al-Rahman al-Jaziri in the Book of al-Fiqh 'Ala al-Madahib al-Arba'ah quoted by Apipudin.⁸⁶

Judging from the object of buying and selling gold dropship, it can be seen that this gold has the criteria described in the shopee application for its buyers. These criteria are taken by the dropshipper to publish their owned social media. But the buyer only knows the goods virtually not real. Moreover, the object of this dropship is gold which has special treatment in its transactions. So that from this requirement has not been fulfilled in this gold dropship transaction.

4) The exchange value of substitute goods

⁸⁵ Ahmad Wardi Muslich, Fiqh Muamalat, (Jakarta: Amzah, 2013), h. 180

⁸⁶ Apipudin, "Konsep Jual Beli Dalam Islam", Jurnal Islaminomic, Vol V, 2, 2016, p. 84

The meaning of the exchange value of substitute goods is consist of some terms there are store of value, unit of account, medium of exchange.⁸⁷

Pillars and terms of the dropship of this gold have a replacement exchange value of goods, because gold is an object of sale and purchase that has value. So that in terms of Islamic law the gold requirement as an object of buying and selling is legal, it's just that the implementation of buying and selling with this dropship system is invalid because the object and contract conditions are not fulfilled.

From the results of interviews conducted it can also be seen that the contract that occurs is the sale and purchase where the dropshipper provides cash to the owner of the goods to get the desired item.

Then, the ownership requirements are not fulfilled in this transaction, due to unclear ownership of the goods obtained by the dropshipper not having the goods purchased and sent directly to the buyer. These conditions are shihhah conditions, which must avoid defects in a transaction, namely obscurity, coercion, time restrictions, risk or speculation, losses, and other conditions that can cancel the transaction. If the sale and purchase

⁸⁷ Shobirin, "Jual Beli Dalam Pandangan Islam," p. 251

transaction has been protected from the above defects, then the transaction can be declared valid on a syariah basis'.⁸⁸

- e. Then, the dropshipper makes a payment using the method set by shopee and waits for the item from 1 x 24 hours to the time determined by the owner of the goods themselves. Purchase receipts will be issued after 1 x 24 hours of delivery.
- f. After the receipt number is issued, the dropshipper can send the receipt number to the buyer to find out the presence of the items that have been bought.

In essence, a dropshipper buyer does not know that the dropshipper does not have the goods. The researcher who was a buyer initially did not know that Mukhlis Nasution was a dropshipper. Dropshipper acknowledges that his buyers do not know that he is a dropshipper. This was confirmed by the interviewees when researchers asked "*apakah pembeli bapak yang lainnya tidak tahu bahwa bapak adalah seorang dropshipper*?", he answered "*Tidak*."

It is not just buyers who do not know that the gold they get is the result of a dropship transaction. The expedition in the shopee application also did not know that the goods sent by them were gold. This was stated by the dropshipper as the guest speaker.

"Pada dasarnya, semua ekspedisi yang tersedia di shopee tidak menerima pengiriman emas, karena pengiriman emas harus khusus, jadi setiap pengiriman emas, keterangan pada pengiriman bukan emas, tapi aksesoris."⁸⁹

⁸⁸ Wahbah Az-Zuhaili, Fiqih Islam Wa Adillatuhu, p. 55

("Basically, all expeditions available at Shopee do not accept gold shipments, because gold shipments must be special, so for every gold shipment, the information on the shipment is not gold, but accessories.")

Such transactions are not legal in Islam, because of dishonesty in transactions and the existence of *gharar* in these transactions. *Gharar* is a sale and purchase prohibited in Islam because in it there is something unclear and can harm the parties to the transaction. *Gharar* in terms is the uncertainty of results or ignorance of an item's level.⁹⁰ Rasulullah saw said:

لا تشتروا السمك في الماء فانه غرور (رواه احمد)

"You should not buy fish in water because buying and selling like that includes gharar (cheating)."

This is a description of mechanism gold dropship in shopee application shortly.



⁸⁹ Interview with Mukhlis Nasution, February, 20th, 2020

⁹⁰ Khalid, Sudah Halalkah, p. 31

C. The Opinion Of Indonesian Ulama Council (MUI) Of North Sumatra Province Of Gold Dropship In Shopee Application

The development of the internet in the world in general and Indonesia in particular proves that technological advances do exist and have positive as well as negative values for human life. All activities that humans use almost all require the internet. The rise of easy internet access makes people have innovations and creations that have the aim of facilitating all human needs and activities that must be fullfilled.

The creations and innovations created by humans to facilitate the fulfillment of primary, secondary and tertiary needs, one of which is shopping innovation. Before there was internet, people had to go directly to the market to shop for buyers and for sellers to sell in the market and wait for buyers in the market in accordance with the opening and closing hours of the market occupied by the seller. If it is not met directly between the seller and the buyer, then one of the parties can order the item to be purchased and takes a long time to get it with a low level of trust.

In addition to the fulfillment of human needs, the economy is also very influential for the development of technology, especially the Internet. Before the internet is done manually, business is done from agreements to business operations. Previously, business was one of the activities that required a very large capital with a large risk ratio. So that many new businessman are hesitant to start a business because of insufficient capital problems and fear of losses that cannot be controlled.

Economic trade 4.0 is trade that requires creation and innovation without having to have a larger capital first. One business that has a lot of interest is buying and selling online using the internet as the main means. Increasing online buying and selling in Indonesia ranks first in the 10 fastest growing e-commerce countries.⁹¹ There are much needs in online platform and already traded.

Sales objects in the online platform covering the needs of each community starts from the needs of primary, secondary and tertiary. The lifestyle of women and men can be fulfilled easily in the online platform. Beside buy and sell where the obligations of the parties must fullfill each other to send itemss after payment on the platform for the seller and the obligation to pay for the buyer, investment can also be done online on various platforms.

Buying and selling online forms opportunities for people who have not gotten a job or those who do not have an online business idea. the benefits of buying and selling online is to open up jobs with various professions. One of them is to become a dropshipper or commonly called an agent. This dropshipper is very popular with many people because they do not need to have a certain amount of money to be used as capital and do not need to have

⁹¹ https://databoks.katadata.co.id accessed on December 17th, 2019

real goods to be traded. Only need photos, internet quota to do marketing at prices that can be adjusted to the desired profit.

As explained earlier, the object of buying and selling online is very free, so items that are prohibited from selling in Islam are also contained in this online platform. Buying and selling online is buying and selling that requires vulnerable time to get goods that have been purchased by the buyer. Thus, goods that must be sold on the online platform must be goods that do not contain ribawi elements in it.

Gold is one of the ribawi items that are traded on the online platform. In the Prophet Muhammad era, gold should not be traded if there is a grace period. Gold can only be traded with non-gold cash and directly in one trading assembly.

But the facts obtained on several online platforms are still many who sell gold online and not a form of investment but to have. One of the gold used as the object of buying and selling is gold PT. Antam This online gold sale can also be accessed by dropship sales considering that Shopee has an automatic feature to be a dropshipper without having to pay a sum of money or register with the gold owner.

The existence of buying and selling gold online and carried out by the dropshipper raises some opinions of Ulama within the scope of the Indonesian Ulema Council which considers this buying and selling is a modern trading. The Opinions of the Ulemas are as follows.

1. The opinion of Ahmad Sanusi Luqman as a chief of fatwa commission in

Indonesia Ulama Council of North Sumatra as below

"Menurut saya, jual beli online ini kan jual beli yang barunya ini, pas zaman Rasulullah dulu tak ada, ha sekarang berkembang zaman teknologi pun berkembang jadi tak masalah lah kalau ada jual beli online. Semalam itupun udah ada makalah MUI pusat dikeluarkan kalau jual beli online ini boleh asalkan barang yang dijualnya itu tak haram, contohnya jual minum-minuman keras. Lagian jual beli online ini kan macam jual beli salam nya ini. Jadi selama barang yang dijual dibolehkan di islam dibolehkan lah."

("In my opinion, buying and selling online is the new sale and purchase, right when the time of the Prophet was not there before, ha is now developing an era of technology also developed so it is not a problem if there is buying and selling online. Last night, even then there was a central MUI paper that was issued if buying and selling online is allowed as long as the goods it sells are not haram, for example, selling liquor. buying and selling online is kind of salam buying and selling. So as long as the items sold are allowed in Islam, it is permissible.")⁹²

Buying and selling online is one of the contemporary buying and selling that did not exist in the time of the Prophet. Buying and selling is a sale and purchase using the internet and buyers only choose goods that have been distributed through the media of buying and selling that has many kinds.

Buying and selling online has several requirements that can be used as a legitimate sale and purchase in Islam, these conditions are, the prohibition of committing zhalim, the prohibition of *gharar*, the transaction is free from usury, the prohibition of maisir (gambling), honest and trustful.⁹³

⁹² Interview with Ahmad Sanusi Luqman at August, 26th, 2019

⁹³ Muhammad Arifin, Sifat Perniagaan Nabi SAW, (Bogor: Darul Ilmi, 2008), p. 101

In general, it is acceptable that buying and selling online is legal in Islam under the conditions stated. Another requirement must be considered in buying and selling online, one of which is the object of buying and selling. Enforcement of buying and selling online that is permitted does not cover all objects of buying and selling. Buying and selling objects that are prohibited by Islam may not be sold in online trading.

Not only buying and selling objects are prohibited. Ribawi goods must also be considered for the transaction method so that there is no usury in the sale. Rasulullah has explained that ribawi goods must be sold in person and in cash. With the existence of online buying and selling these conditions are not met. According to researchers for reasons that have been mentioned that buying and selling online is permitted with permitted buying and selling objects also does not apply to ribawi goods sold online.

2. The opinion of M. Amar Adly as a secretary of fatwa commission in Indonesia Ulama Council of North Sumatra. The opinions expressed by this resource person are opinions on the law of dropship, to online dropship as below

"Dropship secara umum bukan kepada emas ada dua kendalanya, tapi dua kendala itu bisa dimaafkan dan diminamlisir. Kalau selain emas ya. Kendala yang pertama Pertama bahwa disitu ada penjualan barang yang bukan milik seseorang, jadi dropshipper itu menjual barang milik orang kan bukan milik dia, itu yang pertama. Yang kedua kendalanya itu adalah tidak adanya taqabbud, belum dipegang barang itukan jadi dia beli dari sana via telepon dari sana langsung mengirim ke pembeli kan tidak ada taqabbud. Sementara syarat jual beli menurut Syafi'i harus adanya al qabdu atau taqabbud. Nah, yang pertama bai la yamlik itu bisa dimaafkan

karena apa? karena sesungguhnya memang secara kasat mata memang seakan-akan itu bukan barang dia barang orang, cuman secara hukum ketika dia sudah mentransaksikannya itu adalah barang menjadi milik dia gitu, karena sudah ditransaksikan. Kan, trasnsaksinya si dropshipper sudah membeli kan dari pemilik barang kan, ya hakikatnya itu sudah menjadi milik dia sudah ada akad jual beli, ya kalau sudah ada akad jual beli berarti barang itu sebenarnya sudah milik dropshippernya. Kasus kedua kan belum taqabbud, belum dipegang barang itu, nah al-qabdu dalam fiqh ini ada dua dia qabdul hukmi dan qabdul hissi. Kalau hissi dipegang secara nyata, ini saya pegang, saya beli handphone saya pegang handphonenya itu hissi, secara nyata. Baru setelah saya pegang saya jual handphone itu sama orang lain itu qabdu nya hissi. Tapi ada juga qabdunnya namanya qabdun ma'nawi atau hukmi, secara hukum. Misalnya, kita transaksi jual beli handphone, saya dikasih kwitansi saya sudah bayar tapi handphone ga saya pegang langsung saya jual sama orang sama adek saya atau kolega saya, itu namanya qabdul hukmi, sama saya beli tanah kavlingan jauh, katakan di aekkanopan, ada kawan yang bilang beli lah tanahku, oke, berapa? Sekian ratus juta atau sekian puluh juta, oke saya transfer kirimlah surat sama kwitansinya. Ha kan ga saya pegang itu kan bahkan ga saya lihat. Tapi secara hukum, karena sudah akad maka itu namanya qabdul hukmi, gitu. Jadilah dropship ini diluar emas itu menurut sebagian ulama dibolehkan."

"(Dropship in general is not for gold, there are two obstacles, but the two obstacles can be forgiven and mitigated. In addition to gold, yes. The first obstacle First is that there is a sale of goods that do not belong to someone, so the dropshipper sells goods belonging to people that do not belong to him, that is the first. The second obstacle is that there is no tagabbud, it has not been held by the item, so he buys it from there via telephone from there and sends it directly to the buyer, there is no tagabbud. While the terms of the sale and purchase according to Shafi'i must be the existence of al qabdu or taqabbud. Well, the first bai la yamlik can be forgiven for what? because in fact it is indeed in plain sight as if it was not someone's property, only legally when he had transacted it was the goods belonged to him so, because it had been transacted. Right, the transaction of the dropshipper has already bought it from the owner of the item, right, the fact is that it already belongs to him, there is a sale and purchase agreement, so if there is a sale and purchase agreement, it means that the item actually belongs to the dropshipper. The second case is not tagabbud, it has not been held by the item, now al-gabdu in this figh there are two *qabdul hukmi* and *qabdul hissi*. If the holding is real, I hold it, I buy the cellphone, the cell phone is holding, it is real. Only after I held it I sold the cellphone to another person, the gabdu sucked. But there is also a

qabdun called *qabdun ma'nawi or hukmi*, legally. For example, we buy and sell mobile phone transactions, I was given a receipt I already paid but I did not hold the cell phone directly I sold the same person with my brother or my colleague, it was called *qabdul hukmi*, the same as I bought the land plots far, say in Aekkanopan, there are friends who say buy my land, okay, how much? A few hundred million or tens of millions, okay I transfer send a letter with the receipt. I do not even hold it, I do not even see it. But legally, because it is a contract, it is called *qabdul hukmi*. Be this dropship outside of the gold according to some scholars allowed.")

Based on the information explained by the speakers there are two obstacles are still be minimized and / or condoned in the implementation of general dropship goods that are used as objects of dropship are items other than gold and other usury items.

- a. That in a dropship transaction a sale is not in the possession of the dropshipper personally. This obstacle can be forgiven in muamalah transaction. In visible item being traded do not belong to the dropshipper, but legally the merchandises have become the property of the dropshipper because there has been a transaction or buy and sell agreement between the item owner and the dropshipper.
- b. Whereas in the dropship transaction there is no القبض (hold), while according to Imam Shafi'i's opinion one of the conditions of sale and purchase must be القبض. In figh there are two kinds of

1) قبض الحسّ

The object of buy and sell is held in real terms. An example is buying and selling mobile phones that are being held by the real owner, then sold to others.

2) قبض الحكم

The object of buy and sell is not held in real terms, but legally that someone has entered into a transaction for an item without seeing it. Examples such as buying a piece of land that is sold via telephone.

From the above explanation, there are different opinions among scholars about the ability to dropship in general. According to dropship legal sources is permissible.

Terms of sale and purchase in Islam must be met to make the transaction valid and permissible. Buying and selling objects must meet the requirements before the transaction. one of the conditions of buying and selling objects is a condition in 'aqad. The object of the contract must be a legally valid asset'. The object of the transaction is in the seller's ownership and the object cannot be traded if the ownership does not yet become the property of the seller.⁹⁴

Dropship transaction is a sale and purchase transaction that does not have a sale and purchase object. as explained by the informant above that the object of sale and purchase must be held or al-qabdu, either qabdul hukmi or qabdul hissi. The requirements for al-qabdu in dropship

⁹⁴ Dimyauddin, Pengantar Fiqh Muamalah, p. 76

transactions are fulfilled and are referred to as qabdul hukmi, which is taqabud that occurs because of a transaction or contract that causes the dropshipper to be said to hold the item.

Dropship transactions if adjusting to the sale and purchase in Islam is the buying and selling of *wakalah* and samsarah. The sale and purchase of *wakalah* in the dropship system is a sale and purchase process that allows representatives to carry out transactions as they wish at the dropshipper in accordance with the conditions given by the representative or owner of the goods.

In accordance with the understanding of buying and selling *wakalah* which is an agreement which is giving a authority to other people as an exchange to the principal for doing his job,⁹⁵ it can be seen that the representative as the proxy of muwakkil can only market the goods with regulations that have been made by the authorization and may not violate the rules that have been made. Likewise, the dropshipper in the contract time can only do dropship transactions with the provisions given by the supplier, either by taking advantage as the dropshipper or dropshipper is given wages for his work. In the contractual agreement there was also an agreement between representatives and muwakkil as an agreement made by the dropshipper and the supplier in the distribution of photos,

⁹⁵ Abdul Rahman Ghazaly, Fiqh Muamalah, p. 187

marketing and profits so that the supplier knows and trusts the dropshipper.

Simsar is a trading method that can be done in dropship transactions. different from *wakalah*, *simsar* is someone who is only as an intermediary where he has no merchandise and only an intermediary between the buyer and owner of the goods.⁹⁶ If the dropship transaction uses a *Simsar* contract, the dropshipper must have a work agreement with the supplier to obtain rights and obligations between the two parties. Dropship with *Simsar* can also be done because the price determination is determined by the supplier not the dropshipper and in return the dropshipper gets a wage from the goods he sells. Dropshipper is only a broker that only markets other people's belongings.

If a dropship transaction using these two methods is carried out and there is no element of fraud, *gharar* in the transaction, then the dropship transaction is generally allowed in Islam with these two methods.

Making a gold dropship object in this study, get a different perspective from the speakers. According to him, gold is an item that has special treatment in its conditions. According to M. Amar Adly the rule of gold dropship as below.

"Nah, sekarang kasusnya di emas. Emas itu punya perlakuan khusus ada enam barang yang dia berlaku riba didalamnya, emas, perak,

⁹⁶ Muflihatul Bariroh, "Transaksi Jual Beli Dropshipping Dalam Perspektif Fiqh Muamalah", *Ahkam*, 4, 2, 2016, p. 213

gandum dengan dua jenisnya ada burr ada sya'ir, ada tamr kurma, dan ada milh garam. Enam itu berlaku riba. Bagaimana supaya menghindari dia dari riba? Harus yadan bi yadin. Ini emas ini uang. Karena syarat emas itu yadan bi yadin maka dia keluar dari hukum bolehnya dia dropship itu. Saya melihat seperti itu juga, karena dia memiliki perlakuan khusus karena dia berlaku riba itu. Dia ga boleh dijual secara tafadhul secara berlebihan, dan dia tidak boleh dijual ada tenggang waktunya ada masanya ha ga boleh. Tafadhul itu artinya begini, satu gram emas yang bagus ditukar dengan 1.5 gram emas yang jelek walaupun yadan bi yadin tapi ada tafadhul disitu ada kelebihan, itu sudah haram itu sudah ga boleh itu berlaku riba. Beras juga gitu, kadang-kadang kita kan punya beras baru tukaran yok waah beras lama nya dua kilo beras jelek, beras barunya satu kilo itu juga udah haram karena ada riba. Satu lagi masa ada tenggang waktu itu namaya ada riba, ada riba fadhl ada riba nasiah. Ini namanya riba fadhl adanya tafadhul adanya kelebihan, tapi khusus untuk barang yang enam itu ya yang saya sebutkan tadi. Satu lagi riba nasi'ah kelebihan waktu maka kelebihan pembayaran, sama kayak kreditkredit itu, kan kredit pake uang atau emas, ya. Itu juga berlaku jadi bertambah waktu. Hari ini kau berutang emas 1 gram, sebulan yang akan datang diganti 1.5 gram itu riba. Jadi karena adanya tenggang waktu maka bertambah emas itu, itu namanya riba nasiah. Sama kredit itu juga jangka waktu setahun segini bayarannya, lewat setahun bertambah lagi bayarannya. Nah jadi khusus untuk emas dan lima macam barang-barang yang berlaku riba tadi saya kira tidak berlakudropship itu tidak boleh masuk ke dropship artinya ya haram kalo kesimpulannya begitu. Atau dengan cara lain yang memang taqabud yakan yadan bi yadin. Kan syaratnya yadan bi yadin terima emas terima uang gitukan."97

("Now, the case is in gold. The gold has a special treatment there are six items that he applies usury in, gold, silver, wheat with two types there are burrs there are poems, there are dates, and there are milh salt. The six apply usury. How to avoid him from usury? Must be yadan bi yadin. This is gold, money. Because the gold requirement is *yadan bi yadin* so he is out of the law he may dropship it. I see it that way too, because he has special treatment because he applies that usury. He may not be sold excessively *tafadhul*, and he must not be sold there is a grace period there is no time allowed. *Tafadhul* means this, a good gram of gold is exchanged for 1.5 grams of bad gold even though yadan bi yadin but there is a tafadhul there are advantages, it is already forbidden it is already permissible for usury. Rice is also like that, sometimes we have new rice, let's exchange yok waah, the old rice is two kilos of bad rice, the new one

⁹⁷ The interview result with M. Amar Adly on September, 5th, 2019

kilo of rice is also haram because there is usury. One more time there is a grace period that there is usury, there is usury there is usury *nasiah*. This is called usury *fadl*, there is a strength of *tafadhul*, but specifically for the six items I mentioned earlier. One more usury of rice is excess time, then overpayment, the same as those credits, credit using money or gold, yes. That also applies so increased time. Today you owe 1 gram of gold, a month to come will be replaced with 1.5 grams of usury. So because of the grace period, the gold added, it was called usury *nasiah*. The same credit is also a period of one year at this pay, more than one year more. So, specifically for gold and the five types of items that apply usury earlier, I do not think that it is not permissible to enter into a dropship, which means it is haram if the conclusion is like that. Or in another way that is truly taqabud, yadan bi yadin. The conditions are *for yadan bi yadin* to receive gold, to receive money.")

From these statements the researcher explained that gold cannot be sold in excessive amounts and may not be sold with a grace period. The sale of gold must be carried out in cash and face to face. This opinion is explained based on the hadith of the Raulullah saw below.

So the gold dropship in the shopee application is haram according to the interviewees because it does not meet the gold trading requirements that must be done in cash and face to face. There are other alternatives for buying and selling online if the conditions of القبض are fulfilled, so selling gold online is legal.

 The opinion of Tjek Tanti as member of fatwa commission of Indonesia Ulama Council of North Sumatra

Opinions of the third source have some similarities and differences with the opinions of other sources. According to Tjek Tanti, a dropship transaction is as below

"Masalahnya disini jadi dua, pertama, andai kata itu bukan emas pun bagaimana kita menjual kepada orang yang bukan milik kita artinya belum sampek ke kita. Katakan dulu bukan emas ya, kalo emas udah lebih parah nanti. Katakan kita pesan baju, ini udah pernah kejadian, anak saya suka jual beli online. Emang sih sudah saya bilang tapi rasa dia memang gini lah masanya sekarang yakan. Jadi orang dari Pekanbaru mau beli baju, dia kan udah jual baju-baju itu, jadi ga ada dirumah barang itu, barang itu di Jakarta orang yang jual, jadi orang dari Pekanbaru pesan ke dia, saya mau, saya mau, saya mau. Ada tiga pasang, satu perkumpulan, pesanlah tiga baju, mereka kasih uang 700 waktu itu, jadi anak saya ini pesan ke Jakarta, tapi ga ke dia langsung dikirim ke pembeli kan gitu maksudnya kan. Itu baju, nah udah biasa dia lakukan gitu, suatu hari saya pulang dia nangis, kenapa? Ternyata baju ga dikirim udah dikirim uang kan rugi di. Dia mengharapkan untung 300 dia kehilangan uang hampir satu juta. Karena dia menjual barang yang belum dimilikinya, dia kan masih pesan jual beli salam, tapi supaya mengirit ongkir dia bilang langsung aja kirim ke Pekanbaru, memang sudah beberapa kali berhasil ternyata akhirnyatak berhasil lagi. Dia pun tak mau jual beli online lagi. Masalah pertamanya jangan kita menjual barang yang tidak kita punya. Kan tak boleh menjual barang yang bukan punya kita kecuali perwakilan. Ini bukan perwakilan, kita langsung jual sama orangnya ga kita bilang pun sama orang sana cuman bilang kirim aja, sebenarnya kan untuk kita, tapi dikirim ke Pekanbaru bukan kita kenalkan orang Pekanbaru tu kesana yakan. Seharusnya kalau perwakilan dikenalkan. Bu saya wakilkan ya orang Jakarta kirim ke Ibuk, ini kan ngga diam-diam. Nggak tau orang Pekanbaru kalo barang itu gak ada di kita, jadi seperti ada gharar disitu ya ketidakjelasan. Itu ajapun ditunjukkan sama Allah yakan, kau buat yang dilarang akhirnya kau berharap 300 ilang sejuta kan. Terus bagaimana kalo barang itu ada cacat kan repot kan."98

("The problem here is two, first, if the word is not even gold how do we sell to people who do not belong to us means that it has not arrived to us. Say first, it is not gold, if gold is worse. Let's say we order clothes, this has never happened, my child likes buying and selling online. I have already told you, but I think he is like this now. So people from Pekanbaru want to buy clothes, he already sells those clothes, so there is no goods at home, the goods are in Jakarta people are selling, so people from Pekanbaru order to him, I want, I want, I want, I want. There are three pairs, one association, order three clothes, they gave 700 money at the time, so my child ordered it to Jakarta, but not to him directly sent to the

⁹⁸ The result of interview with Tjek Tanti on September, 5th, 2019
buyer, that's what he meant. That's a shirt, well he used to do that, one day I came home he was crying, why? It turns out the clothes were not sent already sent money right in loss. He expects a profit of 300 he lost almost one million. Because he sells goods that he does not yet have, he still orders to buy and sell greetings, but in order to save on shipping he says just send it directly to Pekanbaru, it has already been successful several times, it turns out that it doesn't work anymore. He also did not want to buy and sell online again. The first problem is we do not sell things we do not have. You can't sell things that you do not own except representatives. This is not a representative, we immediately sell it to the person, we do not even say that to the people there, just say, just send it to us, but we do not send it to Pekanbaru. Supposedly if the representative is introduced. Ma'am, I will delegate Jakarta people to Ibuk, this is not secretly. I do not know if Pekanbaru people do not have that item on us, so it is like there is gharar there, it is unclear. That's also shown by God right, you made it forbidden, finally you hope that you will lose 300 million. And what if there is a defect in the item, it is a hassle.")

According to the interview the researcher explained the merchandises traded are the property of others. Transactions cannot be carried out if the goods being traded are not yet owned, unless there is a representation in the transaction. According to Tjek Tanti dropship is not a representative transaction because the dropshipper does not introduce buyers to the owner of the items rather. This sale and purchase transaction can also be carried out provided that the object of buy and sell is immovable property. Uncertain responsibilities. When the items sold sent to the buyer and have a defective such as not suitbale with the criteria, the item didn't arrive to the buyer, and others, then the responsibility will be borne by the dropshipper not the item owner and cause harm to one party.

In muamalah fiqh it is stated that the validity of a buy and sell transaction can be seen from two parties who are neither profitable nor detrimental to one another. Buying and selling transactions in Islam must have the same profit between the seller and the buyer or the same loss.

Dropship has several trading systems or methods available in Islam besides *wakalah* and *simsar*. The method is the sale and purchase transaction. Where the drophipper is a buyer and the supplier is the seller. If the transaction is carried out with a sale and purchase agreement, then there is no agreement between the supplier and the buyer to take photos to be distributed for resale as in time and *simsar*.

Buying and selling contracts in a dropship are not allowed transactions like this because there are two buying and selling transactions in one object.⁹⁹ If this happens, if there is a defect in the goods being sold, it will pose a danger to one of the parties and be detrimental to one of the parties. So the benefits of buying and selling are not met.

This opinion is different from the opinion of other Indonesian Ulama Council generally. Furthermore, the gold dropship law in the Shopee application will be explained as follows.

The next two problems will be a ban on gold dropship transactions, there are,

"Kalo emas dan yang ada enam itu kan kalau sejenis harus sama dan kontan tunai, kalau lain jenis bisa dijual suka hati tapi tunai juga. Kalau emas yang sama shopee itu kan. Pertama kenak seperti tadi, belum dimilikinya udah dijualnya. Sebenarnya kalau barang itu belum kita

⁹⁹ Erwandi tarmizi lecture, https://www.youtube.com/watch?v=om08jCNFWkM, accessed at February, 27th, 2020

pegang boleh dijual itu harus pada barang tidak bergerak. Masih ada yang berpendapat kalau barang belum qabd boleh dijual karena benda tidak bergerak nggak kan hilang dia, duduk dia disitu gabisa dilarikan orang. Mana bendanya ini ini ini, ngurus surat tapi bendanya ga dipegang sudah bisa dijual kan. Tapi kalau begini orangnya tak dikenal pulak kan rawan kecelakaan itu. Jadi islam itu menutup pintu-pintu yang akan merugikan dua belah pihak. Akhirnya dia ganti uang orang kan. Kalo sekiranya dia udah sampe ke dia, dikirim pake pos, kalo pos yang ga ngirim kan bertanggung jawab menggangti, kalo kekgini tadi siapa yang mengganti? Yang menjual ini yang mengganti. Jadi dalam islam itu peraturan itu tidak akan merugikan dua belah pihak, sama-sama untung, sama-sama rugi. Nggak ada cerita satu untung satu rugi. Muamalah dalam islam selalu menjaga itu.^{*100}

("If it is gold and there are six of them, if the species must be the same and cash in cash, if the other types can be sold like hearts but also cash. Gold is the same shopee right. First he was like that, he didn't already sell them. Actually, if we do not hold the item, we can sell it, it must be on immovable property. There are still those who argue that goods can not be sold because immovable objects will not disappear him, sitting him there can not be run by people. Where is this item, taking care of the letter but the item is not held can be sold right? But at this rate the person who is not known is not prone to accidents. So Islam closes doors that will harm both sides. Finally he changed people's money. If if he had arrived at him, sent using a post, if the post that didn't send was responsible for disturbing him, if this time, who would replace it? Who sells this who replaces. So in Islam the regulation will not harm both parties, both profit, and loss. There is no story of one gain or loss. Muamalah in Islam always keeps it.")

With the explanation above, it can be seen that Tjek Tanti believes that the

gold dropship in the Shopee application is haram and violates Islamic Sharia

rules. She said

"Hukumnya tidak boleh lah, karena ada dua masalah yang pertama bukan milik kita, yang kedua tidak tunai pula."

("The law is not allowed, because there are two problems, the first is not ours, the second is not cash either.")

¹⁰⁰ The result of interview with Tjek Tanti on September, 5th, 2019

Dropship transactions with gold objects are trading methods that are not permitted in Islam. Gold is a ribawi amwal which has special provisions to be traded to avoid usury. one of them is usury al-fadhl., it is additional in one of usury material that change with same type in one time (cash).

As it is well known that the dropship system is the sale of goods that are not owned, it is feared that the gold that is sold on a dropship basis is not in accordance with the criteria described in the dropshipper's caption. So that this sale has an element of usury and illegitimate implementation.

The basis of his thought is the same as other sources, it is from the Prophet's hadith. From Ubadah bin Shamit radhiallahu'anhu, that the Prophet Shallallahu'alaihi Wasallam said:

الذَّهبُ بالذَّهب . والفضَّةُ بالفِضَّةِ . والبُرُّ بالبُرِّ . والشعِيرُ بالشعِيرِ . والتمْرُ بالتمر . والمِلحُ بالمِلح . مِثْلًا بِمِثْلٍ . سوَاءً بِسَواءٍ . يدًا بِيَدٍ . فإذَا اخْتَلَفَت هذهِ الأصْنَاف ، فبيعوا كيفَ شنْتُمْ ، إذَا كانَ يدًا بِيَدٍ

"gold with gold, silver with silver, burr with burr, poetry with poetry, tamr with tamr, salt with salt, the levels must be similar and equal, must be from hand to hand (in cash). If the types are different, then sell as you like, as long as it is done hand-in-hand (cash) "(HR. Al Bukhari, Muslim no. 1587, and this is Muslim lafadz).¹⁰¹

¹⁰¹ Muslim Ibn al-Hajaj, Shahih Muslim, p. 1211

CHAPTER V

CLOSING

A. Conclusion

- 1. Based on the pillars and conditions of sale and purchase in Islam the gold dropship mechanism in the shopee application is not legally valid, there is the ignorance of the buyer of the goods he will own. Apart from that, the owner of the goods also does not have a special agreement with the dropshipper only limited to buying and selling which changes the name of the sender to the name of the dropshipper and the recipient's name as the name of the buyer by activating the automatic features provided by the shopee application.
- 2. There are differences of opinion between interviewes at the Indonesian Ulama Council (MUI) of North Sumatra.
- a. The first opinion is an opinion that says that dropship can be done as long as the object of buying and selling is not a usury item. The reason for the interviewees is that the dropship transaction is a modern trading. The validity of transactions carried out by the dropshipper and the item owner already have the law.
- b. The second opinion is an opinion that does not allow dropship in general. The reason explained is the uncertain responsibility when the merchandise has a disability, so there is a *gharar* element in this transaction.

The same opinion from the interviewees is on the gold dropship in the shopee application. The main reason is the dropship object is gold which is a ribawi item. This opinion is based on the hadith of Rasulullah saw.

- **B.** Recommendation
 - 1. This suggestion is submitted to all online sellers to be able to do business in accordance with Islamic law, especially online gold sellers to better understand the law of gold dropship provided in the shopee application.
 - 2. Other suggestions submitted to online buyers to be more careful and careful of the object being sold. Paying further attention to the status of online stores that sell gold in order to avoid transactions containing *gharar*, maisir and others.

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ATTACHMENTS



Figure 7. Interview with Dr. Ammar Adly



Figure 8. Interview with Dra. Tjek Tanti



Figure 9 Virtual Interview with Gold Seller

	Saya mau t 2/21/2020 ualan emas a apa tidak pak	ıntam ini pernah menggi	unakan dropship 16:32 🛷
		Pak Muki saya gak	h <mark>lis Nst</mark> bisa jawab cepat
		lya pak ga	apapa 16:33 🗸
		Pak Mukhlis Nst pertanyaannya buat di	google form saja
		Baik pak	
		рак рак	
You Saya mau tanya bapak jualan emas anta tidak pak	am ini pernah menggunakan dropship apa		
Saya mau tanya bapak jualan emas anta	am ini pernah menggunakan dropship apa 1633	baik pak	

Figure 10 Virtual Interview with dropshipper

INTERVIEW GUIDELINES

- A. Interview with Indonesian Ulama Council (MUI) Sumatera Utara
 - 1. Bagaimana menurut ustad dengan adanya transaksi dropship di aplikasi shopee ?
 - 2. Bagaimana hukum dropship emas di aplikasi shopee
- B. Interview with Seller of gold
 - 1. Apakah kakak mengenal dropshipper?
 - 2. Jika mengenal, adakah syarat2 khusus dari kakak untuk menjadi seorang dropshipper?
 - 3. Bagaimana proses jual beli emas jika pembelinya adalah dropshipper di aplikasi shopee?
 - 4. Apakah ada sertifikat diberikan kepada pembeli yang merupakan dropshipper?
 - 5. Jika ada, bagaimana pembuatan sertifikatnya?
- C. Interview with Dropshipper
 - Saya mau tanya bapak jualan emas antam ini pernah menggunakan dropship apa tidak pak
 - 2. Jika menggunakan sistem dropship, media apa yang bapak gunakan untuk mendapatkan barang
 - 3. Apakah bapak pernah menggunakan sistem dropship di aplikasi shopee?
 - 4. Bagaimana sistem dropship emas yang bapak lakukan diaplikasi shopee pak?
 - 5. Apakah pembeli bapak tahu bahwa bapak seorang dropshipper ?

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