

PRACTICE OF BUYING AND BUYING VIRTUAL GOLD IN THE ERA OF DISRUPTION IN ISLAMIC VIEW

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1. BACKGROUND

Along with the development of technology, entrepreneurs are faced with an era of disruption that requires them to develop a new innovation in their business field, including entrepreneurs buying and selling gold. Innovation is the key to the success of a business to maintain their business. Because, when the company is careless and late in innovating, the company must be prepared to lose market share. The innovations carried out by the company also follow changes in the market that continue to change from time to time.

One way to deal with the era of disruption in the 4.0 era, the majority of companies are starting to adopt digital technology to support their business. With the use of more sophisticated technology, to make it easier to do and save time. This method of course is also done by gold entrepreneurs. They started offering their gold products in store applications such as Tokopedia, Shopee, Lazada and others of the same kind. One of the virtual buying and selling features offered by the Bukalapak application is BukaEmas which can be used as an online gold business medium. Buying and selling gold at BukaEmas does not occur in cash because the seller and the buyer are separated by distance (not facing each other directly). This situation seems inconsistent with the provisions in the hadith which states that buying and selling gold is done in cash. The hadith was narrated by Abu Daud Tirmizi, Nasa'i, and Ibn Majah, with the Muslim text from 'Ubadah bin Shamit, that the Prophet said: "Gold for gold, silver for silver, wheat for wheat, poetry for poetry, dates for dates, and salt for salt, must be the same size, the same amount, and must be constant. If these types are different, then sell them as you please on condition that they must be in cash."¹

If you look at the Hadith argument above, it requires buying and selling gold with others, it can be done in any way as long as it is cash. What is meant by other than gold for gold, for example, gold for silver, gold for wheat, gold for poetry, gold for dates and gold for salt. If you look at these provisions, then the Islamic view of buying and selling virtual gold is unclear or vague.

Meanwhile, in another hadith narrated by Ibn Abbas that the Prophet said: "Whoever performs the Salaf (salam), he should do it with a clear measure and a clear scale, for a known period of time."² From this hadith, it can be seen that the object in question is something general, can be gold, silver, wheat, salt and others. This hadith clearly states that buying and selling virtual gold is allowed as long as the amount is clear and the time is clear. With the 2 (two) views mentioned above, it is necessary to have further observations on how to carry out virtual gold trading according to the view of Islamic law. Meanwhile, on the other hand, in the era of disruption, it is important to have new innovations, especially in the field of buying and selling online, including the sale of gold.

Given that every business actor, including gold entrepreneurs, is required to develop a business, companies must also understand digital marketing strategies by maximizing existing innovations. The higher the rate of buying and selling gold will also affect state income. However, if this innovation is not in line with the rule of law, especially Islamic law, it is possible that virtual gold sales will begin to be abandoned in our country, Indonesia.

Everyone in the world buys gold to store wealth, protect savings against inflation, as a portfolio, as jewelry or as a symbol of position or power.³ The uniqueness of this precious metal is its durability, universally recognized and used, its transportability, its role as a store of value and a positive rate of return and its high purchasing power.⁴ Gold is a durable item that does not change shape and does not recognize rust, so it can be used as a form of investment other than foreign exchange, property and stocks.⁵

The purchase of gold is a buying action carried out by a number of people (the public as consumers) for a desired item according to their purchasing power for various reasons which are expected to provide benefits for themselves in the future. In line with the theory stated by Serfianto the usefulness of owning gold, which is resistant to inflation compared to paper currency, resistant to economic conditions than paper money, is used as currency security in many countries, is used as collateral for debt to obtain

1 Al-Mubar Kafuri, Tuhfa Al-Ahardzi BI Syah Jami' Al-Tirmidzi, Juz IV, 401.

2 Ibid.

3 Gulseven, 2016

4 Worthington dan Pahlavani, 2007

5 Suharto, Frento T, Gold Prices Go Up or Down We're Still Profit. Jakarta:PT. Alex Media Komputindo, 2013, p. 5

*short-term fresh funds, and as jewelry and currency.*⁶

This precious metal is a mining product that has export value and can help the country's economy as a whole. Natural resources from mining are a wealth of enormous value. Apart from increasing state revenues, there are other advantages. With the existence of precious metal mining, it can usually be used to attract the presence of foreign investors. This is because gold is one form of investment that is quite promising for foreign investors. Investors who invest in Indonesia are an important asset.

*Gold mining brings benefits to Indonesia because there will be an exchange of technology, information, and so on which will automatically help improve human resources.*⁷ *Given the importance of buying and selling gold, as a legal country that has a majority Muslim population, we as Muslims should straighten out differences of opinion about the halal-haram of buying and selling virtual gold.*

2. WRITING METHOD

This research is a normative legal research. Soerjono Soekanto stated that normative research is library law research, whose library material is basic data which in (science) research is classified as secondary data.⁸ The approach that the researcher uses is a comparative law approach between civil law and Islamic law.⁹ According to Johnny Ibrahim, normative research can use several approaches, namely:

- a. statutory approach;
- b. concept approach (conceptual approach);
- c. analytical approach (analytical approach);
- d. comparative approach;
- e. historical approach (historical approach);
- f. philosophical approach (philosophical approach); and
- g. case approach.¹⁰

This research is a descriptive research, which is to provide data that is as accurate as possible about humans, circumstances or other symptoms. The intended descriptive research is primarily to reinforce hypotheses so that they can assist in strengthening old theories or within the framework of developing theories, as well as describing events that occur in society by approaching the applicable laws and regulations.

Sources of data used in this study are:

- a. The source of the revelation data is the data source that comes from the verses of the Qur'an and the Hadith of the Prophet Muhammad.
- b. Secondary data sources; namely data consisting of official documents, publications on law including textbooks, legal dictionaries, legal journals, and comments on court decisions.¹¹ Secondary data sources consist of: Primary legal materials, namely binding legal materials.¹²

Primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, the Civil Code, Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016, Compilation of Sharia Economic Law, MUI Fatwa No. 77/DSN-MUI/2010 con-

6 Serfianto D. Purnomo, et al, Smart Book on Investment and Pawning Gold. Jakarta:PT. Gramedia Pustaka, 2013.

7 Agincourt Resources Member of Astra, 4 Benefits of Gold Mining for Community Lives, <https://www.agincourtresources.com/read-agincourt/4-benefits-pertambangan-emas-bagi-life-community/>, posted on 25 October 2021, accessed on November 6, 2021.

8 Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Jakarta : Rajawaliipers, 2014, page. 24.

9 Dyah Ochtorina Susanti dan A'an Efendi, *Penelitian Hukum Legal Research*, Jakarta:Sinar Grafika, 2015, page. 119.

10 Johny Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif*, Malang: Bayumedia Publishing, 2017, page. 30.

11 Ida Hanifah, dkk. 2018. *Pedoman Penulisan Tugas Akhir Mahasiswa*. Medan: Pustaka Prima. page 20.

12 Soekanto dan Sri Mamudji, *Op.Cit.*, page. 62

cerning non-cash buying and selling.

Secondary legal materials are mainly law books, including research and legal journals. Researchers try to use books and journals that are the focus of the problem topic raised in the study.

Tertiary legal materials In this study also used and obtained data sourced from internet sites, especially in the inclusion of several cases on the topic of the research problem.

The data collection tool used in this research is a document study (library research) directly by visiting the library both inside the UMSU campus and other libraries that can be accessed (offline), as well as document studies conducted online through internet media by accessing websites. which contains journals, research results (thesis, thesis) that are relevant to the problem of this research.

To analyze the data in this study used qualitative analysis. Qualitative analysis is research that refers to legal norms contained in legislation and court decisions as well as norms in society.¹³

3. RESEARCH RESULTS AND DISCUSSION

a. Definition of Disruption

In language, disruption means disturbance or chaos; disturbance or problems which interrupt an event, activity, or process. According to Merriam-Webster, disruption is the act or process of interrupting something: a break or interruption in the normal course of or continuation of some activity, process, etc. In practical terms, disruption is a change in various sectors due to digitalization and the Internet of Things (IoT).

Examples of disruption are print media becoming online media or news sites, basic motorcycle tax- is becoming online motorcycle taxis (ojol), conventional taxis or metered taxis becoming online taxis, malls or markets becoming marketplaces or online shops (e-commerce), and other digitalization.¹⁴

The notion of disruption that is popular today comes from the book *The Innovator's Dilemma* (1997) written by Clayton M. Christensen.¹⁵ Christensen's theory did not immediately become famous. It was only in 2015 that his theory was responded to and corrected, among others, by King and Baartartogtokh.¹⁶ Very close to the publication of *The Innovator's Dilemma*, Francis Fukuyama published *The Great Disruption: Human Nature and the Reconstitution of Social Order* (1999).¹⁷ Fukuyama chose the perspective of social science in analyzing changes in society towards the end of the 20th century. Do Christensen and Fukuyama understand "disruption" in the same sense? No, it can even be said to contradict each other.

What Christensen and Fukuyama have in common is that they write in the context of the same era when information technology began to make definitive progress and rapidly influence patterns of relationships and communication. The book *The Innovator's Dilemma* and *The Great Disruption* was published when the internet as a concrete form of information technology began to shorten the distance so that the world became like a "moringa leaf" or a global village according to Marshall McLuhan's term. MacLuhan¹⁸ envisions the world becoming smaller and smaller thanks to electric technology and the same rapid flow of information to every part of the world. This means that the development of in-

13 Zainuddin Ali, 2016, *Metode Penelitian Hukum*, Jakarta: Sinar Grafika , page. 105

14 Remoltea, *Pengertian Disrupsi dan Contohnya*, <https://romeltea.com/pengertian-disrupsi-dan-contohnya/>, diposting pada 16 April 2019, diakses pada 6 November 2021

15 Clayton M. Christensen, *The Innovator's Dilemma: When Technologies Cause Great Firms to Fail*, Boston, Massachusetts: Harvard Business School Press, 1997.

16 Andrew A. King and Baljir Baartartogtokh, "How Useful is the Theory of Disruptive Innovation?", in MIT Sloan Management Review (Fall 2015)

17 Francis Fukuyama, *The Great Disruption: Human Nature and the Reconstitution of Social Order*, London: Profile Books, 1999.

18 The term "global village" became popular thanks to two books written by Marspagel McLuhan, namely *The Gutenberg Galaxy: The Making of Typographic Man* (1962) and *Understanding Media* (1964).

formation technology has radically changed the sociological structure of life. The forms of communication, especially the ways of conveying messages, opinions, criticisms, and evaluations changed radically. Thanks to the speed of information and transportation that technology creates, cultures that are alienated, or at least considered far away, become close and intermingle. The vast world became dense. Social networks are created that become catalysts for social change. In the context of that era, at the end of the 20th century, e-commerce began to develop which caused commercial activities to reach all over the world. However, the information technology that created the global village was also used as a criminal instrument. Perpetrators of terrorism and various crimes use the same facilities. Thus, the development of advanced technology has an impact both on social chaos and on fundamental changes in the world of goods and services industry. In that context Fukuyama and Christensen talk about “disruption”, but with different understandings. Fukuyama understands disruption as a disruption to the social order, while Christensen sees disruption as a profitable innovation opportunity.

Disruption is an era where innovation and change occur on a large scale and fundamentally change all existing systems, arrangements and landscapes in new ways. The Industrial Revolution 4.0 encourages disruption in various fields. The first reason for the deruption is that it can be seen from the changes that occur directly in the business mode section, so that those who do not use this method will leave the ecosystem and as a result, players who are still using the old methods and systems will lose in the competition, reported from www.ui.ac.id.

Not only changes that occur in business and the economy, but the main change from the emergence of disruption since the advent of digital technology, which has changed the system in Indonesia and globally. The development of digital technology can replace human work. Digital platforms are capable of transforming production, distribution and advertising in the media.

From here, learning through the media entrepreneurs begin to learn and adapt quickly and then change their business model. Not only that, the change to a digital system causes human activities to point more towards digital technology experiments. People also enjoy the digital world more, for example, the information that is presented conventionally is now no longer displayed that way but is already in the digital world.

b. The Element of Riba in Virtual Gold Trading

Muslims in modern life as it is today, face quite a challenge. On the one hand, he must be able to keep up with the era of disruption and developments, but on the other hand he must also stick to Sharia law. In other words, Muslims must be able to survive in the current era of globalization by still adhering to Sharia values. In economic activities, for example, buying and selling using Sharia principles is essentially helping each other with fellow human beings with the legal provisions regulated in Islamic law. Its nature demands the pleasure of both parties. Transactions with the contemporary Islamic economic system can be found in various sectors, one of which is in the sale and purchase of gold.

Gold is a very easy and flexible commodity to be an investment because this gold investment does not require a special knowledge as if you want to invest in stocks. As is known, the price of gold is increasing day by day. Gold is often identified with items of high value, cutting edge, prestigious and elegant, so people often call it precious metal.¹⁹ In recent years, Indonesia has experienced quite significant developments in the world of trade and business. This development is getting faster when Indonesia enters the era of disruption, where new innovations in the business world begin to emerge. One of them is a buying and selling system with online applications that can reach various marketing targets in all fields, including buying and selling virtual gold. Whereas according to the hadith narrated by Abu Daud Tirmizi,

19 Atma Kusuma, *Pelaksanaan pembiayaan Mulia dengan Akad Murabahah pada PT pegadaian (Persero) Syariah Kta Pekanbaru*, Riau: Respository Universitas Riau, 2013, Page. 3

Nasa'i, and Ibn Majah, with the Muslim text from 'Ubadah bin Shamit, buying and selling gold must be done in cash. However, if you look at the practice of buying and selling virtual gold, it is impossible to do cash. Then, what are the views of some scholars who say there is an element of usury in buying and selling virtual gold?

According to the Shafi'i school, what is meant by buying and selling is exchanging goods for goods or goods for money, by releasing property rights from one person to another on the basis of willingness between the two parties who have entered into a sale and purchase agreement.²⁰ Article 20 Compilation of Sharia Economic Law, bay' is buying and selling between objects and objects, or the exchange between objects and money.

Some of the problems that can arise in this virtual transaction are:

1. The quality of the goods sold, this is because the buyer does not see directly the goods to be purchased. The seller only sees the image display of the goods to be sold;
2. Very high potential for fraud, where when the buyer has made a payment but the goods have not been delivered to the buyer;
3. Potential default from the buyer where when the seller has sent the goods to the buyer but the payment has not been made by the buyer.²¹

Scholars who forbid revealing the evidence with general hadiths about usury, which among other things assert: "Do not sell gold for gold, and silver for silver, except in cash". They state that gold and silver are tsaman (price, means of payment, money), which should not be exchanged in installments or respite, because it causes usury. Scholars who say it is permissible to put forward the following arguments:

- a. That gold and silver are goods (sil'ah) that are sold and bought like ordinary goods, and are no longer tsaman (price, means of payment and money).
 - b. Humans really need to buy and sell gold. If it is not allowed to buy and sell gold in installments, then the benefit of humans will be damaged and they will experience difficulties.
 - c. Gold and silver become like clothes and goods, and are not tsaman (price, means of payment, money). Therefore, there is no usury (in exchange or buying and selling) between jewelry and the price (money), just as there is no usury (in exchange or buying and selling) between the price (money) and other goods, even though they are not of the same type.
 - d. If the door (buying and selling of gold in installments) is closed, then the door of debt and credit is closed, the community will experience immeasurable difficulties.²²
- c. The Law of Buying and Selling Virtual Gold according to the View of Islamic Law**

The legal basis for buying and selling is in QS. An-Nisa verse 29: "O you who believe, do not eat each other's property in a vanity way, except by way of commerce which is carried out with pleasure among you. And do not kill yourselves; Verily, Allah is Most Merciful to you."

The legal basis for buying and selling in the hadith of the Prophet include:

1. From Rifa'ah ibn Rafi' that the Messenger of Allah was asked by one of the companions what is the best job? The Messenger of Allah (saw) at that time replied: the business of human hands and blessed trading. (Narrated by Al-Bazzah and al-Hakim).
2. Buying and selling is based on likes and dislikes". (HR. Al-Bayhaqi).
3. An honest and trustworthy trader is equal (his place in heaven) with the prophets, the sadiqin and the martyrs". (HR. Tirmidhi).

20 Mardani, *Fiqh Ekonomi Syariah*, Jakarta: Kencana, 2012, page. 77

21 Retno Dyah Pekerti, Eliada Herwiyanti, "Transaksi Jual-beli Online dalam Perspektif Syariah Madzhab Asy-Syafi'i", dalam *Jurnal Ekonomi, Bisnis, dan Akuntansi (JEBA)*, Volume 20, Nomor 02, Tahun 2018.

22 Ibid.,

Buying and selling can be said to be legal if the pillars and conditions have been fulfilled. The majority of scholars say that there are 4 (four) pillars of buying and selling, namely:

- a. People who have contract (seller and buyer);
- b. Sighat (ijab and qabul);
- c. Ma"qud alaih (things or goods);
- d. There is an exchange rate for substitute goods.

Article 60 of the Compilation of Sharia Economic Law (KHES) adds the pillars and conditions for buying and selling, namely the existence of an agreement. The agreement is made to meet the needs and expectations of each party, both for the necessities of life and for business development. Article 61 of the KHES states that when there is a change in the sale and purchase contract due to a change in price, the latter contract shall be declared valid. Buying and selling in the view of Islam is part of the way to help each other among human beings. This means that buying and selling transactions should not only be seen as a means to seek profit solely from the seller's side; but also must be seen as a means to meet the needs of life from the side of the buyer. Based on this condition, buying and selling activity is a very noble act so Islam legalizes buying and selling.

After the development of technology, the practice of buying and selling gold in Indonesia has changed. In recent years, virtual²³ trading has begun which does not need to meet with buyers or sellers, in the form of gold that cannot be physically (virtually) held. Virtual gold is currently a trend in society because it has advantages from the security aspect of home thieves.

Virtual gold owners only hold gold accounts as proof of ownership of the gold. In addition, the time efficiency of selling virtual gold can be beneficial for those who invest in gold. With digital technology, gold sellers can sell virtual gold directly without having to interact with other people.

This virtual buying and selling is also known as virtual property. Virtual property is a code that is created using the system contained in computers and the internet in the virtual world, which is formed in such a way and is treated the same as objects that exist in the real world.²⁴

Based on the opinion of Brown and Raysman quoted by Dio Ariesky that: "Virtual property is an asset or property that has value. Valuable means having economic value, can be exchanged for real money by way of buying and selling, or through exchange agreements between virtual property."²⁵

Buying and selling is virtually permissible and legal if it fulfills the conditions and pillars of buying and selling that have been determined according to Islamic law, as well as the pillars of buying and selling according to Islam, namely the existence of a seller, a buyer, the goods being sold and the saying of consent and consent. As with conventional buying and selling, the terms and conditions for buying and selling online are the same as buying and selling offline, but there are additional requirements in online buying and selling transactions, including:

1. Does not violate religious laws, such as buying and selling illicit goods, fraud and fraudulent trading.
2. There is a sale-purchase contract, an agreement between sellers and buys if something unexpected happens.

23 In the Big Indonesian Dictionary (KBBI) the meaning of virtual is "virtual / virtual / real: democracy in the sense. The word "by" is defined as "as if or as if", so the word virtual is interpreted as if it were real even though it is not actually something real. The word virtual in the KBBI is also interpreted as a kind of simulated state in real form. Based on that meaning, the word virtual can also be interpreted with the term virtual or something that is not real, but seems real.

24 Dio Ariesky, "Virtual Property Dalam Hukum Benda Indonesia". Skripsi. Fakultas Hukum Universitas Islam Indonesia, Yogyakarta, 2016, page 63.

25 Ibid, page 64.

3. There are strict and clear controls, sanctions and legal rules from the government to ensure the security of buying and selling online so that unwanted things do not happen.²⁶

In transactions using the internet, the provision of applications for goods requests by the seller on the website is an agreement and filling and sending applications that have been filled in by the buyer is qabul. The goods can only be seen in the picture and the specifications are clearly and completely explained, with explanations that can affect the selling price of the goods. After the ijab qabul, the seller asks the buyer to transfer the money to the seller's bank account. After the money is received, the new seller sends the goods via courier or freight forwarder. So, transactions like this (virtual buying and selling) the majority of scholars justify it as long as there is no element of gharar or ambiguity, by providing specifications in the form of images, types, colors, shapes, models and those that affect the price of goods.²⁷ And since there are rules, there's nothing wrong with trying to find out more about investing in gold today. Moreover, now we can easily buy digital gold via online platforms.

MUI decided the law to save gold is in the permissible category. Mubah means permissible to do, even more inclined to be recommended. The Indonesian Ulema Council (MUI) issued a fatwa regarding buying and selling gold in cash. The MUI has decided that it is legal to save gold on credit in the permissible category, aka allowed. However, there are 3 terms and conditions on how to invest in halal gold. Gold investment is the most recommended in Islamic law. Gold investment is relatively stable because the price always increases progressively from year to year.

There are several steps that can be taken so that buying and selling virtually becomes true and legal according to Islamic sharia, including:

1. Is a halal product. The obligation to maintain halal and haram laws in buying and selling objects remains in effect, including in online buying and selling. Islam forbids the proceeds of buying and selling goods or services that are unlawful;
2. Products sold must have benefits. The product other than halal must have benefits. Sellers must sell products that are truly useful. Not only selling products, but also being useful for buyers and for religion;
3. Products sold must be deliverable. The product sold online should be the property of the seller himself or at least he has the power of attorney over the product;
4. Clarity of seller status. Another important thing that must be considered in every sale and purchase is the clarity of the seller's status. Whether as a seller as well as the owner, or at least as a representative of the owner of the goods, so that he is authorized to sell the goods. Or only offer goods procurement services, then get a certain reward. Or is it just a merchant who does not have the goods but can bring in the goods that the buyer or customer wants. The seller's status that is clearly stated on the website will prove that the seller is real and honest;
5. Matching the price with the quality of the goods. In buying and selling online, many buyers are disappointed and upset. Examples of cases after seeing clothes that have been purchased online it turns out that the quality of the fabric or the size does not match;
6. Honesty. Online business, even though it has many advantages and conveniences, is not without problems. Various problems can arise in buying and selling online. Especially when it comes to trust. It could be that someone made a purchase or an order, but after the goods were delivered, they did not make a payment or did not pay off the remaining payment. If as a buyer, it could be that after making a payment, or after sending a down payment, it turns out that the seller lied and did not deliver the goods. Then the goods sent do not match what is described on the website or do not match what the seller says.²⁸

26 Misbahuddin, *E-commerce dan Hukum Islam, Cet. ke-1*, Makassar: Alauddin University Press, 2012, page 32.

27 Ibid, hlm. 379.

28 Rodame Monitorir Napitupulu, "Pandangan Islam Terhadap Jual-beli Online", dalam At-

Islam allows its people to buy and sell virtually, if the pillars and conditions for buying and selling are fulfilled in full. It is impossible to stop the progress of the times, because human thinking is increasingly advanced, so Islamic law with a cheap (elastic) nature must be able to answer the challenges of an increasingly large era. Human dynamism as something that is impossible to be rejected, let alone avoided, requires that Islamic law is always present in filling the various dynamics of life that we face. Regarding the sale and purchase of gold in cash, there are differences of opinion among the scholars. According to Shaykh Al Jumu'ah, mufti al-Diyar al-Mishiriyah, al-Kalim: "It is permissible to buy and sell gold and silver that have been made or are prepared to be made in installments at this time where they are no longer treated as a medium of exchange in society. and both have become goods (sil'ah). Like other goods that are traded with cash and tough payments. In both there are no pictures of dinars and dirhams that are in (the exchange) is required cash and handed over as stated in the hadith narrated by Abu Sa'id al-Khudri that the Messenger of Allah said: "Do not sell gold for gold except with the same size, and do not sell gold that is unseen (not handed over at that time) with gold in cash." (Narrated by al-Bukhari).²⁹

This hadith contains illat that gold and silver are a medium of exchange and transactions in society. When this condition is gone, then there is no such law because the law rotates (applies) along with its illat, whether it exists or does not exist. On that basis, there is no syara' prohibition to trade gold that has been prepared to be made in installments".

According to Khalid Muslih in the law of ba'i al-Dzahab bi al-Nuqud Taqsith that globally there are two opinions of scholars about buying and selling gold with paper money for non-cash:

- a. First opinion: haram: this is the opinion of the majority of scholars, with different arguments (istidlal). The most prominent argument in this opinion is that paper money and gold are tsaman (price, money): while tsaman should not be traded except in cash. This is based on the hadith of Ubadah bin al-Shamit that the Prophet SAW said, "if this type (of usury property) is different, then buy and sell it as you wish if it is done in cash".
- b. Second opinion: may (buying and selling gold in cash). This opinion is supported by a number of contemporary jurists: among the most prominent is Sheikh Abdurrahman As-Sa'di.

Although they differ in providing arguments (istidlal) for this view, it's just that the argument that forms their basis is the opinion expressed by Sheikh al-Islami Ibn Taymiyah and Ibn Qayyim regarding the permissibility of buying and selling jewelry (made of gold) with gold, with a deferred payment. (not cash). Regarding this, Ibn Taymiyah stated in the book al-Ikhtiyarat.³⁰

So in this hadith it is permissible to buy and sell jewelry made of gold and silver of any kind without the condition that it must be of the same level (tamatsul), and the excess is used as compensation for jewelry making services, both buying and selling with cash payments or with deferred payments, as long as the jewelry it is not intended as a price (money). According to Ibn Qayyim that jewelry (from gold or silver) that is allowed, because making (become jewelry) is permissible, changing its status to a type of clothing and goods, not a type of price (money). That's because by making this (becoming jewelry), the jewelry from (gold) has gone out of purpose as a price (no longer into money) and has even been intended for commerce. Therefore, there is no prohibition against trading gold jewelry of the same type."

According to Shaykh Abd al-Hamid Syauqiy al-Jibaly in Bai' al-Dzahab bi al-Taqsith, regarding the law of buying and selling gold in cash, scholars differ as follows:

- a. Prohibited; and this is the opinion of the majority of jurists from the Hanafi, Maliki, Shafi'i and

Tijarah, Volume 1, No.2, Juli-Desember 2015, page 134-138.

29 Mulya Gustina, "Tinjauan Hukum Islam Terhadap Jual-beli Emas Online Melalui Media Buka Emas di Bukalapak". Skripsi. Surabaya: Universitas Islam Negeri Sunan Ampel Surabaya, 2018, page. 79

30 Ibid., hlm. 80

Hambali schools;

- b. Can; and this is the opinion of Ibn Taymiyah, Ibn Qayyim and contemporary scholars who agree.³¹

Furthermore, in Book II of the Compilation of Sharia Economic Law article 20 (point 34) KHES Salam contract is a financing service related to buying and selling whose payment is made at the same time as ordering goods. The contract in this area is carried out first, then the goods are delivered at a later time. The sale-purchase agreement of salam or bai'salam contract is bound by the existence of consent and qabul as in ordinary sales.

Sale and purchase of greetings can be done on condition that the quantity and quality of the goods are clear. The quantity of goods can be measured with a measure or scale and or meter. The specifications of the goods ordered must be fully known by the parties.

Sale and purchase of greetings must meet the conditions that the goods sold, the time and place of delivery are clearly stated. Payment of goods in the sale and purchase of salam is made at the agreed time and place. Salam buying and selling must meet the conditions that the goods sold, the time and place of delivery are clearly stated. Payment of goods in the sale and purchase of salam is made at the agreed time and place. The forerunner of virtual buying and selling agreements at the time of the Prophet, which is marked by the letter al-Baqarah verse 282:

Meaning: O you who believe, if you do not pray in cash for a specified time, then you should write it down. And let a writer among you write it right.³²

According to Article 101 to Article 102 of the Compilation of Sharia Economic Law, the terms of sale and purchase of salam are as follows:

1. The quality and quantity of goods is clear. The quantity of goods can be measured by a measure, or a scale, and/or a meter.
2. The specifications of the ordered goods must be fully known by the parties.
3. The goods sold, the time and place of delivery are clearly stated.
4. Payment of goods can be made at the agreed time and place.

Some contemporary scholars say that buying and selling gold can be done virtually by buying and selling greetings. This is because the transaction of buying and selling gold virtually has many similarities with buying and selling as-salam. In buying and selling as-salam, the buyer submits the money first before receiving the merchandise. So the practice of buying and selling gold online through BukaEmas media on Bukalapak is allowed because the terms and conditions that exist in the sale and purchase of greetings have been fulfilled.

4. CONCLUSION

The difference in argument (istidlal) for the view of buying and selling virtual gold is an argument, each of which has a basis. According to Shaykh Abd al-Hamid Syaunqiy al-Jibaly in Bai' al-Dzahab bi al-Taqsith, regarding the law of buying and selling gold in cash, scholars have different opinions. Prohibited; and this is the opinion of the majority of jurists from the Hanafi, Maliki, Shafi'i and Hambali schools; Can; and this is the opinion of Ibn Taymiyah, Ibn Qayyim and contemporary scholars who agree.

Furthermore, in Book II of the Compilation of Sharia Economic Law article 20 (point 34) KHES Salam contract is a financing service related to buying and selling whose payment is made at the same time as ordering goods. The contract in this area is carried out first, then the goods are delivered at a later time. The sale-purchase agreement of salam or bai'salam contract is bound by the existence of consent

31 Ibid., hlm. 81

32 Ibid.

and qabul as in ordinary sales.

With the basis of Article 102 of the KHES, contemporary scholars say that buying and selling gold can virtually be carried out by means of buying and selling greetings. This is because the transaction of buying and selling gold virtually has many similarities with buying and selling as-salam. In buying and selling as-salam, the buyer submits the money first before receiving the merchandise. So the practice of buying and selling gold online through BukaEmas media on Bukalapak is allowed because the terms and conditions that exist in the sale and purchase of greetings have been fulfilled.

5. SUGGESTIONS

According to the author, some people who are Muslim who adhere to the Syafi'I Madzhab can use the Market Place Application features such as Shopee, Tokopedia and so on to fulfill the cash element in virtual buying and selling. Because in Market Places such as Shopee, the receipt of goods and money can occur simultaneously, namely by; When the goods (gold) arrive at the buyer's place, the goods can be checked immediately. After the goods match, the Buyer can click "Order Received" at that time the new money (means of payment) enters the Seller's account. So that the cash element can be met.

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