

## **Al-Tijarah Madiyyah and Ethical Review in a Transaction Based on the Perspective of Islamic Law**

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**Abstract:** Al-tijārah Mādiyyah, or what is referred to as the sale between fellow human beings in Islam, is limited by certain laws that are very detailed and vary according to the type of sale. The development of digital technology in business affects both online and offline transaction activities and creates new behaviors and violations based on Sharia law. Hence, the objective of this study is to delve further into the traditions and detrimental effects of each type, supplemented with descriptions of specific instances from prior studies. This study employs a library-based research model that relies on verbal information obtained from textual sources, primarily the Quran, Hadith, scholar viewpoints, and previous research. The researcher initiated an investigation into the verses of the Quran and the Hadith, thereafter adhering to the viewpoints of past scholars and uncovering recent instances of Sharia law transgressions based on prior studies on commercial transactions. This research provided additional references to the concept of Al-tijārah in Islam, which motivated other researchers to investigate specific trade cases and find solutions based on Islamic Sharia clauses. It also addressed the incomplete definitions of the type Al-Tijārah in many previous studies. This research also serves as a preventative strategy to ensure that every Muslim does not compromise their spiritual well-being in pursuit of worldly advantages in every commercial transaction.

**Keywords:** Manners, Al-Tijārah Mādiyyah, Haram, Transaction

## Introduction

Al-Tijārah, known as "trade" in English<sup>1</sup>, is one of the human survival needs. In Islam, Al-Tijārah is given meticulous consideration. With the advancement of digital technology in the business industry, various transaction activities like purchasing, saving, loans, social gatherings, banking, and investing have evolved into online transactions. However, this advancement has also brought about new concerns regarding sophisticated crimes known as cybercrime<sup>2</sup> like trading Instagram followers.<sup>3</sup> Technological advancements also impact the establishment of new social behaviors and a new hierarchy of living needs, enabling every business participant or customer to conduct transactions remotely. Technological advancements enable users to engage in illegal activities, including new forms of fraud.<sup>4</sup> The advancement of digital technology and the economic crisis both exert significant effects on social transformation.<sup>5</sup> To prevent the occurrence of sharia-based illegal trade solely at the stage of "transaction sentences" (ṣīghat), as shown in instances of Multi-Level Marketing (MLM) and fraudulent investments,<sup>6</sup> with various modes such as Forex<sup>7</sup>, stock index<sup>8</sup>, gold<sup>9</sup>, crypto<sup>10</sup>, in addition to being present in other commodities,

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<sup>1</sup>Achmad Lutfi, "Penafsiran Ayat-Ayat Ekonomi Dalam Al-Qur'an," *Jurnal For Islamic Social Science Holistik* 12, no. 2 (2011): 61–86, <https://doi.org/10.24235/holistik.v12i2.97>.

<sup>2</sup>Noor Rahmad, "Kajian Hukum Terhadap Tindak Pidana Penipuan Secara Online," *Jurnal Hukum Ekonomi Syariah* 3, no. 2 (2019): 103–17, <https://doi.org/https://doi.org/10.26618/j-hes.v3i2.2419>.

<sup>3</sup>Nahdiah Nahdiah and Syarif Hidayatullah, "Analisis Bai' Gharar Terhadap Jual Beli Follower Di Instagram," *Al-Mizan Jurnal Hukum Dan Ekonomi Islam* 3, no. 2 (2019): 1–130, <https://doi.org/https://doi.org/10.33511/almizan.v3n2.92-113>.

<sup>4</sup>Almira Caesar Xaviera, "Unsur Penipuan Usaha Ilegal Dalam Skema Piramida" 20, no. 2 (2021): 1–23, <https://doi.org/https://doi.org/10.32816/paramarta.v20i2.116>.

<sup>5</sup>Cahya Wulandari and Sonny Saptoajie Wicaksono, "Tindak Pidana Perdagangan Orang ( Human Trafficking ) Khususnya Terhadap Perempuan Dan Anak : Suatu Permasalahan Dan Penanganannya Di Kota Semarang," *Yustisia Edisi 90*, 2014, 15–26, <https://doi.org/https://doi.org/10.20961/yustisia.v3i3.29272>.

<sup>6</sup>Made Aswin Ksamawantara, Johannes Ibrahim Kosasih, and I Made Minggu Widyantara, "Perlindungan Konsumen Terhadap Penipuan Yang Dilakukan Broker Forex Ilegal," *Jurnal Interpretasi Hukum* 2, no. 2 (2021): 281–86, <https://doi.org/10.22225/juinhum.2.2.3426.281-286>.

<sup>7</sup>Isyama Eka Nurmardani and Abraham Ferry Rosando, "Perlindungan Hukum Bagi Konsumen Terhadap Penipuan Yang Dilakukan Oleh Trading Forex," *Indonesia Journal of Law and Social-Political Governance* 3, no. 2 (2023): 1780–1815, <https://doi.org/https://doi.org/10.53363/bureau.v3i2.280>.

<sup>8</sup>Sutanto Utomo, "Perlindungan Hukum Nasabah Perdagangan Produk Derivatif Index Saham Berdasarkan Undang-Undang Nomor 10 Tahun 2011," *Jurnal*

mabi' (a form of fraud) is also prevalent in the trade of ribawi, as well as in the abhorrent practices of human trafficking, particularly involving children and women<sup>11</sup> and other types of trade that are prohibited such as Bai' An-Najsy<sup>12</sup>, Mukhādarah<sup>13</sup>, Gharar<sup>14</sup>, Mulamasah<sup>15</sup>, and others. Indeed, numerous corporations are regarded as not having properly adopted Islamic Tijārah norms.<sup>16</sup>

This research aims to enhance society's comprehension of lawful commerce in line with Islamic sharia by examining instances of fraud in transactions, usury, and non-compliant ways of payment known as 'Iwad'. This research also uncovers the diverse trading regulations promulgated by Ulama and Mujtahidūn (the outcomes of Istinbat).

Extensive research has been conducted on the term "Al-Tijārah" in the Quran, as well as studies specifically examining incidents related to "Al-Tijārah". Conversely, numerous studies have also investigated the various forms of trading. Prior studies predominantly focused on Islamic principles related to commercial transactions, neglecting to incorporate

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Locus Penelitian Dan Pengabdian 1, no. 8 (2022): 647–60, <https://doi.org/10.58344/locus.v1i8.289>.

<sup>9</sup>Paramita Prananingtyas, "Perlindungan Hukum Terhadap Investor Emas," Masalah-Masalah Hukum 47, no. 4 (2018): 430, <https://doi.org/10.14710/mmh.47.4.2018.430-444>.

<sup>10</sup>Gonaricha Amelia, "Penegakan Hukum Terhadap Pelaku Tindak Pidana Penipuan Investasi Ilegal Uang Kripto Di Perusahaan E-Dinar Coin Cash (EDCCash) Ditinjau Dari Undang-Undang No.19 Tahun 2016 Perubahan Atas Undang-Undang No.11 Tahun 2008," Jurnal Riset Ilmu Hukum 1, no. 2 (2022): 117–23, <https://doi.org/10.29313/jrih.v1i2.529>.

<sup>11</sup>Wulandari and Wicaksono, "Tindak Pidana Perdagangan Orang ( Human Trafficking ) Khususnya Terhadap Perempuan Dan Anak : Suatu Permasalahan Dan Penanganannya Di Kota Semarang."

<sup>12</sup>Ahmad Asy-Syawaf, "An-Najsy Baina Al-Asholah Wal-Mu'ashoroh - Dirasah Fiqhiyyah Muqaranah ((Najash) between Tradition and Modernity Comparative Jurisprudence Study)," Jordan Journal of Islamic Studies 17, no. 1 (2019), <https://doi.org/http://hdl.handle.net/123456789/2079>.

<sup>13</sup>Muhammad Hanafi Mahmud, "Bai' Al-Mukhādarah - Dirāsah Fiqhiyyah Mu'āsharah," Al-Azhar University Islamic and Arabic Studies for Women in Damanhour 8, no. 1 (2016), [https://jcia.journals.ekb.eg/article\\_70151\\_938630b01d7ba3e15d31d14ca81abdfc.pdf](https://jcia.journals.ekb.eg/article_70151_938630b01d7ba3e15d31d14ca81abdfc.pdf).

<sup>14</sup>Nuhbatul Basyariah, "Larangan Jual Beli Gharar: Kajian Hadist Ekonomi Tematis Bisnis Di Era Digital," Mukaddimah: Jurnal Studi Islam 7, no. 1 (2022): 40–58, <https://doi.org/10.14421/mjsi.71.2902>.

<sup>15</sup>Muchtar Evan Hamzah, "Muamalah Terlarang: Maysir Dan Gharar," Jurnal Asy-Syukriyyah 18 (2017): 82–100, <https://doi.org/https://doi.org/10.36769/asy.v18i1.73>.

<sup>16</sup>Destri Budi Nugraheni, "Analisis Yuridis Akad Tabarru' Dan Akad Tijarah Dalam Produk Unit Link Syariah," Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada 28, no. 2 (2016): 215–31, <https://doi.org/https://doi.org/10.22146/jmh.16729>.

empirical evidence from real-life case studies. Previous research has demonstrated a limited focus on the theoretical dimensions of Al-tijārah Mādiyyah. Hence, this study distinguishes itself from prior research by offering a more comprehensive analysis, encompassing additional cases related to Al-tijārah Mādiyyah as examined in the previous research. Prior research has also neglected to incorporate an analysis of the social protocols associated with the process of purchasing and vending goods. This study diverges from prior studies in terms of its research objectives. The primary objective of this study is to investigate the prohibited forms of trading while also seeking to uncover the underlying rationales and justifications for these regulations deemed haram.

There have been many studies on the word Al-Tijārah in the Quran, as well as studies that focus on Al-Tijārah cases. Mahmud<sup>17</sup>, The user has conducted a study on the notion of Al-Tijārah as presented in Tafsir Al-Misbah. According to the interpretation provided in Al-Misbah, the term Al-Tijārah encompasses multiple meanings that are contingent upon the perspectives of the subject, object, and objective of commercial transactions. The author's analysis in Tafsir Al-Misbah identifies three distinct manifestations of Al-Tijārah, which are delineated as follows: trade conducted among individuals, trade interactions between Allah and humans, and trade interactions between God, humans, and other humans. Diyaurrahman et al. have also undertaken similar studies in this field<sup>18</sup> and Kusmila, et al.<sup>19</sup>. Faizah<sup>20</sup> has also made a study that applies the Muqaran exegesis method in comparing the opinions of Al-Qurtubi and Quraish Shihab. He found that the difference of opinion between the two lies in how to interpret the word Al-Tijārah in the Qur'an. Al-

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<sup>17</sup>Adilah Mahmud, "Konsep At-Tijarah Dalam Tafsir Al-Misbah Karya M.Quraish Shihab," *Jurnal Al-Asas* 3, no. 2 (2019): 87–108, <https://ejournal.iainpalopo.ac.id>.

<sup>18</sup>Diyaurrahman Diyaurrahman, Muh Nashirudin, and Asiah Wati, "Etika Perniagaan Di Dalam Al-Quran (Analisis Tafsir Ayat – Ayat Tijarah)," *SYARIKAT : Jurnal Rumpun Ekonomi Syariah* 5, no. 2 (2022): 82–92, [https://doi.org/https://doi.org/10.25299/syariat.2022.vol5\(2\).9607](https://doi.org/https://doi.org/10.25299/syariat.2022.vol5(2).9607).

<sup>19</sup>Kusmila Kusmila, Busra Febriyarni, and Hasep Saputra, "Telaah Makna Tijarah Dalam Al-Qur'an," *AL-HUDA Journal of Qur'anic Studies* 1 (2022): 135–60, <http://studentjournal.iaincurup.ac.id/index.php/alhuda/article/view/788>.

<sup>20</sup>Cut Faizah, "At-Tijārah (Perdagangan) Dalam AlQuran (Studi Komparatif Tafsir Jāmi' Li Ahkām Alquran Dan Tafsir Al-Mishbah) At-Tijarah (Trade) In Alquran (Comparative Study of The Tafseer Jami," *Jurnal At-Tibyan: Jurnal Ilmu Alqur'an Dan Tafsir* 2 (2017): 77–95, <https://doi.org/https://doi.org/10.32505/at-tibyan.v2i1.253>.

Qurtuby<sup>21</sup> uses a Fiqh scientific approach, while Quraish Syihab does not dominantly use a Fiqh approach.

On the other hand, many studies have also been carried out on the types of trading. The majority of previous studies talk about forbidden trading, such as Bai' An-Najsy<sup>22</sup>, Mukhādarah<sup>23</sup>, Gharar<sup>24</sup>, Mulamasah<sup>25</sup>, and others. This study takes a stance by offering examples of unlawful trading practices that have proliferated but have not been thoroughly examined. Meanwhile, studies on halal trading frequently focus on the terms of trading harmony, such as research by Muslim et al.<sup>26</sup> Starting with the consideration of collecting types of trading in one short piece of literature, this research attempts to collect all types of forbidden trading activities between human beings in one place with a brief discussion accompanied by a discussion of the practice of trading etiquette as a Muslim, with the hope of contributing to society and scholars by adding to the treasure trove of references. This study also aims to highlight options to focus on the most recent research subjects to compensate for the deficiencies of past research. This study employs a qualitative research paradigm, with data drawn from multiple sources<sup>27</sup> which connects trading activity between humans and Islamic literature concerning trade. As a result, this study must incorporate knowledge from the Quran and Sunah.<sup>28</sup> Al-Tijārah, which is discussed in this research, is one of the themes of the many al-Muṣṭalahāt al-Qurāniyyah mentioned in the Al-Qurān.<sup>29</sup> This type of research data is pure library data,<sup>30</sup> which means: research whose data is derived from verbal

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<sup>21</sup>Abī Abdillāh Muḥammad bin Aḥmad bin Abī Bakr Al-Qurṭuby, *Al-Jāmi'ū Liahkāmī Al-Qurān* (Beirut - Lebanon: Al-Resalah Publisher, 2006).

<sup>22</sup>Asy-Syawaf, "An-Najsy Baina Al-Asholah Wal-Mu'ashoroh - Dirasah Fiqhiyyah Muqaranah ((Najash) between Tradition and Modernity Comparative Jurisprudence Study)."

<sup>23</sup> Mahmud, "Bai' Al-Mukhādarah - Dirāsah Fiqhiyyah Mu'āsharah."

<sup>24</sup>Basyariah, "Larangan Jual Beli Gharar: Kajian Hadist Ekonomi Tematis Bisnis Di Era Digital."

<sup>25</sup> Evan Hamzah, "Muamalah Terlarang: Maysir Dan Gharar."

<sup>26</sup> Muslim Muslim, Saveta Choirunnisa, and Diah Dwi Wulandari, "Pandangan Pengurus Mui Provinsi Lampung Periode 2016-2021 Terhadap Bai' Al-Wafa'," *Asas* 13, no. 1 (2021): 44–60, <https://doi.org/10.24042/asas.v13i1.9330>.

<sup>27</sup> Abuddin Nata, *Metodologi Studi Islam* (Jakarta: Rajawali Pers, 2009).

<sup>28</sup> Abdul Mustaqim, *Metode Penelitian Al-Qur'an Dan Tafsir* (Yogyakarta: Idea Press Yogyakarta, 2015).

<sup>29</sup> Mustaqim.

<sup>30</sup> Nata, *Metodologi Studi Islam*.

information and obtained through written materials, particularly books and standard texts connected to the subject of study.<sup>31</sup>

The data obtained from the literature review comprises primary data in the form of specific verses that directly address al-Tijārah, as well as secondary data consisting of supplementary information that aids in the interpretation of the primary data. This supplementary data is sourced from tafsir books, hadith books, fiqh books, lughah books, and other relevant literature on the subject matter. The research employed the documentation approach as the data-gathering strategy.<sup>32</sup> In this stage, the author gathered a selection of poems that incorporate the terms al-Tijārah, al-bai', and al-syirā', as well as partial word fragments, utilizing the resource Mu'jam Kalimāt al-Qurān authored by Moḥammad Zaky Moḥammad Khiḍr. The purpose of this exercise was to subsequently categorize these verses based on their linguistic structure, including the arrangement of words and their derivatives. Additionally, supplementary data was acquired from several sources of pure Muamalah Fiqh literature and pertinent research studies. In addition to this, the author additionally gathered supplementary data from a range of previously published research articles.

This research focuses exclusively on the examination of transactional behaviors within the context of At-Tijarah. The complicated backgrounds of Mabi' and Šaman, which are relevant but require other research methodologies, are not explored in this study due to their impractical inclusion. One illustrative instance is the phenomenon of money laundering. Tania Irwan<sup>33</sup> revealed that the perpetrators used a variety of techniques to disguise the origin of the illicit money so that the government or institutions with specific authorities could not find it. They did this by putting the money into a financial system and then withdrawing it again as halal money. The topic of money laundering can be covered in the discussion of this research but cannot be discussed specifically or in detail because this research focuses on things that are visible during transactions.

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<sup>31</sup> A Muri Yusuf, *Metode Penelitian* (Jakarta: Kencana, 2016).

<sup>32</sup> Yusuf.

<sup>33</sup>Tania Irwan, "Implementasi Upaya Pemulihan Aset Korban Kejahatan Tindak Pidana Penipuan Dan Pencucian Uang Dalam Kasus First Travel," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 5, no. 4 (2021): 698–719, <https://doi.org/10.58258/jisip.v5i4.2223>.

This research contributes by taking the role of "adding references" for the public about Al-Tijārah in Islam, so that humans gain benefits in this world and the hereafter, at least they can avoid elements of fraud and types of trading that are detrimental to one party. This research assists traders in evaluating their trading practices so that they are by Islamic law. Furthermore, this research can help people who are solving problems or cases in the business they are running obtain assets that are more halal according to Islamic law.

## Results and Discussion

### *Ulama's opinion about Al-Tijārah*

The word Al-Tijārah is sometimes said to express the meaning of selling and sometimes the meaning of buying. According to Linguist Al-Tijārah, it is the masdar (verb) form of fi'il maḍī *تَجَرَ*, fi'il muḍāri' *يَتَجَرُ* maṣdar *تَجَرًا وَتِجَارَةً* which mean *بَاعَ وَشَرَى* (trading).<sup>34</sup> Rāghib al-Iṣfahāny explained that al-Tijārah is managing business capital to make a profit.<sup>35</sup> Isim fā'il (subject form) of the word *تِجَارَةٌ* (Tijārah) is *تَاجِرٌ* (Tājir), Specifically, those whose daily routines revolve around engaging in trade activities, assuming they possess specialized knowledge and skills in this domain.<sup>36</sup>

Wahbah al-Zuhaily explains that the basic meaning of al-Tijārah is trading activities to fulfill one's life's needs; The meaning of majāzi is pious deeds.<sup>37</sup> Al-Khāzin explained that the meaning of al-Tijārah is managing trading assets so that they develop as a result of achieving several profits.<sup>38</sup> Ibn Ḥajr al-Haitamy explained that al-Tijārah is moving commercial assets to develop.<sup>39</sup> Al-Ramly also conveyed the same

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<sup>34</sup>Muḥammad Ibn Mukrim Ibn Manzūr al-Afrīqy Al-Miṣry, *Lisān Al-'Arab* (Dār Ṣādir, n.d.), Jilid 4.

<sup>35</sup>Al-Ḥusain Ibn Muḥammad Ibn Mufaddal Al-Rāghib Al-Aṣfahāniy, *Al-Mufradāt Fi Gharīb Al-Qur'ān* (Beirut - Lebanon: Dār Al-'Ilm Al-Dār Al-Syāmiyyah, 1412).

<sup>36</sup>Ibrāhīm Muṣṭafa, *Al-Mu'jam Al-Wasiṭ* (al-Iskandariyah: Dār al-Da'wah, n.d.), Jilid 1

<sup>37</sup>Wahbah Ibn Muṣṭafa Al-Zuhayliy, *Al-Tafsīr Al-Munīr Fī Al-'Aqīdah Wasy-Syarī'ah Wal Manhaj* (Bairut: Dār al-Fikr al-Mu'āshir, 1418). Jilid 28

<sup>38</sup>Al-Khāzin 'Alā'uddin 'Ali Ibn Muḥammad Ibn Ibrāhīm Al-Baghdādy, *Lubāb Al-Ta'wīl Fi Ma'āni Al-Tanzīl* (Beirut - Lebanon: Dār Al-Kutub Al-'Ilmiyyah, 1415). Jilid 1.

<sup>39</sup>Syihāb al-Dīn Abū al-'Abbās Aḥmad Ibn Muḥammad Ibn 'Aly Ibn Ḥajr al-Haitamy, *Tuḥfah Al-Muḥtāj Bi Syarḥ Al-Minhāj* (Beirut: Dar Al Kotob Al Ilmiyah, 2016). Jilid 2

thing.<sup>40</sup> Shaikh Nawawy al-Bantany provided a more comprehensive elucidation, specifically referring to the utilization of commercial resources through activities such as purchasing, selling, or other methods to generate financial gain.<sup>41</sup> Abū al-Su'ūd explains in his tafsir book that the meaning of al-syirā' is an effort to get goods by handing over Šaman (money/means of payment), not an effort to give up money to get goods, even though basically in exchange, the law of interrelationship applies (cause and effect). So it can be concluded that, in essence, the purpose of buying is to get goods, not to part with money. The same thing applies to sales goals.<sup>42</sup>

### ***Al-Tijārah Mādiyyah in Al-Quran***

The term al-Tijārah, together with its many grammatical forms of I'rab, is referenced in the Qur'an a total of nine times, distributed among eight verses and seven letters.

No	الكلمة	Form	Count	Surah
1	تِجَارَةٌ	<i>Mufrad Nakirah Mansūb</i>	4	<ul style="list-style-type: none"> <li>• al-Baqarah/2: 282,</li> <li>• al-Nisā'/4: 29,</li> <li>• Fāṭir/35: 30</li> <li>• al-Jumuah/62: 11.</li> </ul>
2	تِجَارَةٌ	<i>Mufrad Nakirah Marfū'</i>	2	<ul style="list-style-type: none"> <li>• al-Nūr/24: 37</li> <li>• al-Taubah/9: 24</li> </ul>
3	تِجَارَةٍ	<i>Mufrad Nakirah Majrūr</i>	1	<ul style="list-style-type: none"> <li>• al-Saff/61: 10</li> </ul>
4	التِّجَارَةِ	<i>Maṣhūb Bi al Majrūr</i>	1	<ul style="list-style-type: none"> <li>• al-Jumuah/62: 11</li> </ul>
5	تِجَارَتُهُمْ	<i>Muḍāf Marfū'</i>	1	<ul style="list-style-type: none"> <li>• al-Baqarah/2: 16</li> </ul>

<sup>40</sup>Syams al-Dīn Muḥammad Ibn Abī al-'Abbās Aḥmad Ibn Ḥamzah Ibn Syihāb al-Din Al-Ramly, *Nihāyah Al-Muḥtāj* (Beirut - Lebanon: Dar Al-Fikr, 1984). Jilid 6

<sup>41</sup>Abī 'Abd al-Mu'ṭi Muḥammad Ibn 'Umar Ibn 'Aly Nawawy al-Jawy al-Bantany, *Nihayah Al-Zain* (Beirut - Lebanon: Dar Al Kotob Al Ilmiyah, 2002).

<sup>42</sup>Abū al-Su'ūd, Muḥammad Ibn muḥammad Al-'Imādi, *Irsyād Al-'Aql Al-Salīm Ila Mazāyā Al-Kitāb Al-Karīm* (Beirut - Lebanon: Dār Ihyā' al-Turāts al-'Araby, 1994). Jilid 1



Of all the verses about Al-Tijārah in the Al-Quran, 3 (three) verses specifically discuss trading activities between humans (Al-Tijārah Mādiyyah), namely An-Nisa/4: 29–30, Al-Nur/24: 37, and Al-Jumuah/62: 11. Al-Nisā'/4:29–30 came down in Medina, as is usually the case with the verses collected in Surah an-Nisā'.<sup>43</sup> Al-Andalusy stated that this verse explains the requirements for obtaining halal property.<sup>44</sup> Muḥammad Mahmūd Hijāzy explained that an-Nisa'/4:29 prohibits humans from being greedy and eating or taking other people's property in ways that are not permitted by Islamic sharia. This statement also means a prohibition against disputes to obtain property. In other words, efforts to obtain wealth must be based on the principle of mutual consent and without any element of injustice. So efforts to obtain property must be based on mutual agreement, no lies, no fraud, no cheating<sup>45</sup> gambling, An-Najsy<sup>46</sup>, Mukhādarah<sup>47</sup>, Gharar<sup>48</sup>, Mulamasah<sup>49</sup>, and others. Az-Zuhaili stated that lies, forgery, and fraud can result in a trade being haram.<sup>50</sup> Ibn Kaṣīr also gives examples of baṭīl in trading activities such as ḥīlah (engineering against Sharia law), which is considered to violate Sharia law, the same as deliberately manipulating usury transactions so that they are not usury by nature.<sup>51</sup> Al-Maraghy explained in more detail that the previous verse explained the procedures for managing the assets of orphans, the prohibition on handing over the management of assets to stupid people, the obligation to hand over the dowry to the woman one marries, the prohibition on taking back the dowry that has been given in various ways, and the obligation to give part of an orphan's property to his relatives who are present when their property is distributed. So this verse explains the

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<sup>43</sup>Al-Qurtūby, Al-Jāmi' u Liahkāmi Al-Qurān.

<sup>44</sup>Muḥammad Ibn Yūsuf Abi Ḥayān Al-Andalūsy, Tafsir Al-Baḥr Al-Muḥīṭ (Beirut - Lebanon: Dar Al-Fikr, 1420). Jilid 3

<sup>45</sup>Muḥammad Maḥmūd Hijāzy, Al-Tafsīr Al-Wāḍiḥ (Beirut - Lebanon: Dār al-Jīl al-Jadīd, 1413), <https://shamela.ws/book/23589>.

<sup>46</sup>Asy-Syawaf, "An-Najsy Baina Al-Asholah Wal-Mu'ashoroh - Dirasah Fiqhiyyah Muqaranah ((Najash) between Tradition and Modernity Comparative Jurisprudence Study)."

<sup>47</sup>Mahmud, "Bai' Al-Mukhādarah - Dirāsah Fiqhiyyah Mu'āsharah."

<sup>48</sup>Basyariah, "Larangan Jual Beli Gharar: Kajian Hadist Ekonomi Tematis Bisnis Di Era Digital."

<sup>49</sup>Evan Hamzah, "Muamalah Terlarang: Maysir Dan Gharar."

<sup>50</sup>Al-Zuhayliy, Al-Tafsīr Al-Munīr Fī Al-'Aqīdah Wasy-Syarī'ah Wal Manhaj. Jilid 5

<sup>51</sup>Ibnu Katsir, Tafsiru Al-Qur'ani Al'adzim, ed. 2 (Riyad, Saudi Arabia: Dar Taibah, 1999).

prohibition of seeking wealth improperly and the command to seek it correctly, such as business based on like-mindedness.<sup>52</sup>

Scholars agree that the entire letter of an-Nur came down in Medina. Ṭaṇṭāwy explains that, in Al-Nūr/24:37, Allah SWT mentions men who receive guidance and have mature souls<sup>53</sup>, So, according to Mahmud Al-Hijazy, trading activities do not make him forget to pray dhikr and tafakur, pray, give zakat, and feel anxious about his fate on the Day of Judgement, so he hopes for the best reward and grace from Allah SWT.<sup>54</sup> Az-Zuhaili stated that they were the people who enlivened the mosque.<sup>55</sup>

According to Ṭaṇṭāwy, Al-Jumuah/62:11 descended from Medina. As for the reasons for nuzūl Al-Jumuah/62:11 according to al-Zuhaily<sup>56</sup> based on the history of Imām Aḥmad<sup>57</sup>, al-Bukhāry<sup>58</sup>, Muslim,<sup>59</sup> and al-Turmudzy<sup>60</sup>, When the Prophet SAW was delivering his Friday sermon, suddenly a caravan (a group of) traders from the land of Syria came. Learning of the arrival of the caravan, the Friday Prayer congregation flocked out of the mosque so that only 12 (twelve) people remained in the mosque. Then Allah revealed Al-Jumuah (62:11). According to Az-Zuhaily, in Al-Jumuah/62:11, trading is mentioned specifically because it is a very important activity among various activities to earn a living during the day, as well as giving a signal to abandon all forms of business when the Friday call to prayer is heard. Al-Jumuah/62:11 also provides

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<sup>52</sup>Aḥmad Muṣṭafa Al-Marāghy, Tafsir Al-Marāghy (Mesir: ʿyirkah Maktabah wa Maṭbaʿah Muṣṭafā ʿl-Baby al-Ḥalaby Auladihi, 1946).

<sup>53</sup>Muhammad Sayyid Ṭaṇṭāwy, Al-Tafsīr Al-Wasīṭ Li Al-Qurʿān Al-Karīm (Mesir: Dār Nahḍah, 1998).

<sup>54</sup>Hijāzy, Al-Tafsīr Al-Wāḍih.

<sup>55</sup>Al-Zuhayliy, Al-Tafsīr Al-Munīr Fī Al-ʿAqīdah Wasy-Syarīʿah Wal Manhaj.

<sup>56</sup>Al-Zuhayliy.

<sup>57</sup>Al-Imam Aḥmad, Musnad Al-Imām Ahmad Bin Ḥanbal (“Ālam Al-Kutub Liṭṭabāʿah Wan-Nasyr Wat-Tauzī,” 1998), <https://books.google.co.id/books?id=2mXHngEACAAJ>.

<sup>58</sup>Abī ʿAbdillāh Muhammad Bin Ismāʿīl Al-Bukhārī, Ṣaḥīh Al-Bukhārī (Beirut - Lebanon: Dār Al-Fikr Al-Islāmī, 2000), <https://books.google.co.id/books?id=mmxkQgAACAAJ>.

<sup>59</sup>Ibn Hajjāj Al-Qusyairī Al-Naisāburiy Muslim, Ṣaḥīh Muslim (Beirut - Lebanon: Dār Al-Kutub Al-ʿilmiyyah Lin Nasyr Wat Tauzīʿ, 2001), <https://books.google.co.id/books?id=HVOYswEACAAJ>.

<sup>60</sup>Abī Al-ʿAlī Muḥammad ʿAbdurrahmān Bin Abdurrahīm Al-Murakfūrī and Abdul Wahhāb Abdullaṭīf, “Tuḥfattu Al-Aḥwāzī Bi Syarhi Jāmiʿi At-Turmuẓī” (Beirut - Lebanon: Dār Al-Fikr Lin Nasyr Wat Tauzīʿ, 2009).

evidence regarding the obligation to perform Friday prayers and the special nature of Friday for Muslims, like Saturday for Jews.<sup>61</sup>

### **Tijarah etiquette**

Adab/Ethics plays an important role in every aspect of life. Every Muslim is obliged to obey all Islamic laws in all matters, including Tijārah. Some people think that ethics and business are two separate things that have nothing to do with each other because they think that business aims to get the maximum profit in the world and ignore Ukhrawy's profits.<sup>62</sup> In Tijārah, every Muslim should seek material (worldly) and immaterial (ukhrawy) benefits.<sup>63</sup>

The etiquette of Tijārah in the Al-Quran is: 1). It is mandatory to leave business when the call to prayer for Friday prayers has been announced, as stated in Al-Jumuah:9. 2). (Do not reduce the measures and scales as in Al-Isra': 35, 3). Recording matters related to debts and receivables as stated in Al-Baqarah: 282, 4). Avoiding bāṭil trade (a trade that is contrary to Islamic law) 5). Holding the principle of mutual willingness (as in An-Nisa 29.6) Adorn yourself with noble morals, like choosing halal treasures for yourself<sup>64</sup> as in Al-Baqarah: 182, 7). Maintaining trust and not destroying evidence or witnesses, as stated in Al-Baqarah, 282.

In the hadith, among the etiquettes of Tijārah are: 1). Honest (not lying or cheating)<sup>65</sup>, 2). Be kind; 3). Fear of Allah's punishment<sup>66</sup>, 4). Does not swear much<sup>67</sup>, 4) provide price relief and leave disputes behind<sup>68</sup>, 5).

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<sup>61</sup>Al-Zuḥayliy, *Al-Tafsīr Al-Munīr Fī Al-'Aqīdah Wasy-Syarī'ah Wal Manhaj*. Juz 2

<sup>62</sup>Ali Muhayatsyah and Ali Muhayatsyah, "Etika Bisnis Islam Dalam Perspektif Pemikiran Al-Ghazali," *AT-TIJARAH: Jurnal Penelitian Keuangan Dan Perbankan Syariah* 2, no. 2 (2020): 84–104, <https://doi.org/10.52490/at-tijarah.v2i2.961>.

<sup>63</sup>Siti Nurul Huda and Nandang Ihwanudin, "Etika Bisnis Islam Dalam Tinjauan Al-Qur'an Dan Hadits," *Moderation Journal of Islamic Studies Review* 2, no. 1 (2022): 61–72, <http://journal.adpetikisindo.or.id/index.php/moderation/article/download/35/21>.

<sup>64</sup>Muḥammad Bin Muḥammad Aṭ-Ṭusī Al-Gazālī, *Ihyā' 'Ulūm Ad-Dīn* (Beirut, Lebanon: Dār Al Kutub Al-'ilmiyyah, 2016), <https://books.google.co.id/books?id=nJdLDwAAQBAJ>.

<sup>65</sup>Al-Bukhārī, *Ṣaḥīḥ Al-Bukhārī*.

<sup>66</sup>Ibn Muḥammad Ibn Yazīd Abu 'Abdillāh Ibn Mājjah Al-Qazwainiy, *Sunan Ibn Mājjah* (Beirut - Lebanon: Dār Al-Fikr, n.d.).

<sup>67</sup>Sulaimān Bin Al-Asy'ās Al-Azdī As-Sajintānī Abī-Dāud, *Sunan Abī Dāwūd* (Beirut - Lebanon: Dār Al-Kutub Al-'ilmiyyah Lin Nasyr Wat Tauzī', 2016), <https://books.google.co.id/books?id=XJ10DwAAQBAJ>.

give other people rights<sup>69</sup>, 6). Providing the option to return goods (iqlah)<sup>70</sup>, 7). Do not engage in usurious trading; 8). Avoid trading haram goods; 9). Do not commit fraud.

In various previous studies, various *Tijārah* etiquettes have also been mentioned, including not cheating or counterfeiting merchandise, as in a hadith, which means "whoever cheats is not part of our group"<sup>71</sup>. Several cases of fraud have occurred in trading activities, such as what happened at the Wonokromo-Surabaya local market, namely sellers injecting liquid dye into the fruit, preserving the fruit using substances that are not suitable for consumption, and adding textile dye liquid to the outside of the fruit so that it is not suitable for consumption.<sup>72</sup> Fraud of goods and counterfeiting of brands also occur throughout the world. According to data from the Organisation for Economic Co-operation and Development's 2019 report, trade in counterfeit goods is 3.3% of total world trade and continues to increase.<sup>73</sup> Piracy, acts of theft, and counterfeiting, apart from violating Sharia principles, violate Law Number 20 of 2016 concerning trademarks and geographical indications.<sup>74</sup>

Other *Tijārah* manners are: 1) not monopolizing trade<sup>75</sup>, 2) do not make too much profit<sup>76</sup>, 3). Intend to worship at work<sup>77</sup>, and 4). Do not

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<sup>68</sup>Muḥammad Ibn Ismā'īl Al-Bukhāriy, *Al-Jāmi' Al-Ṣaḥīḥ* (Kairo - Mesir: Dār Al-Sya'b, 1987).

<sup>69</sup>Al-Bukhāriy.

<sup>70</sup>Abī-Dāud, *Sunan Abī Dāwūd*.

<sup>71</sup>Ṣafā Aḍ-Ḍawī Aḥmad Al-'Adawī, *Ihda'u Ad-Daibājati Bi Syarḥi Sunan Ibn Mājjah* (Bahrain: Maktabah Dār Al-Yaqīn, 2001), <https://books.google.co.id/books?id=VQjYAAAAMAAJ>.

<sup>72</sup>Siti Nur Azizaturrohman and Imron Mawardi, "Pemahaman Etika Berdagang Pada Muslim Pasar Wonokromo Surabaya (Studi Kasus Pedagang Buah) Siti," *Jurnal Ekonomi Syariah Teori Dan Terapan* 1, no. 4 (2014): 278–88.

<sup>73</sup>Economic Organisation for Co-operation and Development, "Trade in Fake Goods Is Now 3.3% of World Trade and Rising," 2019, <https://www.oecd.org/newsroom/trade-in-fake-goods-is-now-33-of-world-trade-and-rising.htm>.

<sup>74</sup>Nickyta Julia Lumintang, "Penegakan Hukum Pidana Terhadap Pelaku Pemalsuan Merek Barang Dagang Berdasarkan Undang-Undang Nomor 26 Tahun 2016 Tentang Merek Dan Indikasi Geografis," *Lex Crimen* IX, no. 2 (2020): 172–80.

<sup>75</sup>Muh. Rif'an et al., "Strategi Pemasaran Produk Khas Daerah Oleh Dinas Perindustrian Perdagangan Koperasi Dan UKM Kota Palu Dalam Perspektif Ekonomi Syariah," *Jurnal Ilmu Ekonomi Dan Bisnis Islam* 1, no. 1 (2019): 85–107, <https://doi.org/10.24239/jiebi.v1i1.6.85-107>.

<sup>76</sup>Al-Gazālī, *Ihyā' 'Ulūm Ad-Dīn*.

<sup>77</sup>Muhayatsyah and Muhayatsyah, "Etika Bisnis Islam Dalam Perspektif Pemikiran Al-Ghazali."

sell anything that is haram<sup>78</sup>, 5). Do not buy goods when prices are high to hoard them and then sell them again during a crisis<sup>79</sup> 6). Do not swear a lot during transactions.

### **Types of *Haram Al-tijārah Hal-Mādiyyah***

In general, Al-tijārah al-Mādiyyah is divided into halal trade and forbidden trade. Halal trade consists of trading. Wājib, such as selling food to hungry people; Sunnah, such as selling everything useful to other people; Mubāh, such as trading using representatives, and 4). Makrūh, like trading after the first call to prayer on Friday prayers. The purpose of the types of Al-tijārah al-Mādiyyah in this study is to determine the law of every type of trading between human beings that is permitted or forbidden. On the other hand, the causes of halal and unlawful trade can also be seen from the perspective of mābi' (objects being traded), Šaman (means of payment), the person making the transaction (Musytary wa Bāi'), the consent granted (šighāt), and every condition that must be met in every point of trading. Apart from that, the meaning of Al-tijārah in the Quran also refers to trading between humans and Allah SWT. Halal trading is widely explained in the field of fiqh studies. Searching for each item is also very easy because the majority of the discussion is collected in one book and has been marked in each chapter. Meanwhile, the majority of fiqh literature for beginners does not mention the types of haram trading in a special chapter and is not specifically marked. Therefore, this study will attempt to collect every type of trading that is forbidden and the types of trading that are debated as halal by the Ulama. This study also reminds us that in a hadith, it is stated that there will be an era when people will no longer care about whether a property is halal or haram.<sup>80</sup>

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<sup>78</sup>Jamaiyah and Susianto, "Analisis Strategi Pemasaran Produk Deposito Mudharabah Dalam Menarik Minat Masyarakat Pada PT. Bank Sumut Syariah KCPSy Marelan Raya," Jurnal FEB Jurnal Mahasiswa Fakultas Ekonomi Dan Bisnis 1, no. 1 (2020): 773-83.

<sup>79</sup>Ḥasan Ibn Aḥmad Ibn Muḥammad Al-Kāf, *At-Taqrīrāt As-Sadīdah Fil Masāil Al-Mufīdah* (Riyad - Saudi Arabia: Dār Al-Mīrāts An-Nabawy Lid-Dirāsāt Wat-Tahqīq Wa Khidmati At-Turāts, 2013).

<sup>80</sup>Al-Bukhārī, *Ṣaḥīḥ Al-Bukhārī*.

The types of trading that are prohibited are: 1). Selling prohibited or unclean objects such as Khamr, pork, or carcasses of animals that have not been slaughtered by Islamic Sharia, 2) types of trading that are contrary to Sharia, such as trading that contains usury, 3). Selling or buying stolen goods, 4)., 5). Nitāj trading (النَّجَاح), 6). Mulāmasah (الملاصحة), 7). Munabażah (المناذرة), 8). Muḥaqalah, 9). Muzabanah (المزابنة), 10). Mukhādarah (المخاضرة), 11). Gharar (الغرر), 12). Trading goods that have not been delivered and received, 13). Trading something that cannot be handed over, such as trading birds that are still in the air, 14). Fuḍūliy (الفضولي) trading or goods that are not yet owned without a representative agreement or the owner's permission, such as brokers, 15). Ḥaṣāh (الحصاة) trading, 16). Selling halal meat is purchased from halal animals that are still alive. 17). Trading publicly owned water, such as river water, lake water, or seawater, without processing, which increases the selling value, 18). An-Najasy (النَّجَاش) trading, 19). Muḥaqalah (المُحَاقَلَة) trading, 20). Purchases on top of other people's purchases before a transaction is completed until the handover stage, 21). selling weapons to murderers, selling wine to liquor manufacturers, 22). 'Arabun trading (العَرَبُونَ), 23 Mu'āwamah/ Sinīn (المُعَاوَمَة / السِّتِين) trading.

A transaction process for goods that the previous seller has not yet delivered is trading that has not yet occurred. However, the prohibition of this type of trading excludes several things, namely, selling inheritance that has not been received, selling items from a will, selling quotas from kings or leaders, selling income from a waqf, selling gifts from parents that have not been received, and items ordered that are not perhaps taking it everywhere, pawning items after the installments have been completed and not yet taken, and so on.<sup>81</sup>

Gharar (الغرر) trading is a sale or purchase that has the potential for fraud<sup>82</sup> both in terms of sellers, buyers, trading systems, as well as

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<sup>81</sup>Syaikh Al-Islaām Zakariyā Al-Anṣāry, *Tuhḥfatu Aṭ-Ṭullāb Bisyarḥi Taḥrīri Tanqīḥi Al-Lubāb* (Amman - Yordania: Dār Al-Faṭḥ Lid-Dirāsāt Wan-Nasyr, 2023).

<sup>82</sup>Ahmad Mukhlisin and Saipudin Saipudin, "Sistem Jual Beli Pupuk Kandang Prespektif Imam Syafi'i Dan Imam Hanafi (Studi Di Kampung Sulusuban Kecamatan Seputih Agung)," *Mahkamah* 2, no. 2 (2017): 328–50, <https://doi.org/10.25217/jm.v2i2.176>.

merchandise conditions whose condition is not yet clear.<sup>83</sup> Gharar (الغرر) trading is more common than other types of illicit trading because it allows fraud to occur. Basyariah<sup>84</sup> concluded that Gharar (الغرر) trading is a transaction in which there are elements of uncertainty or speculation, doubt, ambiguity, and other elements that result in the buyer being unwilling, such as gambling.<sup>85</sup> In principle, Gharar trading (الغرر) is restricted as a result of the customer's reluctance stemming from a sense of being deceived. Nowadays, Gharar (الغرر) trading manifests in financial institution transactions. The interest system levied on each savings and loan transaction typically reveals this information.<sup>86</sup> Nehemiah stated that Gharar (الغرر) trading reflected in transactions that are not believed to be completed or in goods of unknown quality and quantity.<sup>87</sup> Meanwhile, Hosen<sup>88</sup> classifying forms of Gharar as trading goods that do not yet exist (ma'dūm), trading goods that are not clear (majhūl), and trading goods where it is impossible to hand over due to the unclear payment method. Meanwhile, Shaikh Zakariya classifies sales and purchases that do not allow handover to occur into the category of bāṭil trading.<sup>89</sup> Another case that occurs in society is the insurance case<sup>90</sup> and commodity futures transactions in stock index derivative transactions, which contain elements of uncertainty.<sup>91</sup> The uncertainty in these transactions arises from the ambiguity around the measurement or pricing of the commodity.

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<sup>83</sup>Mahmud, "Konsep At-Tijarah Dalam Tafsir Al-Misbah Karya M.Quraish Shihab."

<sup>84</sup>Basyariah, "Larangan Jual Beli Gharar: Kajian Hadist Ekonomi Tematis Bisnis Di Era Digital."

<sup>85</sup>Huda and Ihwanudin, "Etika Bisnis Islam Dalam Tinjauan Al-Qur'an Dan Hadits."

<sup>86</sup>Evan Hamzah, "Muamalah Terlarang: Maysir Dan Gharar."

<sup>87</sup>Nahdiah and Hidayatullah, "Analisis Bai' Gharar Terhadap Jual Beli Follower Di Instagram."

<sup>88</sup>Muhammad Nadratuzaman Hosen, "Analisis Bentuk Gharar Dalam Transaksi Ekonomi," *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah* 1, no. 1 (2009), <https://doi.org/10.15408/aiq.v1i1.2453>.

<sup>89</sup>Al-Anṣārī, *Tuhfatul Aṭ-Ṭullāb Bisyarḥi Tahrīri Tanqīhi Al-Lubāb*.

<sup>90</sup>Haqiqi Rafsanjani, "Analisis Praktek Riba, Gharar, Dan Maisir Pada Asuransi Konvensional Dan Solusi Dari Asuransi Syariah," *Maqasid: Jurnal Studi Hukum Islam* 11, no. 1 (2022): 2615–22, <https://doi.org/http://dx.doi.org/10.30651/mqsd.v11i1.14485>.

<sup>91</sup>Utomo, "Perlindungan Hukum Nasabah Perdagangan Produk Derivatif Index Saham Berdasarkan Undang-Undang Nomor 10 Tahun 2011."

Trading goods that cannot be handed over during the transaction, such as trading fish that are still in the river, is not permitted in Islamic law, except for trading five things, namely: 1). Trading services or renting; 2). trading which contains elements of orders with special characteristics of goods (*As-Salam*); 3). Trading so much food that it is not possible to measure it in a short time; 4). trading runaway slaves to buyers; and 5). selling slaves and houses in other areas.<sup>92</sup> Presently, internet transactions can be conducted without the need for physical interaction between the buyer and seller. Concurrently, the purchaser lacks knowledge on certain aspects, such as whether the merchandise showcased on the website belongs to the buyer or if the buyer is acting as a drop shipper. Furthermore, there are numerous instances where the seller fails to provide comprehensive information on the goods, thereby creating skepticism among potential purchasers regarding their purchase intentions. Salim<sup>93</sup> explains various things about online buying and selling with halal status, namely: halal products, clarity of ownership status of goods, suitability of price to quality of goods, and honesty. Several researchers, such as Munir,<sup>94</sup> and Astuti<sup>95</sup>, offers a solution in the form of *As-Salam* transactions, which, according to Al-Kaf<sup>96</sup> is the trading of something characterized as being the responsibility of the seller by using the word *Salam*. Meanwhile, based on the definition of buying and selling *As-Salam*, the solution in the form of *aqad salam* is not suitable for online transactions because merchandise is generally available without having to make it first. Apart from that, in *Aqad Salam*, the customer hands over the money first, and *aqad salam* cannot be applied to something cooked, such as food, to change the condition of the food or to goods that are still in stock. Because for transactions on goods that are available in stock, Islam regulates them in the *Aqad* of buying and selling, not the *Aqad* of *Salam*. Several researchers, such as Pekerti and

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<sup>92</sup>Aby Al-Ḥasan Aḥmad ibn Muḥammad Ibn Aḥmad Aḍ-Ḍaby Al-Muḥamily, *Al-Lubāb Fil Fiqh Asy-Syāfi'iy* (Madinah: Saudi Arabia: Dār Al-Bukhārā, 1416).

<sup>93</sup>Munir Salim, "Jual Beli Secara Online Menurut Pandangan Hukum Islam," *Al Daulah : Jurnal Hukum Pidana Dan Ketatanegaraan* 6, no. 2 (2017): 371–86, <https://doi.org/10.24252/ad.v6i2.4890>.

<sup>94</sup>Salim.

<sup>95</sup>Daharmi Astuti, "Persepsi Masyarakat Terhadap Akad Jual Beli Online Perspektif Ekonomi Syariah," *Syarikat: Jurnal Rumpun Ekonomi Syariah* 1, no. 1 (2018): 13–26, [https://doi.org/10.25299/syarikat.2018.vol1\(1\).2625](https://doi.org/10.25299/syarikat.2018.vol1(1).2625).

<sup>96</sup>Al-Kāf, *At-Taqrīrāt As-Sadīdah Fil Masāil Al-Mufīdah*.



Herwiyanti,<sup>97</sup> propose that online transactions should be classified as straightforward and uncomplicated buying and selling. Aqad Greetings, but the seller offers the possibility of returning the merchandise. Nevertheless, Pekerti and Herwiyanti failed to elucidate the potential strategies for facilitating product returns. The return option he is talking about maybe *Khiyār Syaraṭ*, which refers to the conditions given by one or both parties to either proceed with the sale and buy or cancel it.<sup>98</sup>

*Ḥabal Al-Ḥabalah* (حَبَلِ الْحَبَلَةِ) trading is the purchase and sale of livestock to grandchildren the birth of whom is still unknown. Syafi'iyah scholars differ in their opinions regarding the actual practice of *Ḥabal Al-Ḥabalah* (حَبَلِ الْحَبَلَةِ) trading. Some scholars argue that *Ḥabal Al-Ḥabalah* (حَبَلِ الْحَبَلَةِ) trading is a sale and purchase paid on credit with a tenor until an animal's grandchildren are born.<sup>99</sup> Although scholars have different opinions about the definition of *Ḥabal Al-Ḥabalah* (حَبَلِ الْحَبَلَةِ) trading, but they agreed about the haraam of *Ḥabal Al-Ḥabalah* (حَبَلِ الْحَبَلَةِ).<sup>100</sup> Fuadi said that *Ḥabal Al-Ḥabalah* (حَبَلِ الْحَبَلَةِ) trading includes engaging in *Jahālah* transactions, including the trading of things where the location, timing, or price is still unknown.<sup>101</sup> According to Darussalam, *Ḥabal Al-Ḥabalah* (حَبَلِ الْحَبَلَةِ) trading contains an element of uncertainty, or *Gharar*, because the substance of the *Ḥabal Al-Ḥabalah* (حَبَلِ الْحَبَلَةِ) trading lies in the unclear time of delivery of goods.<sup>102</sup>

Many studies attempt to explicitly delineate the distinctions between *Ḥabal Al-Ḥabalah* (حَبَلِ الْحَبَلَةِ) trading, *'Asb Al-Faḥl* (الْفَحْلِ عَسْبِ) trading, and *Al-Maḍāmīn* and *Al-Malāqīh* (والملاقيح المضامين) trading. Yuniartik<sup>103</sup> for example, defining the trading of *'Asb Al-Faḥl* (الْفَحْلِ عَسْبِ) as the sale and purchase of male animal seeds for breeding in the womb

<sup>97</sup>Retno Dyah Pekerti and Eliada Herwiyanti, "Transaksi Jual Beli Online Dalam Perspektif Sariat Madzhab Asy-Syafi'i," *JEBA: Jurnal Ekonomi, Bisnis, Dan Akuntansi* 20, no. 2 (2018): 1–12, <https://doi.org/https://doi.org/10.32424/jeba.v20i2.1108>.

<sup>98</sup>*Al-Kāf, At-Taqrīrāt As-Sadīdah Fil Masāil Al-Mufidah*.

<sup>99</sup>*Al-Anṣāry, Tuhḥfatu Aṭ-Ṭullāb Bisyarḥi Tahḥriri Tanqīhi Al-Lubāb*.

<sup>100</sup>Abu Al-Ḥasan 'Aly Ibn Muḥammad Ibn Muḥammad Ibn Habīb Al-Basry Al-Baghḍādy Al-Māwardiy, *Al-Ḥāwy Al-Kabīr Fī Fiqhi Mazḥabi Al-Imām Asy-Syāfi'iy Syaraḥ Mukhtasar Al-Muzany* (Beirut - Lebanon: Dar Al Kotob Al Ilmiyah, 1999).

<sup>101</sup>Fatih Fuadi, "Dampak Jahalah Terhadap Keabsahan Akad Jual-Beli," *Jurnal Ekonomi Syariah* 2 (2017): 19–26.

<sup>102</sup>Nuritan Siregar, "Indikasi Gharar Dalam Janji Dan Akad Pada Bisnis Travel Umrah (Analisa Fiqih Muamalah)," *J-Mabisya* 3, no. 1 (2022): 37–45.

<sup>103</sup>Yuniartik Yuniartik, "Praktik Jual Beli Buah Petai Di Pohon Dengan Sistem Borongan Perspektif Fikih Muamalah," *Cross-Border* 5, no. 2 (2022): 1313–21, <https://journal.iaisambas.ac.id/index.php/Cross-Border/article/view/1289>.

of female animals. Meanwhile Basyariah<sup>104</sup> and Naufal<sup>105</sup> explains that 'Asb Al-Faḥl trading is renting out male animals. Meanwhile, 'Asb Al-Faḥl (الْفَحْلُ عَسْبٌ) trading according to Sulaimān Al-Bujairamiy is the buying and selling process of the seller's male livestock with the buyer's female.<sup>106</sup> 'Asb Al-Faḥl (عَسْبِ الْفَحْلِ) trading in Indonesia is sometimes called "stud rental".<sup>107</sup> The prohibition of this form of commerce stems from the inherent difficulty in evaluating and determining the price of animal sperm, as it is contingent upon the preferences of both the male and female individuals involved rather than the breeder's preferences. For instance, consider a scenario where an individual brings their male camel to breed with another person's female camel, thereafter demanding payment for the male camel's semen.<sup>108</sup> This type of trade is restricted due to its essentiality for pet owners. Therefore, the delivery of the stud is obligatory and comes at no cost.

Al-Maḍāmīn and Al-Malāqīh (المضامين والملاقيح) trading is the buying and selling of animal fetuses that are still in the stomach and male sperm that are still in the animal's body.<sup>109</sup> Scholars differ in their opinions regarding the exact definition of buying and selling Al-Maḍāmīn and Al-Malāqīh. Some scholars argue that Maḍāmīn is the buying and selling of sperm that is still in animal bones,<sup>110</sup> while other scholars hold the opposite opinion. Azhari & Hatim<sup>111</sup> instead, choose the second definition. Meanwhile, other researchers, such as Naufal<sup>112</sup> choose the first definition. Al-Maḍāmīn and Al-Malāqīh (والملاقيح المضامين) trading is prohibited because they contain elements of Gharar,<sup>113</sup> choose the first

<sup>104</sup>Basyariah, "Larangan Jual Beli Gharar: Kajian Hadist Ekonomi Tematis Bisnis Di Era Digital."

<sup>105</sup>Ifan Naufali, "Hukum Jual Beli 'Asb Al-Fahl Menurut Pandangan Mazhab Syafi' i Dan Mazhab Maliki," *Journal of Islamic Business Law* 6, no. 4 (2022): 1–11, <http://urj.uin-malang.ac.id/index.php/jibl%0Amenghasilkan>.

<sup>106</sup>Sulaimān Al-Bujairamiy, Ḥāsyiah Al-Bujairamiy 'Alā Syarḥi Al-Manhaj (Beirut - Lebanon: Dar Al Kotob Al Ilmiyah, 2000).

<sup>107</sup>Naufali, "Hukum Jual Beli 'Asb Al-Fahl Menurut Pandangan Mazhab Syafi' i Dan Mazhab Maliki."

<sup>108</sup>Al-Bujairamiy, Ḥāsyiah Al-Bujairamiy 'Alā Syarḥi Al-Manhaj.

<sup>109</sup>Al-Anṣāry, Tuhḥfatu Aṭ-Ṭullāb Bisyarḥi Taḥrīri Tanqīḥi Al-Lubāb.

<sup>110</sup>Al-Anṣāry.

<sup>111</sup>Fathurrahman Azhari and Adi Hatim, "Pendapat Kh. Salim Ma'Ruf Tentang Jual Beli Dalam Risalah Muamalah," *Al-Banjari : Jurnal Ilmiah Ilmu-Ilmu Keislaman* 15, no. 2 (2016): 165–14, <https://doi.org/10.18592/al-banjari.v15i2.849>.

<sup>112</sup>Naufali, "Hukum Jual Beli 'Asb Al-Fahl Menurut Pandangan Mazhab Syafi' i Dan Mazhab Maliki."

<sup>113</sup>Muḥammad ibn Mūsā ibn 'Īsā ibn 'Aly Ad-Damīrī, *An-Najmul Wahhāj Fī Syarḥi Minhāj Fīl Fiqhī 'Alā Mazhabī Asy-Syāfi'iy* (Beirut - Lebanon: Dār Al-Minhāj, 2004).

definition. Al-Maḍāmīn and Al-Malāqīh (والملاقيح والمضامين) trading is prohibited because it contains elements of Gharar.<sup>114</sup>

Engaging in transactions with specific conditions, such as selling a product that is contingent upon another item, is considered haram due to the inherent risk of fraudulent activities. Furthermore, a transaction seeks to transfer the ownership of an object. However, certain circumstances can effectively hinder the transfer of ownership. However, several conditions are not included, specifically those related to pawn transactions, cost coverage, witness requirements, cancellation options, goods preservation, goods shipment, fruit harvesting, goods modification, goods returned due to damage, delivery of goods until full payment, and cancellation options after inspecting the goods. These factors do not render a trading transaction haram.<sup>115</sup>

Mulāmasah (الملامسة) is trading clothes that are still folded in the dark without being able to see the condition of the clothes, while reaching an agreement on the transaction is marked by the buyer "holding" the clothes, and there is no option to cancel the transaction when the buyer has seen the cloth.<sup>116</sup> Some scholars, such as Al-Anṣāry, specialize in their definition of Mulāmasah (الملامسة) only in conditions of a dark place. Hamzah described Mulāmasah (الملامسة) as buying a cat in a sack.<sup>117</sup> In Mulāmasah (الملامسة) trading, transactions are carried out without ṣiḡhat or in other words, ṣiḡhat is replaced by touching the item<sup>118</sup> whether touching it intentionally or unintentionally.<sup>119</sup> Potential customers are unable to visually perceive the merchandise they intend to get.<sup>120</sup> Basyariah<sup>121</sup> illustrates that in Mulāmasah (الملامسة) trading, the seller says to the buyer "You must buy whatever you touch". Hosen<sup>122</sup> adding that Mulāmasah (الملامسة) trading requires the buyer to pay by touching even though he does not yet clearly know the item to be

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<sup>114</sup>Al-Māwardiy, Al-Ḥāwy Al-Kabīr Fī Fiqhi Maḏhabi Al-Imām Asy-Syāfi'iy Syarah Mukhtasar Al-Muzany.

<sup>115</sup>Al-Anṣāry, Tuḥḥfatu Aṭ-Ṭullāb Bisyarḥi Taḥrīri Tanqīḥi Al-Lubāb.

<sup>116</sup>Al-Anṣāry.

<sup>117</sup>Evan Hamzah, "Muamalah Terlarang: Maysir Dan Gharar."

<sup>118</sup>Azhari and Hatim, "Pendapat Kh. Salim Ma'Ruf Tentang Jual Beli Dalam Risalah Muamalah."

<sup>119</sup>Darussalam, "Konsep Etika Bisnis Islami Dalam Kitab Sahih Bukhari Dan Muslim."

<sup>120</sup>Nahdiah and Hidayatullah, "Analisis Bai' Gharar Terhadap Jual Beli Follower Di Instagram."

<sup>121</sup>Basyariah, "Larangan Jual Beli Gharar: Kajian Hadist Ekonomi Tematis Bisnis Di Era Digital."

<sup>122</sup>Hosen, "Analisis Bentuk Gharar Dalam Transaksi Ekonomi."

purchased. *Mulāmasah* (الملامسة) trading is discredited because it is *Gharar*.<sup>123</sup>

*Munabażah* (المنابذة) is trading in which the *ṣīghat* is exchanged by throwing a merchandise or payment instrument at each other, without the option of returning the goods.<sup>124</sup> Consequently, the customer is obligated to acquire every item thrown by the seller, with no possibility of returning the products. Every act of tossing is regarded as a mutually accepted transaction, regardless of the price or the items involved. *Darussalam*<sup>125</sup> describes *Munabażah* (المنابذة) with: “You have to buy anything I throw at you”. The completion of a *Munabażah* (المنابذة) transaction is marked by the completion of throwing the items they have at each other.<sup>126</sup>

*Ḥaṣāh* (الحصاة) refers to a method of trading when pebbles are thrown at products. Once the pebble lands on the goods, the transaction is deemed finalized.<sup>127</sup> *An-Nawawy* identifies two further forms of trading known as *Ḥaṣāh* (الحصاة). The first is when the buyer has the right to return the items until the seller throws a pebble, indicating the finalization of the transaction. The second form is when each time the seller throws a stone, it signifies a purchase has been made. *An-Nawawy* asserted that these three descriptors are encompassed within the act of engaging in invalid transactions of trading.<sup>128</sup>

*Mukhādarah* (المحاضرة) is the trading of plants and fruit before they are suitable for harvest or consumption.<sup>129</sup> As per the *Mazhab* of *Hanbali*, *Mukhādarah* (المخاضرة) necessitates that the fruit or plant is not severed.<sup>130</sup> Meanwhile, *Al-Anṣāry* summarizes the entire definition

<sup>123</sup>Muslim, *Choirunnisa*, and *Wulandari*, “Pandangan Pengurus Mui Provinsi Lampung Periode 2016-2021 Terhadap Bai’ Al-Wafa’.”

<sup>124</sup>*Syaikh Al-Islaām Zakariyā Al-Anṣāry*, *Fathul Wahhāb Bisyarḥi Manhaji Aṭ-Ṭullāb* (Beirut - Lebanon: Dar Al Kotob Al Ilmiyah, 2018).

<sup>125</sup>*Darussalam*, “Konsep Etika Bisnis Islami Dalam Kitab Sahih Bukhari Dan Muslim.”

<sup>126</sup>*Juju Jumena*, *A. Otong Busthomi*, and *Husnul Khotimah*, “Jual Beli Borongan Bawang Merah Di Desa Grinting Menurut Tinjauan Hukum Islam,” *Jurnal Penelitian Hukum Ekonomi Syariah* 2, no. 2 (2017): 151-65, <https://doi.org/10.24235/jm.v2i2.2155>.

<sup>127</sup>*Al-Anṣāry*, *Fathul Wahhāb Bisyarḥi Manhaji Aṭ-Ṭullāb*.

<sup>128</sup>*Abī Zakariyyā Yahyā Bin Syaraf An-Nawawī*, *Kitāb Al-Majmū’ Syarh Al-Muḥaẓẓab Lisī-Syirāzī*, (Jiddah - Saudi Arabia: Maktabah Al-Irsyād, 2008), <https://books.google.co.id/books?id=8MR9DwAAQBAJ>.

<sup>129</sup>*Mahmud*, “Bai’ Al-Mukhādarah - Dirāsah Fiqhiyyah Mu’āsharah.”

<sup>130</sup>*Muwafiq Ad-Dīn Ibn Qadāmah*, *Al-Mughny* (Riyad - Saudi Arabia: Dar “Ālam Al-Kutub Litt-Ṭabā’ah Wan-Nasyr Wat-Tauzi,” 1999).

without mentioning the word Mukhādarah (المخاضرة).<sup>131</sup> Many prior studies adhered to the definition of Mukhādarah (المخاضرة) without explaining the criteria for detaching the fruit from the tree, similar to Salim<sup>132</sup>, Muslim, et al.,<sup>133</sup> Nahdiah, et al.,<sup>134</sup> Astuti<sup>135</sup>, and others. If the meaning of Mukhādarah (المخاضرة) is limited to fruit that is not yet ripe for harvest or eating, then buying such fruits is considered haram. According to Al-Anṣāry, it is permissible to buy fruit that has to be sliced, even if it is not yet ready to be eaten.<sup>136</sup>

Muzābanah, also known as المزبنة, initially referred to a transaction involving the exchange or sale of dates that were still attached to the tree (moist) with dates that had already been harvested (dry), provided that the quantity surpassed 5 Wasaq (about 875 kg). Nevertheless, grapes and dates are considered equivalent in terms of zakat payment, as both fall under the category of fruits that require zakat.<sup>137</sup> Al-Māwardiy asserts that the Muzābanah (المزبنة) buying and selling law applies to all types of fruits, not limited to dates and grapes alone. Trading or swapping the produce of unharvested trees or plants for those that have already been harvested is strictly forbidden inside the realm of muhaqalah (المحاقلة) transactions.<sup>138</sup> An-Nawawi explained that all exchanges of similar foods of unknown quantity or weight (Juzāf) are included in the category of Muzābanah trading (المزبنة).<sup>139</sup> Muzābanah (المزبنة) trading prohibited because of an injustice between the two parties<sup>140</sup> and the similarity in sales value comparison between the two parties is unknown.<sup>141</sup> However, this buying and selling is halal if it fulfills various conditions: 1). The goods being traded are grapes or dates. 2) Dates or grapes that are still on the tree are counted by

<sup>131</sup>Al-Anṣāry, Tuhḥfatu Aṭ-Ṭullāb Bisyarḥi Taḥrīri Tanqīḥi Al-Lubāb.

<sup>132</sup>Salim, "Jual Beli Secara Online Menurut Pandangan Hukum Islam."

<sup>133</sup>Muslim, Choirunnisa, and Wulandari, "Pandangan Pengurus Mui Provinsi Lampung Periode 2016-2021 Terhadap Bai' Al-Wafa'."

<sup>134</sup>Nahdiah and Hidayatullah, "Analisis Bai' Gharar Terhadap Jual Beli Follower Di Instagram."

<sup>135</sup>Astuti, "Persepsi Masyarakat Terhadap Akad Jual Beli Online Perspektif Ekonomi Syariah."

<sup>136</sup>Al-Anṣāry, Tuhḥfatu Aṭ-Ṭullāb Bisyarḥi Taḥrīri Tanqīḥi Al-Lubāb.

<sup>137</sup>Al-Anṣāry.

<sup>138</sup>Al-Māwardiy, Al-Ḥāwy Al-Kabīr Fī Fiqhi Mazhabī Al-Imām Asy-Syāfi'iy Syarah Mukhtasar Al-Muzany.

<sup>139</sup>An-Nawawī, Kitāb Al-Majmū' Syarḥ Al-Muḥaẓẓab Lisī-Syirāzī.

<sup>140</sup>Al-Anṣāry, Faṭḥul Wahhāb Bisyarḥi Manhajī Aṭ-Ṭullāb.

<sup>141</sup>Muḥammed Al-Zuhrī Al-Ghamrāwī, Al-Sirāj Al-Wahhāj 'Alā Matn Al-Minhāj, 7th ed. (Beirut - Lebanon: Dar Al Kotob Al Ilmiyah, 2012).

estimating their dry condition<sup>142</sup>, The dates and grains on the arid surface of the Earth are quantified through measurement. 3). Dates that remain attached to the tree are still moist, whereas dates or grapes that have fallen to the ground are dry. 4). Dates that are still moist must still be attached to the tree. 5). The weight of each date or grain is below 5 Wasaq or approximately 875 kg. 6). Before parting ways, the vendor and buyer exchange items with one another. 7). The dates or moist grapes must be fit for ingestion. 8). There is no specific association between the obligation of zakat and dates or grapes. There are no additional items included with each date or grape, such as four Wasaq dates or dry grapes. Additionally, 1 kg of sugar can be exchanged for 4 Wasaq dates or wet grapes.<sup>143</sup>

Muhaqalah is the practice of trading wheat while it is still attached to the stalk. Muhaqalah (المُحَاقَلَة) is prohibited due to its inherent intention of concealing wheat or other crops, hence preventing the assessment of their suitability for consumption.<sup>144</sup> Muhaqalah is the practice of trading wheat while it is still attached to the stalk. Muhaqalah (المُحَاقَلَة) is prohibited due to its inherent intention of concealing wheat or other crops, hence preventing the assessment of their suitability for consumption.<sup>145</sup>

Talaqqy Ar-Rukbān (تلقى الركبان), translated from Arabic to English, refers to the action of collecting the group before reaching the intended location. Talaqqy Ar-Rukbān refers to the act of engaging in a transaction of purchasing or selling when the seller is en route to the marketplace, before reaching their destination, and without knowledge of the prevailing market price.<sup>146</sup> Although the term used to describe this form of commerce is Talaqqy, legally, the purchaser is not obligated to have an initial intention of "encountering, finding, or acquiring." Consequently, if a buyer's primary intention is hunting, the purchase falls under the category of Talaqqy Ar-Rukbān (الركبان تلقي).<sup>147</sup> Depending on the circumstances, this particular transaction has the potential to be harmful to the seller. If the buyer approaches the seller before reaching the marketplace with the product, it could be advantageous for the seller to purchase the entire stock. However, it could also be disadvantageous for

<sup>142</sup>Al-Ghamrāwī.

<sup>143</sup>Al-Kāf, At-Taqrīrāt As-Sadīdah Fīl Masāil Al-Mufīdah.

<sup>144</sup>Al-Ghamrāwī, Al-Sirāj Al-Wahhāj 'Alā Matn Al-Minhāj.

<sup>145</sup>Al-Anṣāry, Tuḥḥfatu Aṭ-Ṭullāb Bisyarḥi Taḥrīri Tanqīḥi Al-Lubāb.

<sup>146</sup>Al-Ghamrāwī, Al-Sirāj Al-Wahhāj 'Alā Matn Al-Minhāj.

<sup>147</sup>Al-Anṣāry, Faṭḥul Wahhāb Bisyarḥi Manhaji Aṭ-Ṭullāb.

the seller as the market value may be greater. Thus, this purchase is considered legal yet illicit, as it lacks the possibility of canceling the transaction or obtaining a refund for both the money and the products. Regarding transactions that take place when the seller is present at the marketplace, it is permissible and lawful to engage in the sale and purchase of Talaqqy Ar-Rukbān (الركبان تلقى), even if the seller is unaware of the market price or the buyer follows the market selling value.<sup>148</sup> Cases that often occur in Indonesia involve middlemen buying up merchandise from farmers. According to Darussalam,<sup>149</sup> Talaqqy Ar-Rukbān trading (تلقى الركبان) is prohibited in Islam to protect the interests of consumers from prices that are too expensive, which make consumers not want to buy or regret their purchase.

An-Najasy (النَّجَس) is artificially inflating the selling price to defraud others.<sup>150</sup> Ar-Rafi'i characterizes it as a form of deceit employed by persons who have no genuine intention of purchasing an object. They do it by inflating the perceived value of the item, with the ultimate goal of driving up the selling price. This manipulation is intended to persuade everyone involved to pay a higher amount.<sup>151</sup> Al-Anṣāry asserts that despite the intention to acquire capital appropriateness and selling value, this fraudulent activity remains prohibited (haram). The basis for its prohibition lies in the fact that it inflicts harm upon others since An-Najasy (النَّجَس) is inherently haram.<sup>152</sup> Ar-Rafi'i holds the view that the trade of An-Najasy (النَّجَس) is permissible, and once a transaction agreement is made, the buyer does not have the right to request a return of the items.<sup>153</sup> The prohibition of buying and selling An-Najasy (النَّجَس) is based on the principle of causing harm and deception. Typically, the incident begins when an individual assumes the role of a potential buyer and deliberately raises the price without any intention of making a purchase. The purpose is to announce a higher price to generate interest from the listener, who may then be inclined to pay more as well.<sup>154</sup>

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<sup>148</sup>Al-Ghamrāwī, Al-Sirāj Al-Wahhāj 'Alā Matn Al-Minhāj.

<sup>149</sup>Darussalam, "Konsep Etika Bisnis Islami Dalam Kitab Sahih Bukhari Dan Muslim."

<sup>150</sup>An-Nawawī, Kitāb Al-Majmū' Syarḥ Al-Muḥaẓẓab Lisy-Syirāzī.

<sup>151</sup>Ar-Rāfi'iy Abū Al-Qāsim, Al-'Azīz Syarḥ Al-Wajīz Al-Ma'rūf Bisy-Syarḥ Al-Kabīr, 1st ed. (Beirut - Lebanon: Dar Al Kotob Al Ilmiyah, 1997).

<sup>152</sup>Al-Anṣāry, Fathul Wahhāb Bisyarḥi Manhaji Aṭ-Ṭullāb.

<sup>153</sup>Abū Al-Qāsim, Al-'Azīz Syarḥ Al-Wajīz Al-Ma'rūf Bisy-Syarḥ Al-Kabīr.

<sup>154</sup>Al-Māwardiy, Al-Ḥāwy Al-Kabīr Fī Fiqhi Maẓhabi Al-Imām Asy-Syāfi'iy Syarḥ Mukhtasar Al-Muzany.

Meanwhile, these buyers could be competitors who have similar merchandise or people who expect special benefits.

At-Taşriyah/Al-Muşarrāh (المصراة / التصرية) buying and selling of cattle, cows, or goats whose milk is left without being milked for several days so that the milk fills the udder so that the buyer thinks that the amount of milk is the amount of milk that can be milked each time<sup>155</sup> and willing to increase the price.<sup>156</sup> It turned out that after the transaction was completed, the amount of milk that could be obtained every day continued to decrease.<sup>157</sup> At-Taşriyah/ Al-Muşarrāh (المصراة / التصرية) trading is valid, and if an agreement has already been reached on the transaction, the buyer has the option to cancel the transaction or return the goods for three (three) days,<sup>158</sup> if: 1) the buyer does not know this at the time of purchase; and 2) the animal is a cattle, cow, or goat.<sup>159</sup> The prohibition of At-Taşriyah/Al-Muşarrāh (المصراة / التصرية) trading lies in the element of fraud<sup>160</sup> and disguise or hide defects.<sup>161</sup>

In the study of fiqh, the word 'Arabūn (العَرَبُونَ) exists in six (six) languages, according to linguists, namely (وَأَرَبُونَ رَبَانٌ وَأَوْعَرَبُونَ وَعَرَبُونَ وَعَرَبُونَ غَرَبَانٌ) وَأَرَبُونَ (العَرَبُونَ) trading is someone who buys an object by giving a down payment while saying, "If the transaction reaches an agreement, then the down payment is part of the payment, but if an agreement is not reached, then the down payment is a gift from me to you."<sup>162</sup> Acquiring and disposing of 'Arabūn (العَرَبُونَ) necessitates an initial payment to demonstrate the buyer's commitment to the transaction. If the transaction proceeds, the down payment is regarded as a component of the total amount paid. Nevertheless, in the event of a cancellation, the down payment will not be refunded.<sup>164</sup> An-Nawawy asserted that if the buyer explicitly expresses these requirements during the transaction,

<sup>155</sup>Imām Najmuddīn Ibn Ar-Rif'ah, *Kifaāyat An-Nabih Fī Syarḥ At-Tanbīh*, 1st ed. (Beirut - Lebanon: Dar Al Kotob Al Ilmiyah, 2009).

<sup>156</sup>Abū Al-Qāsim, *Al-'Azīz Syarḥ Al-Wajīz Al-Ma'rūf Bisī-Syarḥ Al-Kabīr*.

<sup>157</sup>Abī Ibrāhīm Ismā'īl bin Yaḥyā bin Ismā'īl Al-Muzanny, *Mukhtaṣar Al-Muzanniy Fī Furū'i Asy-Syāfi'iyah*, 1st ed. (Beirut - Lebanon: Dar Al Kotob Al Ilmiyah, n.d.).

<sup>158</sup>Ibrāhīm Bin Ali Al-Fairūz 'Abādy Asy-Syīrāziy, *Al-Muḥaẓẓab Fī Fiqh Al-Imām Asy-Syāfi'iy*, 3rd ed. (Beirut - Lebanon: Dar Al Kotob Al Ilmiyah, 2011).

<sup>159</sup>Abū Al-Qāsim, *Al-'Azīz Syarḥ Al-Wajīz Al-Ma'rūf Bisī-Syarḥ Al-Kabīr*.

<sup>160</sup>Ar-Rif'ah, *Kifaāyat An-Nabih Fī Syarḥ At-Tanbīh*.

<sup>161</sup>Al-Muḥamily, *Al-Lubāb Fīl Fiqh Asy-Syāfi'iy*.

<sup>162</sup>Ar-Rif'ah, *Kifaāyat An-Nabih Fī Syarḥ At-Tanbīh*.

<sup>163</sup>An-Nawawī, *Kitāb Al-Majmū' Syarḥ Al-Muḥaẓẓab Lisī-Syīrāzī*.

<sup>164</sup>Mukhlisin and Saipudin, "Sistem Jual Beli Pupuk Kandang Prespektif Imam Syafi'i Dan Imam Hanafi (Studi Di Kampung Sulusuban Kecamatan Seputih Agung)."



the sale and purchase will be deemed invalid and subject to punishment. However, if these limitations are explicitly mentioned before and during the transaction and the buyer fails to mention these requirements at the time of the transaction, then the sale and purchase are deemed legally binding.<sup>165</sup> The prohibition of 'Arabūn (العَرَبُونَ) trading is based on the condition that the seller does not transfer any items to the buyer.<sup>166</sup>

Al-Mu'āṭah (المعاطة) buying and selling without consent or only one of them<sup>167</sup> (Just agree or just accept.) The Ash-Syāfi'i Madzhab states that Al-Mu'āṭah (المعاطة) trading is invalid, while Imam Mālik states that it is valid on condition that it can be considered buying and selling, such as buying and selling trivial goods whose price is very clear and then the buyer puts down money without saying anything. Whatever, then go. The prohibition of Al-Mu'āṭah (المعاطة) lies in the absence of Ṣīghat, which is the pillar of buying and selling in Islam.<sup>168</sup>

Mu'āwamah/Sinīn (المُعَاوَمَةُ/السِّنِينَ) is trading fruit from a date palm tree over several years.<sup>169</sup> The practice of buying and selling Mu'āwamah/ Sinīn (المُعَاوَمَةُ/السِّنِينَ) is prohibited because this buying and selling is included in the category of buying and selling goods whose nature, quantity, and quantity are unknown, and the goods do not exist,<sup>170</sup> so that the goods cannot be handed over during the transaction.

Considering the outcomes of the preceding debate, other aspects necessitate additional deliberation. Is online buying and selling considered part of the Gharar trading category because of the inability to clearly and comprehensively assess the condition of the goods? Another aspect to consider is the return policy. Certain marketplaces solely serve as intermediaries between two parties engaging in transactions without placing a high emphasis on ensuring the financial security of their users. They do not offer a return policy for cases where the buyer loses interest upon receiving the things they have purchased. The availability of this return option significantly enhances user confidence and ensures their financial security. Nevertheless, the existing method of returning goods poses significant disadvantages for sellers, as many marketplaces

<sup>165</sup>An-Nawawī, Kitāb Al-Majmū' Syarh Al-Muḥaẓẓab Lisī-Syirāzī.

<sup>166</sup>Abī Al-Ḥusain Yahyā Bin Abī Al-Khair Bin Sālim Al-'Imrāniy, Al-Bayān Fī Maẓhabī Asy-Syāfi'iy, ed. 1 (Beirut - Lebanon: Dar Al-Minhaj, 2000).

<sup>167</sup>Al-Kāf, At-Taqrīrāt As-Sadīdah Fīl Masāil Al-Mufīdah.

<sup>168</sup>Ibn Ḥajr al-Haitamy, Tuḥfah Al-Muḥtāj Bi Syarḥ Al-Minhāj.

<sup>169</sup>Al-'Imrāniy, Al-Bayān Fī Maẓhabī Asy-Syāfi'iy.

<sup>170</sup>An-Nawawī, Kitāb Al-Majmū' Syarh Al-Muḥaẓẓab Lisī-Syirāzī.

enforce a policy that holds sellers responsible for covering transportation expenses. Quoting Amiruddin's words<sup>171</sup>, that certain conditions must be considered in the legality of e-commerce in Islam, namely, clarity of product definitions, confirmation of orders in sales and purchase agreements, and continuity of communication.

Currently, there is a growing trend in the trading industry known as the dropship method. There is still prejudice among certain studies when it comes to defining the concepts of dropshipping and retail, particularly in cases where firms like Adidas offer online retail opportunities. The distinctions between these concepts are not delineated. Peterson and Balasubramanian argue that there is still ongoing discussion regarding the precise meaning of retail.<sup>172</sup> According to Baron et al., retail is the act of selling goods and services directly to end consumers or acting as intermediaries for consumers, typically through physical stores or online platforms.<sup>173</sup> However, the concept of dropship does not explicitly exclude retail. Bariroh, for instance, characterizes the dropship buying and selling system as a method of selling a product without the need to possess any inventory.<sup>174</sup> The dropship mechanism enables sellers to engage in sales transactions without prior ownership of the item. Sellers either advertise goods on e-commerce platforms with the owner's permission or without authorization.<sup>175</sup> Although not precise, some researchers, such as Hafifi<sup>176</sup>, directs the definition of dropship buying and selling as a seller without any capital at all. Sellers only use electronic devices, photos, and product descriptions taken from other electronics stores, then set

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<sup>171</sup>Muhammad Majdy Amiruddin, "Khiyār (Hak Untuk Memilih) Dalam Transaksi On-Line: Studi Komparasi Antara Lazada, Zalara Dan Blibli," *FALAH: Jurnal Ekonomi Syariah* 1, no. 1 (2016): 47, <https://doi.org/10.22219/jes.v1i1.2695>.

<sup>172</sup>Robert A. Peterson and Sridhar Balasubramanian, "Retailing in the 21st Century: Reflections and Prologue to Research," *Journal of Retailing* 78, no. 1 (2002): 9–16, [https://doi.org/10.1016/S0022-4359\(01\)00062-8](https://doi.org/10.1016/S0022-4359(01)00062-8).

<sup>173</sup>Steve Baron, Barry Davies, and David Swindley, "Macmillan Dictionary of Retailing," in *Macmillan Dictionary of Retailing* (London: Macmillan Education UK, 1991), 105, [https://doi.org/10.1007/978-1-349-21839-4\\_11](https://doi.org/10.1007/978-1-349-21839-4_11).

<sup>174</sup>Muflihatul Bariroh, "Transaksi Jual Beli Dropshipping Dalam Perspektif Fiqh Muamalah," *Ahkam: Jurnal Hukum Islam* 4, no. 2 (2016): 199–216, <https://doi.org/10.21274/ahkam.2016.4.2.199-216>.

<sup>175</sup>Juhrotul Khulwah, "Jual Beli Dropship Dalam Perspektif Hukum Islam," *Al-Maslahah: Jurnal Hukum Islam Dan Pranata Sosial Islam* 7, no. 1 (2019): 101–16, <https://doi.org/10.30868/am.v7i1.548>.

<sup>176</sup>Aif Hafifi, "Jual Beli Dropship Dalam Perspektif Ekonomi Islam," *Madani Syariah* 5, no. 1 (2022): 11–20, <https://doi.org/https://doi.org/10.51476/madanisyari'ah.v5i1.362>.

different prices without the permission of the real owner of the goods.<sup>177</sup> Typically, the seller requests that the owner of the goods or products designate the seller as the shipper of the products.<sup>178</sup> The phrase dropship is commonly seen as a facilitator of advertising or marketing.<sup>179</sup> Presently, the author personally struggles to discern between authentic sellers and drop-shipper sellers across diverse online marketplaces. Conversely, the profit generated from selling the dropship system is derived from the disparity between the selling price of a product.<sup>180</sup> Therefore, it can be deduced that the seller in the online marketplace who provides identical goods at the most affordable cost is the legitimate proprietor. Nevertheless, certain marketplaces include a negotiation function for merchandise. Hence, purchasers may no longer infer that the product provider offering the lowest price is the authentic proprietor or vendor of a product or service. If the legal evaluation of halal and haram concerning drop shippers' trading activities is limited to the ownership of products, then it becomes evident that the law governing such transactions is deemed invalid (haram). Nevertheless, if the seller assumes the role of a representative or employee of a corporation, the sale and purchase law remains applicable, regardless of whether it is executed through a *Wakālah*, *Qirād*, or *Ijārah* Agreement. Several prior studies have proposed an alternative approach to ensure the compliance of buying and selling in the dropship system with Islamic law.

The subsequent matter that necessitates discussion is "Which classification of commerce is encompassed within the wholesale or *Tebasan* commercial system?" In the Brebes case, traders engaged in large-scale purchases via the *Tebasan* method. Traders purchase shallots from farmers within a time frame of 3 to 7 days before the harvest. During the time of purchase, the shallot bulbs were visibly shaped but

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<sup>177</sup>Syifa Manzilla Tousiya and Maman Surahman, "Tinjauan Fikih Muamalah Dan UU No. 8 Tahun 1999 Tentang Perlindungan Konsumen Terhadap Transaksi Jual Beli Dropshipping Pada Marketplace X," *Jurnal Riset Ekonomi Syariah* 1, no. 2 (2022): 94–103, <https://doi.org/10.29313/jres.v1i2.493>.

<sup>178</sup>Ika Yunia Fauziah, "Akad Wakalah Dan Samsarah Sebagai Solusi Atas Klaim Keharaman Dropship Dalam Jual Beli Online," *ISLAMICA Jurnal Studi Keislaman* 9, no. 2 (2015): 323–43, <https://doi.org/https://doi.org/10.15642/islamica.2015.9.2.323-343>.

<sup>179</sup>Elpina Pitriani and Deni Purnama, "Dropshipping Dalam Perspektif Konsep Jual Beli Islam," *Jurnal Ekonomi Dan Perbankan Syariah* 3, no. 2 (2020): 87–104, <https://doi.org/10.46899/jeps.v3i2.162>.

<sup>180</sup>Risvan Hadi, "Analisis Praktek Jual Beli Dropshipping Dalam Perspektif Ekonomi Islam Latar Belakang Masalah," *AT-TAWASSUTH: Jurnal Ekonomi Islam* 4, no. 2 (2019): 231–51, <https://doi.org/10.30829/ajei.v4i2.5548>.

not yet ready for harvesting. Jumena<sup>181</sup> Permits the trade of shallots in Brebes through the wholesale system, as long as it adheres to the prohibition on trading unripe or unfit-for-consumption fruit. This is justified by the fact that shallots have a very short period before they are ready for harvest. According to the author, Jumena has neglected to take into account the restriction on engaging in transactions with stipulations. According to Al-Anṣāry<sup>182</sup>, trading fruit or plants before they are suitable for consumption, which is accompanied by a requirement that the fruit remain on the tree, or without such a requirement but the fruit is still on the tree, is included in the category of buying and selling *bāṭil*. Jumena classifies wholesale buying and selling into *Juzāf* buying and selling, namely buying and selling goods whose size or weight is unknown and have not even been picked from the tree. Meanwhile, Baḥṣu Masāil Nahḍatul Ulāma Results explained that buying and selling *Juzāf* and wholesale is invalid.<sup>183</sup>

If *Muzābanah* refers to the act of trading between fruit that is still attached to the tree and fruit that has already been harvested, and *Muhaqalah* involves the exchange of plants that are still on the tree for plants that have been harvested, then what would be the case for an individual who leases land capable of producing fruit or plants? Presently, there is a situation in the Banyuwangi region of East Java where land is being leased out to cultivate orange trees and reap the profits from the fruit harvest by the tenant. Throughout the agreed-upon rental duration, the landowner is prohibited from utilizing the land.<sup>184</sup> This kind of rental agreement is legally valid. However, if the tenant pays with part of the harvest, it is not valid because this kind of buying and selling is called *Mukhābarah* (المُخَابَرَةُ) trading. According to Al-Māwardiy, *Mukhābarah* (المُخَابَرَةُ), renting out land for a price of one-third (1/3) or one-fourth (1/4) of the income from the land or garden.<sup>185</sup> The interpretation of *Mukhābarah* (المُخَابَرَةُ) differs significantly among Ulama.

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<sup>181</sup>Jumena, Busthomi, and Khotimah, "Jual Beli Borongan Bawang Merah Di Desa Grinting Menurut Tinjauan Hukum Islam."

<sup>182</sup>Al-Anṣāry, *Tuhḥfatu Aṭ-Ṭullāb Bisyarḥi Taḥrīri Tanqīḥi Al-Lubāb*.

<sup>183</sup>Muhammad Syamsudin, "Ketentuan Hukum Jual Beli Borongan Dalam Islam," 2018, <https://islam.nu.or.id/syariah/ketentuan-hukum-jual-beli-borongandalam-islam-HyA8e>.

<sup>184</sup>Yunus Zamroji, "Analisis Praktek Akan Sewa Kebun Jeruk Di Kabupaten Banyuwangi Dalam Perspektif Mazhab Syafi'i," *Jurnal Ekonomi Syariah Darussalam* 3, no. 2 (2022): 160–72, <https://doi.org/https://doi.org/10.30739/jesdar.v3i2.1663>.

<sup>185</sup>Al-Māwardiy, *Al-Ḥāwy Al-Kabīr Fī Fiqhi Maḏhabi Al-Imām Asy-Syāfi'iy Syarah Mukhtasar Al-Muzany*.

Al-Kaf, in contrast to Al-Māwardiy, defines Mukhābarah (المُخَابَرَةُ) as a transaction when the owner of vacant property engages with farmers/workers to cultivate the land. The farmer agrees to labor on the field under the condition that they offer the plant seeds.<sup>186</sup> Wahyuningrum and Darwanto added that Mukhābarah (المُخَابَرَةُ) charged all costs to farmers.<sup>187</sup> Meanwhile, the law of the Mukhābarah (المُخَابَرَةُ) contract is haram or invalid, according to the majority of Shafi'i madhab scholars.<sup>188</sup>

## Conclusion

This study discovered that the Muslim code of conduct in Al-Tijārah entails the rejection of injustice, refraining from manipulating measurements and weights, adhering to the principles of consent and willingness, avoiding excessive swearing during transactions, maintaining trustworthiness and refraining from tampering with evidence, abstaining from monopolizing trade, refraining from hoarding goods to exploit scarcity and avoiding deceit by concealing defects in merchandise. Meanwhile, the methods of trading differ significantly and are typically categorized as halal (permissible) buying and selling and haram (forbidden) buying and selling. The illicit practice of buying and selling can occur due to the nature of the goods being exchanged and how the transaction takes place, involving elements such as monopoly and fraud.

Al-tijārah Mādiyyah etiquette varies according to the specific circumstances of both the seller and the buyer. Nevertheless, most of these behaviors result in the ban of unfair actions. Al-tijārah Mādiyyah encompasses several categories, which can be categorized as Halal (permissible), Mubah (allowed), Makruh (discouraged), Haram (forbidden), and legitimate but haram trading.

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<sup>186</sup>Al-Kāf, At-Taqrīrāt As-Sadīdah Fīl Masāil Al-Mufīdah.

<sup>187</sup>Ana Liana Wahyuningrum and Darwanto Darwanto, "Penerapan Bagi Hasil Maro Perspektif Akad Mukhabarah," TAWAZUN : Journal of Sharia Economic Law 3, no. 1 (2020): 45–62, <https://doi.org/10.21043/tawazun.v3i1.7544>.

<sup>188</sup>Al-Kāf, At-Taqrīrāt As-Sadīdah Fīl Masāil Al-Mufīdah.

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