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### Anthropology of Islamic Law as an Approach in the Practice of Buying and Selling Online

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Article	Abstract
<p><b>Keywords:</b> Anthropology, Islamic Law, Buying and Selling, Online</p> <p><b>Article History:</b> Received: May, 19, 2022 Reviewed: June, 24, 2022 Accepted: July, 11, 2022 Published: July, 16, 2022</p> <p>DOI: <a href="https://doi.org/10.30762/qawanin.v6i1.18">10.30762/qawanin.v6i1.18</a></p>	<p><i>Information technology has changed the ways of transacting and opened up new opportunities in conducting business transactions. An online sale and purchase agreement via the internet is considered valid if it meets subjective and objective conditions. Trading business activities via the internet are known as electronic commerce (e-commerce). It has become a necessity that society always experiences changes which are often followed by changes in mindset and values. On the other hand, the legal anthropology approach in research on Islamic law, both the study of normative laws (in the Qur'an) and empirical ones (in the practice of Muslims), has not been fully used. This article describes the anthropological approach of Islamic law in viewing the phenomenon of online buying and selling practices in Indonesia. This article aims to highlight the practice of buying and selling online using an anthropological approach to Islamic law. This article is qualitative research with library research. This article uses a Normative-Anthropological approach. The data in this study were obtained from library materials such as books, journals, and others related to the problems studied, namely the</i></p>

*anthropology of Islamic law and online buying and selling. Data analysis techniques used are data condensation, data presentation, and drawing conclusions. The analysis results show that economic activity, including buying and selling online, relies heavily on language as a symbol of interaction. In other words, humans and the economy always prioritize symbolic interactionism in negotiating the desires and expectations of sellers and buyers that is where anthropology and economics meet.*

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## INTRODUCTION

Information technology has changed the ways of transacting and opened up new opportunities in conducting business transactions. However, this information technology also creates new opportunities for crime.<sup>1</sup> Increasingly rapid technological advances support the buying and selling transactions carried out at this time. The internet is one example of technological progress that can be used to buy and sell transactions.<sup>2</sup>

An online sale and purchase agreement via the internet is considered valid if it meets the subjective and objective conditions.<sup>3</sup> Trading business activities via the internet is known as electronic commerce (e-commerce).<sup>4</sup> However, for sure, whenever people talk about e-commerce, they understand it as an internet-related business. Therefore, an online business's

<sup>1</sup>Uki Syauki, "Analisis Kemaslahatan Dan Kontekstual Praktek Jual Beli Berbasis Online," *Dinar: Jurnal Prodi Ekonomi Syari'ah* 3, no. 1 (2020): 126, <https://e-jurnal.stail.ac.id/index.php/dinar/article/view/134>; Desak Made Prilia Darmayanti and Ketut Suardita, "Kajian Terhadap Tindak Pidana Penipuan Melalui Jual-Beli Online," *Kertha Wicara: Journal Ilmu Hukum* 5, no. 1 (2016): 1–2, <https://ojs.unud.ac.id/index.php/kerhawicara/article/view/18985>; Doli Witro et al., "Kontestasi Marketplace Di Indonesia Pada Era Pandemi: Analisis Strategi Promosi Tokopedia, Shopee, Bukalapak, Lazada, Dan Blibli Dalam Pemulihan Ekonomi Nasional," *OIKONOMIKA: Jurnal Kajian Ekonomi Dan Keuangan Syariah* 2, no. 2 (2021): 33–42, <https://doi.org/10.53491/oikonomika.v2i2.178>.

<sup>2</sup>Kristianto Dwi Estijayandono, "Etika Bisnis Jual Beli Online Dalam Perspektif Islam," *Jurnal Hukum Ekonomi Syariah* 3, no. 1 (June 20, 2019): 53–68, <https://doi.org/10.26618/j-hes.v3i1.2125>; Muhamad Yusuf, Mira Zuzana, and Doli Witro, "Literacy Education Urgency for Centennial Generation in Industrial Revolution 4.0," *Paedagogia: Jurnal Pendidikan* 9, no. 2 (November 24, 2020): 1–14, <https://doi.org/10.24239/pdg.Vol9.Iss2.61>; Dewi Amrom Musta'idah et al., "Perlindungan Konsumen Terhadap Jual Beli Coklat Silver Queen Block Dalam Perspektif Hukum Ekonomi Syariah," *Al-Amwal: Journal of Islamic Economic Law* 6, no. 2 (2021): 40–57, <https://doi.org/10.24256/alw.v6i2.2376>.

<sup>3</sup>Sapriandi Tanjung, "Tinjauan Yuridis Transaksi Jual Beli Online Menurut Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik Di Kota Bengkulu Juridical," *Panji Keadilan* 1, no. 1 (2018): 52, <https://doi.org/10.36085/jpk.v1i1.245>.

<sup>4</sup>Trisna Taufik Darmawansyah and Miko Polindi, "Akad As-Salam Dalam Sistem Jual Beli Online," *Jurnal Aghinya Stiesnu Bengkulu* 3, no. 1 (2020): 21, <https://ejournal.stiesnu-bengkulu.ac.id/index.php/aghniya/article/view/33>; Mhd. Rasidin, Imaro Sidqi, and Doli Witro, "Drop Shipping in Islamic Economic Law Perspective: E-Commerce Study Inter Marketplace Drop Ship in the Industrial Revolution Era 4.0," *Nurani* 20, no. 1 (2020): 97–106, <https://doi.org/10.19109/nurani.v20i1.6029>; Muhamad Izazi et al., "Jual Beli Online Dan Penentuan Hukum Yang Terjadi Di Dalamnya," *Al-Qanun: Jurnal Pemikiran Dan Pembaruan Hukum Islam* 24, no. 2 (2021): 340–64, <https://doi.org/10.15642/alqanun.2021.24.2.340-364>.

characteristics can be identified: 1) The occurrence of transactions between two parties; 2) There is the exchange of goods, services, or information; 3) The internet is the primary medium in the process or mechanism of the contract.<sup>5</sup>

The use of online media in the economic field clearly must be encouraged and supported as much as possible so that it will be able to improve the nation's economic progress in the future.<sup>6</sup> The emergence of online trading sites or what is commonly called e-commerce, such as Amazon, Alibaba, e-Bay, and a series of other big e-commerce names increasingly shows that the involvement of the internet in economic transactions is a necessity. In fact, in recent developments, especially in Indonesia, the names of large retail companies such as Matahari Mall have penetrated the online world as a form of business expansion by establishing the Mataharimall.com site. Not only that, but several financial services in Indonesia are also starting to look at the internet market as an effort to enlarge and expand their business.<sup>7</sup>

It has become a necessity that society always experiences changes which are often followed by changes in mindset and values. Social change sooner or later always requires changes and reforms in various fields, including laws and regulations, which are essential aspects of human life.<sup>8</sup>

The legal anthropological approach in research on Islamic law, both the study of normative laws (in the Qur'an) and empirical ones (in the practice of Muslims), has not been fully used. All rules of Islamic law are seen as having a normative-theological dimension, which is textually considered clear and firm, and must be applied following its textual sound.<sup>9</sup>

Based on the description above, this article describes the anthropological approach of Islamic law in viewing the phenomenon of online buying and selling practices in Indonesia. The discussion of this article is divided into four, namely the anthropology of Islamic law as an approach, buying and selling in the view of sharia economic law, the development of online buying and selling in Indonesia, and the practice of buying and selling online from the

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<sup>5</sup>Munir Salim, "Jual Beli Secara Online Menurut Pandangan Hukum Islam," *Al Daulah: Jurnal Hukum Pidana Dan Ketatanegaraan* 6, no. 2 (2017): 373, <https://doi.org/10.24252/ad.v6i2.4890>.

<sup>6</sup>Ita Nurholifah, "Jual Beli Online Oleh Mahasiswa IAIN Pontianak," *Khatulistiwa: Journal of Islamic Studies* 7, no. 2 (2017): 3, <https://doi.org/10.24260/khatulistiwa.v7i2.953>.

<sup>7</sup>Misbahul Ulum, "Prinsip-Prinsip Jual Beli Online Dalam Islam Dan Penerapannya Pada e-Commerce Islam Di Indonesia," *Jurnal Dinamika Ekonomi & Bisnis* 17, no. 1 (2020): 51, <https://doi.org/10.34001/jdeb.v17i1.1115>.

<sup>8</sup>Muhammad Faisol, "Hukum Islam Dan Perubahan Sosial," *JURIS (Jurnal Ilmiah Syariah)* 18, no. 1 (June 30, 2019): 33, <https://doi.org/10.31958/juris.v18i1.1397>.

<sup>9</sup>Ali Sodikin, "Antropologi Hukum Sebagai Pendekatan Dalam Penelitian Hukum Islam," *Al-Manahij: Jurnal Kajian Hukum Islam* 7, no. 1 (January 1, 2013): 116, <https://doi.org/10.24090/mnh.v7i1.581>.

anthropological perspective of Islamic law. This article aims to highlight the practice of buying and selling online using an anthropological approach to Islamic law.

## LITERATURE REVIEW

### Buying and selling in the view of sharia economic law

#### Definition

Buying and selling in *fiqh* terms is called *al-bai'* which means selling, replacing, or exchanging something for something else.<sup>10</sup> In another sense, buying and selling is exchanging property with assets in the form of transfer of property and ownership.<sup>11</sup> Sementara itu menurut As-Sayyid Sabiq sebagaimana yang dikutip Misbahul Ulum definisi jual beli adalah melepaskan harta dengan mendapatkan harta lain berdasarkan kerelaan atau memindahkan milik dengan mendapatkan benda lain sebagai ganti secara suka rela dan tidak bertentangan dengan *syara'*.<sup>12</sup> Other scholars such as Hasbi ash-Shiddieqy, interpreting buying and selling is an upright contract on the basis of exchanging property for property, so there is a permanent exchange of property rights.<sup>13</sup> The term *akad* comes from the Arabic language, namely *al-'aqdu* which means a recorded agreement or contract.<sup>14</sup> Literally, *akad* means engagement, and agreement.<sup>15</sup>

Meanwhile, according to Ibn Qudamah, buying and selling are exchanging property with property in the form of transfer of property.<sup>16</sup> Buying and selling is an activity of exchanging goods with other goods in certain procedures. Included in this are services and also the use of means of exchange such as money. Buying and selling itself is exchanging goods for goods for money by releasing property rights from one to another on the basis of

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<sup>10</sup>Richardy Affan Sojungan Siregar; et al., "Analisis Transaksi Jual-Beli Online (Peer to Peer) Pada e-Commerce Berdasarkan Hukum Syariah," *Jurnal of Islamic Economics Lariba* 3, no. 1 (2017): 31–38, <https://journal.uii.ac.id/JIELariba/article/view/9649>.

<sup>11</sup>Salim, "Jual Beli Secara Online Menurut Pandangan Hukum Islam," 373.

<sup>12</sup>Ulum, "Prinsip-Prinsip Jual Beli Online Dalam Islam Dan Penerapannya Pada e-Commerce Islam Di Indonesia," 52.

<sup>13</sup>Muhammad Ihsan, "Transaksi Jual Beli Online Perspektif Hukum Islam," *Jurnal Lex Justitia* 3, no. 1 (2021): 52, <https://doi.org/10.22303/lex%20justitia.3.1>.

<sup>14</sup>Muhammad Yunus, Fahmi Fatwa Rosyadi Satria Hamdani, and Gusti Khairina Shofia, "Tinjauan Fikih Muamalah Terhadap Akad Jual Beli Dalam Transaksi Online Pada Aplikasi Go-Food," *Amwaluna: Jurnal Ekonomi Dan Keuangan Syariah* 2, no. 1 (2018): 146, <https://doi.org/10.29313/amwaluna.v2i1.3363>.

<sup>15</sup>Rahman Ambo Masse, *Fiqh Ekonomi Dan Keuangan Syariah* (Yogyakarta: TrustMedia Publishing, 2016), 93.

<sup>16</sup>Ihsan, "Transaksi Jual Beli Online Perspektif Hukum Islam," 52.

mutual consent.<sup>17</sup> There are buying and selling principles developed in the contract, some of which are *murabahah* (margin system)<sup>18</sup>, *as-salam* (upfront payment), and *al-istishna'*.<sup>19</sup>

### Pillars and Conditions

The pillars of sale and purchase are conditions that must be met by each party between the seller and the buyer in conducting a sale and purchase transaction. The pillars of buying and selling must be fulfilled when the buying and selling process takes place, if one of these pillars is not fulfilled, then the sale and purchase transaction is considered invalid or cannot be carried out.<sup>20</sup>

Most fiqh experts argue that buying and selling have four pillars: the seller, the buyer, the statement of words (*ijab-qabul*), and the goods. This opinion applies to all transactions<sup>21</sup>. Some state that buying and selling have four pillars of the contract: 1) there are parties to the contract; 2) *sighah* or *ijab-qabul*; 3) *Al-ma'qud alaih* or the object of the contract; 4) the primary purpose of the contract is carried out.<sup>22</sup>

1. *Aqid* (a person who has a contract), namely the seller and the buyer, must be of reasonable age or legal competence.
2. *Ma'qud 'alaih* (object of the contract), something that is contracted exists at the time of the contract. The object of the contract is something that the Sharia permits, can be handed over at the time of the contract, so it is not valid to make a contract on something that cannot be handed over.
3. *Sighatakad* is something that comes from two or more people who perform the contract, which shows the purpose of their inner will making the contract.<sup>23</sup>

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<sup>17</sup>Tira Nur Fitria, "Bisnis Jual Beli Online (Online Shop) Dalam Hukum Islam Dan Hukum Negara," *Jurnal Ilmiah Ekonomi Islam* 3, no. 1 (2017): 53, <https://doi.org/10.29040/jiei.v3i01.99>.

<sup>18</sup>Muhammad Izazi Nurjaman, Doli Witro, and Sofian Al Hakim, "Akad Murabahah Di Lembaga Keuangan Syariah Perspektif Regulasi," *Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum* 19, no. 1 (2021): 24–35, <https://doi.org/10.32939/qst.v19i1.896>.

<sup>19</sup>Masse, *Fiqh Ekonomi Dan Keuangan Syariah*, 51.

<sup>20</sup>Fajarwati Kusuma Adi, "Perspektif Jual Beli Online Dalam Perspektif Hukum Islam Dan KUHPerdata," *Lisyabab: Jurnal Studi Islam Dan Sosia* 2, no. 1 (2021): 97, <https://lisyabab-staimas.e-journal.id/lisyabab/article/view/66>.

<sup>21</sup>Daharmi Astuti, "Persepsi Masyarakat Terhadap Akad Jual Beli Online," *Syarikat: Jurnal Rumpun Ekonomi Syariah* 1, no. 1 (2018): 16–17, [https://doi.org/10.25299/syarikat.2018.vol1\(1\).2625](https://doi.org/10.25299/syarikat.2018.vol1(1).2625).

<sup>22</sup>M. Nur Riyanto Al-Arif, "Penjualan On-Line Berbasis Media Sosial Dalam Perspektif Ekonomi Islam," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 13, no. 1 (2013): 39, <https://doi.org/10.18326/ijtihad.v13i1.33-48>; Doli Witro, Neni Nuraeni, and Muhammad Fauzan Januri, "Classification of Aqad in Sharia Economic Law," *Nurani* 21, no. 1 (2021): 55–68, <https://doi.org/10.19109/nurani.v21i1.8387>; Mhd. Rasidin et al., "Hadis Tentang Jual Beli Dan Riba: Implementasi Pada Sistem Kredit," *El Mudhorib Jurnal Kajian Ekonomi Dan Perbankan Syariah* 2, no. 1 (2021): 20–29, <http://e-journal.iainfmpapua.ac.id/index.php/elmudhorib/article/view/84>.

<sup>23</sup>Muhammad Deni Putra, "Jual Beli Online Berbasis Media Sosial Dalam Perspektif Ekonomi Islam," *Iltizam Journal Of Shariah Economic Research* 3, no. 2 (2019): 88–89, <https://doi.org/10.30631/iltizam.v3i1.288>.

## Legal Basis

Buying and selling can be legal<sup>24</sup>, based on the arguments of the Qur'an and Sunnah, as well as *ijma'*. As for the arguments of the Qur'an in the word of Allah s.w.t. Surah al-Baqarah (2) verse 198, 275 and 282 and Surah An-Nisa ' (4) verse 5, 29, etc.

The benefits of buying and selling include: 1) Buying and selling can organize the structure of the economic life of the community that respects the property rights of others; 2) Sellers and buyers can fulfil their needs voluntarily or consensual; 3) Each party is satisfied. The seller releases his merchandise sincerely and accepts the money, while the buyer gives money and receives the merchandise with satisfaction; 4) Can abstain from eating or possessing unlawful items (*batil*); 5) Sellers and buyers receive mercy from Allah s.w.t.; and 6) Cultivate peace and happiness.<sup>25</sup>

## METHOD

This article is qualitative research with library research. This article uses a Normative-Anthropological approach to trace the flow of events that have been experienced by humans, including the process of developing habits, institutions or thoughts throughout history. In addition, this approach usually includes two steps, namely: 1) Tracing the main stages of the existing change process: and 2) Explaining the main reasons why the changes occurred.<sup>26</sup> The data in this study were obtained from library materials such as books, journals, and others related to the problems studied, namely the anthropology of Islamic law and online buying and selling. The data collection technique used is to collect as much data as possible about the problems studied through the internet and library websites. The data analysis technique used is the data analysis technique introduced by Miles et al., namely data condensation, data presentation, and conclusion drawing.<sup>27</sup>

## FINDING AND DISCUSSION

### Anthropology of Islamic law as an approach

Literally, in Greek, the word *anthropos* means human, and *logos* means to study so that anthropology is a discipline based on curiosity about humans. An outstanding aspect of

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<sup>24</sup>Doli Witro, Mohamad Sar'an, and Deden Effendi, "Qaidah Furu' Fi Al-Riba Dan Implementasinya," *IQTISHADUNA* 12, no. 1 (2021): 89–101, <https://doi.org/10.20414/iqtishaduna.v12i1.3017>.

<sup>25</sup>Astuti, "Persepsi Masyarakat Terhadap Akad Jual Beli Online," 17.

<sup>26</sup>Muhammad Arsyadi, "Tinjauan Antropologi Hukum Islam Terhadap Praktik Ijab-Kabul Dalam Transaksi Jual Beli Di Pasar Terapung Banjarmasin," *DIVERSI: Jurnal Hukum* 4, no. 1 (July 9, 2018): 7, <https://doi.org/10.32503/diversi.v4i1.170>.

<sup>27</sup>Matthew B. Miles, A. Michael Huberman, and Johnny Saldaña, *Qualitative Data Analysis: A Methods Sourcebook* (California: SAGE Publications, Inc., 2014).

anthropology is its holistic approach to human beings; not only do they study various types of people, but they also study all aspects of human experiences.<sup>28</sup>

Abdullah Taib revealed that Anthropology is a discipline that studies humans from their physical aspects and cultural behaviour. As a science about humans, this discipline examines every activity carried out by humans. Anthropologists tend to study society because they want to know the life and culture of society.<sup>29</sup>

Modern anthropology continues what has been started by the traditional strategy of anthropological efforts in the past. Throughout the history of the development of science in general, anthropology seeks to develop as a scientific study of humans in the frame of social life by making comparisons between one sociality and another.<sup>30</sup>

Meanwhile, Tajul Arifin said that legal anthropology is a part of anthropology that studies the legal behaviour of the community, the legal culture of the community, and their perspective on law and its derivative products. These laws are not only written and promulgated by the government but also unwritten laws that are agreed upon by the local community.<sup>31</sup>

One of the exciting things about legal anthropology is its approach. Moreover, one more approach has been developed, which initially was only centralism, now there is a pluralism approach. A centralism approach is an approach that considers behaviour in a society only due to one legal system. Meanwhile, the pluralism approach sees people's behaviour as influenced by several legal systems that exist in society. This is because, within the scope of society, there are always various legal systems, even though the power to influence them is small.<sup>32</sup>

Implementing legal anthropology in research requires various approaches or methods, such as historical, normative, exploratory, behavioural descriptive, and case studies methods. Thus legal anthropology has an urgency to explain the evolution of law in society, find ideology in the rule of law, study human behaviour and its legal culture, and research inductively cases of legal disputes in society.<sup>33</sup>

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<sup>28</sup>Susminingsih Susminingsih, "Ekonomi Islam Dalam Perspektif Antropologi," *Jurnal Hukum Islam* 3, no. 4 (2015): 1, <https://www.neliti.com/publications/37053/ekonomi-islam-dalam-perspektif-antropologi-sketsa-awal>.

<sup>29</sup>Abdullah Taib, *Asas-Asas Antropologi* (Kuala Lumpur: Dewan Bahasa dan Pustaka Kementerian Pelajaran Malaysia, 1985), 1.

<sup>30</sup>Gunsu Nurmansyah, Nunung Rodliyah, and Recca Ayu Hapsari, *Pengantar Antropologi: Sebuah Ikhtisar Mengenai Antropologi* (Lampung: CV. Anugrah Utama Raharja, 2019), 1.

<sup>31</sup>Tajul Arifin, *Antropologi Hukum Islam* (Bandung: Pusat Penelitian dan Penerbitan UIN Sunan Gunung Djati Bandung, 2016), 1.

<sup>32</sup>Arifin, 4.

<sup>33</sup>Sodiqin, "Antropologi Hukum Sebagai Pendekatan Dalam Penelitian Hukum Islam," 119.

According to Asad, as mentioned in Tony Rudyansjah et al., Islamic anthropology must adopt the discursive tradition that builds and shapes the Islamic tradition. Asad first reviews and criticizes several social science approaches (anthropology and sociology) that investigate religion and Islam as objects of study to arrive at this proposal.<sup>34</sup> Anthropological studies are an alternative in exploring and understanding the teachings of *fiqh* law. This is because, so far, *fiqh* has been more widely understood and explored through a doctrinal-literalistic approach. This anthropological paradigm is a change of route from soaring reasoning to grounded reasoning, from exclusive *fiqh* discourses to inclusive *fiqh* discourses.<sup>35</sup>

The study of Islamic law using historical and sociological approaches is possible because, from a taxonomy perspective, Islamic law can be studied at three levels, namely the level of legal philosophy, the level of normative law and the level of empirical law as described above. At this practical level, the study of Islamic law includes studies of legal anthropology, legal sociology, legal politics, legal economics, legal history, legal psychology, and legal figures.<sup>36</sup>

### **The development of online buying and selling in Indonesia**

The internet as a medium of information and electronic communication has been widely used for various activities, including for trade, and there are many benefits, one of which is easier, faster, more practical transactions and more affordable prices, so that trade or business becomes more efficient.<sup>37</sup> E-commerce or online shopping was first carried out in the UK in 1979 by Michael Aldrich of Redifo Computers. Since 1980, he has been selling the online shopping systems he has found all over the UK. Also, in the 1980s, online shopping was widely used in mainland European countries, such as France, to market Peugeot, Nissan and General Motors.<sup>38</sup> Many marketplaces in the last decade have started and pioneered their businesses in Indonesia and are now developing into large companies, such as Tokopedia, Shopee, Bukalapak, Lazada, and Blibli. These five marketplaces in recent years have occupied the top positions in the marketplaces favoured and in-demand by Indonesian consumers.

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<sup>34</sup>Tony Rudyansjah et al., *Antropologi Agama: Wacana-Wacana Mutakhir Dalam Religi Dan Budaya* (Jakarta: UI Press, 2012), 136.

<sup>35</sup>Moh. Dahlan, "Pendekatan Antropologis Dalam Paradigma Usul Fikih," *Madania: Jurnal Kajian Keislaman* 19, no. 1 (2015): 49, <https://doi.org/10.29300/madania.v19i1.30>.

<sup>36</sup>Faisol, "Hukum Islam Dan Perubahan Sosial," 42.

<sup>37</sup>Nafa Amelsi Triantika, Elwidarifa Marwenny, and Muhammad Hasbi, "Tinjauan Hukum Tentang Pelaksanaan Perjanjian Jual Beli Online Melalui E-Commerce Menurut Pasal 1320 Kuhperdata," *Ensiklopedia Social Review* 2, no. 2 (2020): 120, <https://doi.org/10.33559/esr.v2i2.488>.

<sup>38</sup>Adistie Arista Putri, "Pelaksanaan Transaksi Jual Beli Online Di Situs Heavenlight.Co," *Prosiding Seminar Nasional Mahasiswa*, no. April (2019): 53, <http://jurnal.unissula.ac.id/index.php/kimuh/article/view/7930>.



Through buying and selling transactions, a person can gain profit or more value to improve the standard and quality of life. Because basically, buying and selling is a profit-making process based on supply and demand, where the buyer benefits from using a product by paying a specific price, while the seller benefits from the selling price of the product that the buyer wants.<sup>39</sup>

The increase in information technology has changed people's habits and changed their mindset in buying and selling transactions. The past trend is for many people to conduct trade transactions by visiting other traditional business sectors. However, with the development of increasingly rapid technology, current buying and selling transactions are gradually starting to change using technology that is increasingly developing into a new style, especially in the process of taking place. Trading through online-based buying and selling media.<sup>40</sup>

Buying and selling online means buying and selling goods and services through electronic media, primarily through the internet or online. One example is selling products online via the internet.<sup>41</sup> Even though it takes place online, it is still necessary to pay attention to the prohibited things in buying and selling. The leading causes for the prohibition of buying and selling in Islam are three of them are objects that are traded illegally according to the Qur'an and Hadith, forbidden because apart from the substance, usually related to the buying and selling process, and the contract being traded is invalid.<sup>42</sup>

Buying and selling online (olshop) in Indonesia through the media website, there are actually many types of olshops, such as *Shopee*, *Bukalapak*, *Lazada*, etc. The three types of olshops use website media as a place to market their wares. In principle, every person who will make a sale and purchase transaction always pays attention to caution, both for the seller and the buyer. This is to avoid fraud for both parties, especially buying and selling using the online system.<sup>43</sup>

The presence of people at home makes them carry out activities that can be done at home, such as shopping for daily necessities online, which is just waiting for the goods to

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<sup>39</sup>Ulum, "Prinsip-Prinsip Jual Beli Online Dalam Islam Dan Penerapannya Pada e-Commerce Islam Di Indonesia," 50.

<sup>40</sup>Ahmad Hormaini, M. Zamroni, and Hariadi Sasongko, "Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Jual Beli Secara Online," *Jurnal Reformasi Hukum : Cogito Ergo Sum* 3, no. 1 (2018): 21, <https://doi.org/10.31227/osf.io/r8vxq>.

<sup>41</sup>Fitria, "Bisnis Jual Beli Online (Online Shop) Dalam Hukum Islam Dan Hukum Negara," 55.

<sup>42</sup>Ahliwan Ardhinata and Sunan Fanani, "Keridhaan (Antaradhin) Dalam Jual Beli Online (Studi Kasus UD. Kuntajaya Kabupaten Gresik)," *Jurnal Ekonomi Syariah Teori Dan Terapan* 2, no. 1 (December 1, 2015): 50, <https://doi.org/10.20473/vol2iss20151pp47-60>.

<sup>43</sup>Dede Abdurohman, Haris Maiza Putra, and Iwan Nurdin, "Tinjauan Fiqih Muamalah Terhadap Jual Beli Online," *Ecopreneur: Jurnal Ekonomi Dan Bisnis Islam* 1, no. 2 (2020): 40, <http://journal.bungabangsacirebon.ac.id/index.php/ecopreneur/article/view/131>.

arrive at home by pre-ordering. This is included in the online sale and purchase agreement using the *salam* contract system. *Salam* buying and selling is a “buying and selling order”, where the buyer buys goods based on specific criteria by making a payment in advance and the goods purchased will be received at a particular time after payment.<sup>44</sup>

Buying and selling orders in Islamic *fiqh* is called as-*salam* according to the language of the Hijaz population, while the language of the Iraqi population is *as-salaf*. These two words have the same meaning, as the two words were used by the Prophet, as it is narrated that the Prophet when talking about the *bai' salam* contract, he used the word *as-salaf* in addition to *as-salam*, so the two words are synonymous.<sup>45</sup>

### **The practise of buying and selling online from an anthropological perspective of Islamic law**

The interaction between revelation and reason shapes the dynamics of Islamic law. That is what developed into Ijtihad (scientific efforts to explore and find laws for things that are not explicitly stipulated by law (*manshus*) in sharia (Qur'an and Sunnah).<sup>46</sup> There is no exception regarding the meaning and human understanding of the verses that talk about business.

Business is an activity expected to bring benefits for individuals, groups, and even profits for the nation and state. To obtain mutual benefits, all parties need talks, negotiations to determine the goods and services needed, reasonable prices, methods and techniques for sending and receiving goods, etc. Now, business freedom has begun to move from what initially involved traditional intra-cultural markets to inter-cultural ones.<sup>47</sup>

In the implementation of online buying and selling, several locations can be used by business actors (sellers) and buyers to conduct buying and selling transactions such as Marketplace, Website, Web Blog, Forum, and Social Media.<sup>48</sup> It is known that online buying and selling provides a general description of the specifications of the goods to be sold so that it can be identified that the practice is a *salam* contract. *Salam* contract is an order contract for goods whose characteristics are stated, in which the buyer of the goods submits the price for the ordered goods, the goods being ordered are the responsibility of the recipient of the order.

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<sup>44</sup>Rahmadi Indra Tektana and Risqullah Cahyanan Putra, “Implikasi Hukum Pandemi Covid-19 Terhadap Transaksi Akad Bai'As-Salam (Pre Order) Dalam Transaksi Dropship,” *Jurnal Supremasi* 11, no. 1 (2021): 80, <https://doi.org/10.35457/supremasi.v11i1.1093>.

<sup>45</sup>Salim, “Jual Beli Secara Online Menurut Pandangan Hukum Islam,” 381.

<sup>46</sup>Syauki, “Analisis Kemaslahatan Dan Kontekstual Praktek Jual Beli Berbasis Online,” 137.

<sup>47</sup>Susminingsih, “Ekonomi Islam Dalam Perspektif Antropologi,” 7.

<sup>48</sup>Wakhidah Wakhidah and Chamim Thohari, “Jual Beli on Line (E-Commerce) Ditinjau Dari Perspektif Hukum Islam,” *Jurnal Justisia Ekonomika: Magister Hukum Ekonomi Syariah* 2, no. 2 (July 5, 2019): 4, <https://doi.org/10.30651/justeko.v2i2.2478>.

According to Sayid Sabiq, *as-salam* is also called *as-salaf* (introduction), namely the sale of something with specific criteria (still under responsibility) with hasty payment.<sup>49</sup>

According to theory, buying and selling online is included in buying and selling of *salam* (orders). The syar'i limits according to the *salam* contract are as follows:

1. The quantity and quality of goods are precise.
2. When selling products online, the seller mentions the nature of the goods that the buyer can reach, that is, the goods can be measured, weighed, or measured. Regarding quality, for example, if the item is in the form of clothes, it is necessary to mention the type of fabric.
3. The specifications of the goods ordered must be fully known by the parties.
4. The seller explains the specifications of the goods as clearly as possible, does not cover up hidden defects. Likewise, buyers should ask for more details regarding products purchased online. Based on the ethics of buying and selling, the parties must interact honestly. Honest, in this case, describes the merchandise without any element of deceit when explaining the type, type (e.g. what kind of fabric), where the source comes from, and the price (how the seller determines the price).
5. The goods sold, the time and place of delivery are clearly stated.
6. The goods sold are clearly not included in the forbidden goods, which are not allowed in Islam. At the time of the contract, the parties can ensure an exact time so that the object or goods can be delivered later based on the determination of a predetermined date.
7. Payment of goods can be made at the agreed time and place.
8. For example, through the COD (Cash On Delivery) system or direct delivery, the time and place of payment can be determined at the time of the contract. After knowing the goods really match what you want, and there are no hidden defects, the payment can be made immediately.<sup>50</sup>

Even though they cannot meet in person, sellers and buyers must connect with each other to communicate about the buying and selling transactions that they want to make. From this context, it is clear that economic activity relies heavily on language as a symbol of interaction. In other words, humans and the economy always prioritize symbolic interactionism in negotiating their desires and hopes. The meeting point between

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<sup>49</sup>Abdurohman, Putra, and Nurdin, "Tinjauan Fiqih Muamalah Terhadap Jual Beli Online," 46.

<sup>50</sup>Friska Muthi Wulandari, "Jual Beli Online Yang Aman Dan Syar'i (Studi Terhadap Pandangan Pelaku Bisnis Online Di Kalangan Mahasiswa Dan Alumni Fakultas Syari'ah Dan Hukum UIN Sunan Kalijaga)," *Az Zaqqa'* 7, no. 2 (2015): 214–15, <http://ejournal.uin-suka.ac.id/syariah/azzarqa/article/view/1501>.

anthropology and economics can be understood, for example, in the example of meeting needs. Human needs do not include cultural studies, but how humans can fulfil those needs is part of the culture. In other words, how or human behaviour in meeting their needs becomes the subject of a joint study between culture and economy or business.<sup>51</sup>

Understanding the dialectic of establishing law in the Qur'an means understanding the reciprocal relationship between law and empirical social phenomena in people's lives<sup>52</sup>, like the practice of buying and selling online, the overall effort in the shortcomings or weaknesses that occur in the online business is the impact of human unpreparedness to accept the effects of increasingly rapid globalization.<sup>53</sup> Therefore, this anthropological *fiqh* study paradigm wants to place cultural values as the basis for *fiqh* development. The emphasis is not on the aspect of idealization with the universalization movement of *fiqh* legal norms but emphasizes efforts to indigenize *fiqh* legal values and transform themselves in the life of society.<sup>54</sup>

## CONCLUSION

One-sided buying and selling transactions online can provide convenience and benefit for the community. However, if strict ethics and laws do not accompany these conveniences and benefits, then people will easily get caught up in fraud and cheat each other. This is where the role of Islamic law and tighten regulations regarding online buying and selling aims to protect people who use online media for buying and selling transactions. If following the rules mentioned above, business transactions online will progress society and the country.

Even though they cannot meet in person, sellers and buyers must connect with each other to communicate about the buying and selling transactions that they want to make. From this context, it is clear that economic activity, including online buying and selling, relies heavily on language as a symbol of interaction. In other words, humans with economics always prioritize symbolic interactionism in negotiating the wishes and expectations of sellers and buyers. The meeting point between anthropology and economics can be understood, for example, in the example of meeting needs. Human needs do not include cultural studies, but how humans can fulfil those needs is part of the culture. In other words, how or human behaviour in meeting their needs becomes the subject of a joint study between culture and economy or business.

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<sup>52</sup>Sodiqin, "Antropologi Hukum Sebagai Pendekatan Dalam Penelitian Hukum Islam," 226.  
<sup>53</sup>Wulandari, "Jual Beli Online Yang Aman Dan Syar'i (Studi Terhadap Pandangan Pelaku Bisnis Online Di Kalangan Mahasiswa Dan Alumni Fakultas Syari'ah Dan Hukum UIN Sunan Kalijaga)," 210.  
<sup>54</sup>Dahlan, "Pendekatan Antropologis Dalam Paradigma Usul Fikih," 52.

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