

## **Application of the Istishna' Agreement to Online Buying Or Selling Transactions from an Islamic Perspective**

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**Abstract:** As time goes by, technology in carrying out transactions is also developing, making it easier for people to buy and sell. Like selling online or often called E-commerce. So that currently we can buy and sell online as we often encounter, namely on the Shopee application, Tokopedia Lazada group, TikTok Shop, Instagram, Facebook marketplace, Amazon, Alibaba group, jd.com, Walmart, Shopify, Coupang. In online buying and selling (E-commerce), there is a contract used, namely the Istishna' contract. The aim of this research is to deepen the istishna' agreement regarding E-commerce from an Islamic perspective. This paper uses qualitative methods with a phenomenological approach. The analysis used is narrative analysis, so that we can get to know the information in E-commerce in more detail. The results of this research are so that we can find out how Islamic buying and selling transactions occur in istishna' contracts, the basis of sharia, and how istishna' transactions are formed.

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### **Introduction**

Buying and selling transactions from the ancient times have been a source of livelihood for the previous communities, even before the era of the Prophet Muhammad SAW. However, the buying and selling transaction system used in the ancient times there was a different from the buying and selling transaction system today, where in the past they still used a barter transaction system or exchanging goods for goods that had been previously agreed upon, whereas nowadays currency is used to carry out buying and selling transactions at the agreed price. With developments and changes in technology today, this buying and selling transaction system has become very easy and also very practical nowadays, of course including the used of e-commerce transaction.

E-commerce is a activity of buying and selling transaction that is widely used by the young people because the sales process only uses the internet network and cellphones, where nowadays young people certainly have cellphones to carry out online buying and selling as a means of seeing how much goods cost. The product will be sold and how many items will be purchased on later. Not only young people, but adults also use the e-commerce to carry out buying and selling transactions.

In an Islamic perspective, e-commerce is carried out as long as it meets the requirements, namely that both parties, the seller and the buyer, are sincere, an agreement and qabul are made, the goods being bought and sold are halal goods, then e-commerce that occurs is legally permissible. E-commerce has been carried

out by many people in Indonesia, where the majority of the population is a Muslim. Therefore, sellers are required to carry out e-commerce activities in accordance with the rules of the Islamic religion. Not many sellers or buyers carry out the recording activities using the sharia transactions. Therefore, it is necessary for both of the sellers and the buyers to know how to record records in accordance with Islamic rules, especially those that occur in Istishna' contracts. The development of buying and selling transaction activities occurred in ancient times, namely from a traditional pattern where people used to do it by bartering, whereas nowadays we have used a modern pattern where this buying and selling activity can occur if we have currency that is worth the price when we want to exchange. trade. Buying or selling activities describe activities that occur in one event where the event consists of a seller and a buyer. Buying or selling according to fiqh is known as al-bai'. Meanwhile, according to language, al-bai' is: exchanging goods for other goods. Meanwhile, buying or the selling activities according to the term is the exchange of goods for other goods, for example exchanging goods for currencies such as goods for rupiah, goods for ringgit, goods for dollars or goods for other currencies. Which is the meaning of releasing the property rights owned by the seller and giving them to the buyer. The current era of globalization has had a very positive impact on progress in the field of trade, where currently social media (social media) has become viral or famous. Social media is a medium used by the wider community, including children, teenagers and adults, to buy or sell goods or services online.

### **Definition of Istishna'**

Istishna' is a contract to order an item from party 1 (buyer) to party 2 (seller). As for istishna', it is an order made by a buyer who specifically has his own criteria for the item to be made of specifically by the seller, which means the seller must make the ordered goods according to the buyer's wishes and want.

Istishna' according to the language is mashdar from istashana' asy – syai, which means asking the seller to make something

to do something according to the requested order.

Statement of Financial Accounting Standards (PSAK) in Indonesia Number 104 regulates accounting, measurement, presentation and limitations of istishna' transactions. This statement applies to sharia financial institutions and sharia institutions that collaborate in istishna' transactions, both with sellers and buyers.

According to the Statement of Financial Accounting Standards of the Indonesian Accounting Association (PSAK IAI), an Istishna contract is a sale and purchase transaction contract with rules regarding products and certain criteria or specifications requested by the buyer. This is a sign of a contract between the seller and the buyer. In PSAK (Indonesian accounting term rules) 104 it is also explained that the goods ordered must meet several criteria, namely as follows:

1. The processes required to produce the ordered products are carried out immediately after the contract and agreement are ready and completed.
2. The products produced must be based on to the consumer demand and not mass-produced products.
3. The seller must understand and understand the characteristics or general characteristics of an item that wants to be traded, namely the type of item used, the quality of an item, technical details, and the scope of the item it originates from.

### **Istishna' According to the Qur'an, Hadith and Ulama'**

- ❖ Istishna' according to the Al-Qur'an (Al-Kahf : 94 – 95).
- ❖ They said: "O Dzulkarnain! "Indeed Gog and Magog are a group of people who are causing mischief on the earth, so may we pay you a reward so that you build a barrier between us and them?" Dzulkarnain said: "What God has given me is better than your reward, so help me with strength so that I can create a barrier between you and them." (Q.S Al-Kahf: 94-95).
- ❖ Istishna' according to Hadith
- ❖ From Nafi' from 'Abdillah; That the Messenger of Allah sallallaahu 'alaihi wassalam once asked for a ring made of gold. When he wears it, he always

places the ring on the inside of his palm. Then the friends imitated what the Prophet sallalohu 'alaihi wasallam did. At one point, he sat on the pulpit and immediately took off or took off the ring, saying: "In the past, I always wore or used this ring and put the ring on the inside." Then the Prophet sallallaahu 'alaihi wasallam threw away the ring and said: "By Allah, I will not wear it again.

- ❖ Istishna' According to Ulama
- ❖ According to some Hanafiyyah scholars, istishna' is a contract regarding an item that is responsible for doing it, so if someone says to a person who is skilled in making something, "make something for me at a price of so many dirhams", and that person accepts it, then The istishna contract has also occurred in the Hanafiyyah view.

### **Pillars and Terms of Istishna'**

The pillars of Istishna' Buying and Selling transactions are as follows, namely:

#### **1. Seller (Shani')**

To make an order according to the agreement and may receive payment according to the price that has finally been calculated and the profit that has been calculated by the seller will be obtained from the goods sold, the payment of which is agreed upon by the buyer either in cash or in installments.

#### **2. Booker (Mustashni)**

The ordering party or buyer is the party on who provides an example of the description of the ordered goods and makes payment. For an example, when we order a uniforms from a tailor with criteria or designs made from black cotton fabric, collar style. After the tailor can do this, the customer will pay in cash right away or can pay in installments right away in accordance with the agreement that applies in this istishna contract.

#### **3. Object of the Contract (Mashnu')**

The goods ordered must be available and have clarity in the details related to the form of the goods and/or the physical form of the order desired by the buyer and approved and agreed to by the seller.

#### **4. Consent to Kabul**

Occurs when the seller and the buyer form an agreement in a state of the sale and purchase transaction or what is called a

Kabul istishna' agreement. For example, if a person or buyer wants to buy sports pants in size XXL according to the agreed model, then the seller can accept that model. So there needs to be an agreement and Kabul between the seller and the buyer so that the sale and purchase transaction using the Kabul istishna agreement is officially carried out.

The conditions for the istishna' sale and purchase agreement transaction are:

a. Sensible and mature; The seller and buyer are people who have reached maturity and also have common sense and can definitely differentiate between good transactions and bad transactions or also known as mumayyiz. Around the age of seven, he can be called mumayyiz and if so, he can also carry out istishna buying and selling contract transactions. For example, purchasing notebooks, pencils and snacks, but something that is expensive or unaffordable is definitely not a valid buying and selling transaction unless permission is given by the child's parents. For example, motor vehicle buying and selling transactions.

b. Ridho, and not violating the agreement; which is one of the forms experienced by accepting all events sincerely, patiently, and also being happy with the provisions that have been given in an agreement made by the parties involved.

c. The seller is willing to fulfill the buyer's request; with decisions in fulfilling requests that reflect the seller's cooperative assessment which is the results and performance that will be felt by the buyer so that it reflects the benefits for customers that exist in the seller's value as a combination of quality and service.

d. Ordered goods have characteristics such as clear type, size and quantity; The buyer is obliged to include the type, size and quantity ordered to make it easier for the seller to produce an item that the buyer wants.

e. The ordered goods are not haram; goods that are traded must be obtained in a halal way, such as goods resulting from theft, corruption, as in the hadith of the prophet which states that if something exists or is raised in a haram way then hell is the most suitable place for that human to live in.

If the terms and the conditions of the istishna' contract are fulfilled and have been

agreed upon by both parties, both the seller and the buyer, then the istishna' contract cannot be canceled because it will cause the party to be wronged and cause sin for the party who cancels the istishna contract.

However, there are provisions where the contract can be canceled if the conditions such as those mentioned below occur, namely:

a. The contract is terminated because both parties agree to complete it;

b. The contract was canceled because there was a law that limited the implementation of the contract.

### **Site and Application to carry out the Istishna' Agreement in E-Commerce activities**

The existence of globalization which is developing more and more rapidly means that people can live with the online-based activities, one of which is carrying out online buying and selling transactions through e-commerce sites which are of course already available. The e-commerce sites currently available in our country (Indonesia) are very good and diverse, namely Shopee, Tokopedia, Lazada. There are applications that are not specifically for shopping, but there are certain features provided by the sellers to make it easier for buyers, such as a market place on Facebook, a shop feature on TikTok and now they are collaborating with the Tokopedia application.

One of the supporting media for online buying and selling transactions is the existence of the Internet, which functions as an intermediary for communication between sellers and buyers by being able to display the products and quality of goods to be sold by the sellers. When making online transactions, we are required to be very careful in choosing a shop, because there have been many cases where users of buying and selling transactions have been deceived by a shop that only uses personal profit so that the shop cannot be trusted again. The way to do this is by looking at the rating section in the form of stars and looking at the reviews. If the ratings and reviews are bad then the product being sold is inadequate to buy, whereas if the ratings and reviews are good then the product being sold is adequate to buy.

The applications included in online buying and selling transactions are:

#### 1. Shopee

Shopee is an e-commerce platform where we can shop for various goods, brands that we already know, as well as discover new shops and sellers online. Shopee itself was founded on February 5 2015 with a market located in Singapore which is in the electronic commerce sector. Shopee has its application operating areas, namely Southeast Asia and Taiwan.

#### 2. Tokopedia

Tokopedia is an Indonesian technology company with a mission of digital economic equality in Indonesia. Tokopedia was founded on February 6 2009 and its inauguration date was August 17 2009 and this date is said to be Tokopedia's anniversary date. Tokopedia's headquarters are precisely in Indonesia itself, namely in Jakarta with a division of ownership between GoTo and TikTok in a ratio of 1:3. Where Goto has 25% rights to Tokopedia and Tiktok has 75% rights.

#### 3. TikTok Shop

TikTok Commerce offers advertising features and solutions that help brands, merchants, creators and partners to interact with their customers better. The way to do this is by selling products through video content, TikTok Live.

#### 4. Facebook Marketplace

Marketplace has become a term that is often used along with the increasing trend of online shopping. That's where the sellers and buyers meet to carry out transactions similar to a market, only done online. There are also sellers who offer the same product. Then the buyer just has to choose which seller they feel is trustworthy and can agree on a cheaper price than the other seller. Facebook Marketplace was founded on May 14, 2007.

#### 5. Amazon

Amazon is an e-commerce company from America founded by Jeff Bezos in 1994. Initially, Amazon only sold books online, but over time it developed into an e-commerce platform that sells various kinds of products and services. The Amazon company is the company with the largest market capital in the world and in November 2021 its market capital was 1.81 trillion United States (US) dollars.

## 6. Alibaba Group

Alibaba Group is an e-commerce company from China which was founded by Jack Ma in 1999. Alibaba Group has popular e-commerce platforms such as Taobao, Tmall, AliExpress, and Lazada which are famous in Indonesia. According to reports, the Alibaba group is the largest e-commerce company in the world in 2021 with a GMV of 1.2 trillion US dollars. Apart from that, Alibaba Group also has market capital that reached 600 billion United States (US) dollars in November 2021.

## 7. JD.COM

JD.COM is an e-commerce company from China which was founded by Liu Qiangdong in 1998. JD.COM is an e-commerce platform that offers high quality products at competitive prices. According to reports, JD.COM is the third largest e-commerce company in the world in 2021 with a GMV of 379 billion United States Dollars (US). JD.COM also has market capital of 100 billion United States Dollars (US) in November 2021.

## 8. Walmart

Walmart is a retail company from the United States which was founded by Sam Walton in 1962. Walmart has more than 11,000 physical stores throughout the world that sell various kinds of products, Walmart also has an e-commerce platform called Walmart.com which offers product products from stores. physical or third parties. And according to the reports, Walmart is the fourth largest e-commerce company in the world in 2021 with a GMV of 220 billion US dollars. Walmart also has market capital of 400 billion United States (US) dollars in November 2021.

## 9. Coupang

Coupang is an e-commerce company from South Korea which was founded by Bom kim in 2010. Coupang is an e-commerce company that offers products and services at low prices. According to reports, Coupang is the 7th largest e-commerce company in the world in 2021 with a GMV of 100 billion United States (US) dollars. Coupang also has market capital of 50 billion United States dollars (US) in November 2021.

## **Istishna' Akad Research Method in E-commerce from an Islamic perspective**

This research uses a qualitative phenomenology method. The phenomenological method examines a real phenomenon whose nature refers to or is based on events that are new in nature. This e-commerce activity often happens nowadays, where of course everyone has done a lot of e-commerce activities. E-commerce is a buying and selling contract using internet services, whether in the form of goods or services, where the transaction is not met in person, but includes details of the goods, and the goods must be paid for before the goods will be processed later. With the example that I give below, it is as follows:

### **Example of Istishna' Agreement in E-Commerce**

Asyila Latifah Adlin or often called Asyila. Soon the Eid al-Fitr holiday will arrive, usually large families will wear the same clothes on the first holiday. Because Eid al-Fitr falls on May 2, it is therefore safe to order goods 2 months before the holiday. Asyila looked at the Instagram application and felt that it suited the design and material of the Muslim brocade dress. He immediately sent a Direct Message (DM) to the account.

Because of the activities in buying and selling transactions are carried out in quite large quantities and over quite long distances, it is necessary to have a letter of agreement between the seller and the buyer, if either of them commits fraud which causes losses to one of the parties concerned. Here I want to give an example of an online istishna' sale and purchase transaction agreement for goods, namely 12 Muslim brocade dresses or 1 dozen at a price of 2,268,000/12 pieces = 189,000. This means that the unit price of a Muslim brocade dress is IDR. 189,000.

<p style="text-align: center;"><b>Sale and purchase agreement (Istishna Contract)</b></p>
<p style="text-align: center;"><b>Purchase of 1 Dozen Brocade Shirts</b></p>
<p>On this day, March 5 2002, a sale and purchase agreement was made in the form</p>

of 12 Muslim brocade dresses or 1 dozen, between:

Name: Asyila Latifah Adlin

Address: North Sumatra

No. KTP: XXXXXXXXXXXXXXXXX

In this case acting as and on behalf of an individual. And is referred to as the buyer.

Name: Meylani Keynandiana wiqsyu

Address: East Java

No. KTP: XXXXXXXXXXXXXXXXX

In this case acting as and on behalf of an individual. And referred to as the seller.

The seller and buyer have agreed on the following matters:

1. There is a down payment (DP) paid by the buyer of Rp. 1,000,000 of the total price of the goods ordered.

2. Buyers are required to provide criteria for the goods they want so that misrepresentation of the ordered product does not occur.

3. The seller is obliged to deliver the goods according to the agreed order at the agreed time.

4. The buyer may reject the goods if the goods do not match what was ordered.

East Java, March 5 2002

Contracting parties

Seller Party

Ttd

Meylan Keynandyana W

Buyer Party

Ttd

Asyila Latifah A

## Application of the Istishna' Agreement Online in Sale and Purchase Agreements

The istishna' contract is a sale and purchase agreement agreed upon by the seller and the buyer in the form of making an order with criteria that have been agreed upon by both parties. Therefore, the seller needs to prepare the goods and the buyer must prepare the payment.

The characteristics of e-commerce there are:

- Transactions carried out by both parties;
- Exchange of goods and services;
- The internet is the main component in the e-commerce process.

E-commerce practices are carried out by means of the Pre Order (PO) transactions which is carried out via an online application so that the product is finally received by the

buyer. This buying and selling transaction is permissible and prohibited if it contains usury, where in Qs. Al Baqarah, 275:

"Allah has permitted buying and selling and has prohibited usury"

E-commerce in the PO system is seen from the Sharia Council Fatwa No: 06/DSN-MUI/IV/2000 concerning buying and selling istisna:

- Based on the terms of payment for the sale and purchase transaction

Consist of :

1. The price of the goods is known in advance in accordance with the agreement between the seller and the buyer,

2. Payment must be paid in accordance with the mutual agreement between the seller and the buyer.

3. The applicable payment instrument must be known in its form, whether in the form of money or goods, and its function.

As explained in the 3 points above, if we want to implement the payment terms, we need to know that there is a predetermined price according to the agreement between the seller and the buyer, then the payment must be made according to the mutual agreement between the seller and the buyer. And it is necessary to have a valid means of payment, we must know what form it takes, whether in the form of money or in the form of goods and its function.

- Based on the provisions of the goods being traded.

They are as follows:

1. Can explain the characteristics of the goods you want to buy,

2. When will the delivery of goods be made and of course this will be discussed between the seller and the buyer,

3. Where the goods are delivered and of course agreed upon by the seller and buyer,

4. The seller may not sell the goods before the goods are received by the buyer.

5. If there are defective goods that do not comply with the agreement, the buyer may cancel the sale and purchase agreement.

## Conclusion

Buying and selling transactions from ancient times have been a source of livelihood for previous communities, even

before the era of the Prophet Muhammad SAW. However, the buying and selling transaction system used in ancient times was different from the buying and selling transaction system today, where in the past they still used a barter transaction system or exchanging goods for goods that had been previously agreed upon, whereas nowadays currency is used to carry out buying and selling transactions at the agreed price. With current developments and changes in technology, this buying and selling transaction system has become very easy and also very practical, of course including the e-commerce.

E-commerce is a buying and selling transaction activity that is widely used by the young people because the sales process only uses the internet network and cellphones, where nowadays young people certainly have cellphones to carry out online buying and selling as a means of seeing how much goods cost. will be sold and how many items will be purchased later. Not only young people, but adults also use e-commerce to carry out buying and selling transactions.

According to the Statement of Financial Accounting Standards of the Indonesian Accounting Association (PSAK IAI), an Istishna contract is a sale and purchase transaction contract with rules regarding products and certain criteria or specifications requested by the buyer. This is a sign of a contract between the seller and the buyer.

The seller and the buyer form a contract. For example, if you want to buy sports pants in size XXL according to the agreed model, then the seller can accept that model. So there needs to be an agreement and Kabul so that the sale and purchase transaction is officially carried out. The conditions in the istishna' agreement are: Being sensible and mature, Ridho, and not committing violations of the agreement; The seller is willing to fulfill the buyer's request; Ordered goods have characteristics such as clear type, size and quantity; The goods ordered are not haram.

E-commerce practices are carried out by means of Pre Order (PO) which is carried out via an online application so that the product is finally received by the buyer. This buying and selling transaction is permissible

and prohibited if it contains usury, where in Qs. Al Baqarah verses 275:

Which means "Allah has permitted buying and selling and has prohibited usury"

Based on the payment terms for a sale and purchase transaction, if we want to carry out the terms of payment, we need to know that there is a predetermined price according to the agreement between the seller and the buyer, then the payment must be made in accordance with the mutual agreement between the seller and the buyer. And it is necessary to have a valid means of payment, we must know what form it takes, whether in the form of money or in the form of goods and its function.

The istishna' buying and selling contract is actually widely used in our daily lives, but not many people know what the istishna' contract is so people think they only know that it is just an ordinary buying and selling transaction activity. In e-commerce this is of course also included in the istishna' sale and purchase agreement as is permitted in Islam with the Sharia Council Fatwa NO: 06/DSN-MUI/IV/2000.

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