

Risk of *al-Bai'* on Clove Seeds in *Mappalla* System Islamic Law Perspectives

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Abstract

This study focuses on al-bai' on clove seeds in the system mappalla perspective of Islamic law. This type of research is qualitative. The research was conducted descriptively-qualitatively. The research location was conducted in Bukkere, Sidrap Regency. The results show that al-bai' on clove seeds in the system m appalla performed by the people of Bukkere is a hereditary tradition that has become al-urf; al-bai' on clove seeds in the mappalla system found there is an element of gharar in Islamic law; al-bai' on clove seeds in the system mappalla, can not guarantee a good growth that can harm one party.

Keywords: *Al-bai', Islamic law, transactions, masalah, gharar*

1. Introduction

The arrival of Islam becomes *rahmatan lil 'alamin* for all mankind. Islam lays down laws derived from the Qur'an and hadith that govern all dimensions of human life. The laws in the Qur'an and hadith are called Islamic laws which regulate the relationship between humans and Allah, the relationship between humans and humans, and the relationship between humans and all nature.

Humans as social beings cannot live without involvement with others, humans need interaction between other humans to fulfill all their needs. Human relations with others in Islamic law are called *muamalah* (Bachrein, 2014).

Muamalah in Islamic law is a law that regulates social interactions between humans. *Muamalah* in a broad sense is a law legislated by Allah SWT. to regulate human relations with humans, to regulate humans with their assets, to regulate humans with efforts that can give rise to law. Humans when doing *muamalah* must enforce the rules established by Allah SWT. so that humans can acquire, organize, manage and develop property.

Human activities are very basic in *muamalah* to meet the needs of others and help by means of *al-bai* or is called buying and selling. Islamic law in the aspect of *muamalah* complements the laws of *al-bai'* which can meet human needs directly. That interaction for humans can take and provide benefits, not the other way around that can harm other humans. Therefore, the practice that can be in direct contact with human interaction is *al-bai'* (Mujiatun, 2014).

Al-bai' in the context of law is the practice of exchanging goods with the principle of mutual willingness and *ridha* in transferring property rights to others in accordance with Islamic law. The general principle of *muamalah* that *al-bai'* is an economic activity for mutual benefit from business, rejects usury, prohibits cheating and violence (Jumena, Busthomi, & Khotimah, 2017).

The main goal of *al-bai'* in Islamic law is to create justice, a prosperous and prosperous society, to demonstrate the teachings of Islam with *rahmatan lil alamin* (Nadrattuzaman, 2009). Human activity in economic aspects, especially in *al-bai'* is very clear in QS An-Nisa' / 4: 29; " *O you who believe, do not consume each other's property in a wrong way, except in the way of business that occurs with mutual love between you*".

Al-bai' is a transaction that is directly practiced by Rasulullah saw. when he was young. The practice of *al-bai'* performed by Rasulullah is an example that must be followed by *ash-shiddiq* attitude, honesty, trust, and responsibility. It is said that the transaction takes place on the principle of mutual love, no violence, and in accordance with the pillars and conditions that cause the validity of *al-bai'*.

Today, with the development and advancement of human civilization in the modern era, there are various types of *al-bai'* transactions, such as buying and selling goods that are not yet clear and visible, although this is one of *al-bai'* which is forbidden in Islamic law. The context can be revealed in the *al-bai'* transaction on clove seeds conducted by the Bukkere community in Sidrap Regency. Farmers and traders in *al-bai'* on clove seed, transacting with the *mappalla* system. The object of sale and purchase in the practice of the *mappalla* system at the time of making the transaction is still the clove seeds have not yet grown, resulting in ambiguity in the quantity and quality of the clove seeds traded. Therefore, the practice of the *mappalla* system cannot use *measurements* or scales, and an accurate system of calculation. Practice with the *mappalla* system has great potential to realize transactions that are speculative in nature.

On the other hand, the practice of the *mappalla* system is only an agreement orally without written evidence. The *mappalla* system is a tradition in transactions that is hereditary, may allow disputes in the future. While the legal condition of an *al-bai'* is generally the object of the goods being traded must be clear of its material condition. This means that the material objects that clearly measure and criterion it.

However, *al-bai'* on clove seeds with the practice of the *mappalla* system objects in the transaction of goods can not be seen material clearly and precisely. Thus, the system *mappalla* let there elements *gharar* prohibited in Islamic law. All *al-bai'* containing *gharar*, are not allowed in Islamic law (Lathif, 2013; Prabowo, 2009; Syauqoti, 2018; Yuspin, 2007). Given that statement, it is important to do research with problems, namely; 1) How is the practice of *al-bai'* on clove seeds in the *mappalla* system in the community of Bukkere, Sidrap Regency ?; How is the perspective of Islamic law on *al-bai'* clove seeds in the *mappalla* system, and 3) How is the risk of *al-bai'* clove seeds in the *mappalla* system?

2. Research Methodology

This research is qualitative descriptive approach. Primary data is data obtained directly from the observation, interviews and documentation. The primary data source in this research are farmer in Bukkere. Secondary data source is data obtained from official documents, books related to the object of research, research results in the form of reports, theses, theses, dissertations, statutory regulations, and others.

3. Results and Discussion

3.1. *Al-bai'* on clove seeds in the *mappalla* system in Bukkere society

The Bukkere people, the majority of whom are Muslims, have a strong influence on their daily habits. As is customary seen from the way they dress, behave, and even include in earning a living.

If we look closely the people of Bukkere have a livelihood are farmers in general. That factor with the support of a geographical environment that has great potential for planting. The Bukkere people mostly have clove farms, so in fulfilling their living needs is working as a clove farmer, also producing clove seeds to be traded using the *mappalla* system as a habit in society.

The *mappalla* system is a term used by the Bukkere community in Cenrana Village, Panca Lautang District, Sidrap Regency. The process of trading clove seeds with the *mappalla* system is a plant that is still in the soil of the lot consisting of several seeds. The transaction system can only rely on a system of assessment and prediction solely from both parties.

Data from the interview results of a farmer says that as a farmer, the sowing process takes a very long time. Seeds are obtained from ripe cloves, known as *kacamba* which is preserved for 3 months. The seedlings are separated from the bark and stone, then planted in wood powder for 2 weeks, after the plant is rooted, the next process is planted in a *polybag* until it takes six months to leafy (Khallaf, 2003).

The cultivation process carried out by farmers in the Bukkere community is more fun to trade clove seeds than the results of the *mappalla* system, because the system is easier and does not *require* longer maintenance from farmers. The reason is that the *mappalla* system is still a tradition by the Bukkere community .

The custom in Islamic law dug through *ushul fiqh* is known as *al-'urf* . *Al-'urf* is a habit that is already cultured, both in word and deed. In addition, in other words it is referred to as *adat*. *Al-'urf* is composed of human understanding of their differences in level, generality and specificity (Khallaf, 2002).

There are two kinds of *'urf*, namely; 1) *authentic* *adat* , that is a custom that is repeatedly performed, accepted by the public, not contrary to religion, manners and noble culture (Basri & Fikri, 2018), and 2) *fasid* *adat* that is a custom that applies in a place although evenly implemented, but contrary to religion, state law and manners (Anshori, 2018; Aripin, 2016; Setiyawan, 2012; Shabana, 2010; Zainuddin, 2015).

Through the understanding of *al-'urf* it can be associated with the practice of the *mappalla* system assessed habits in society in the form of words, deeds that occur repeatedly and accepted as a virtue. The virtues recognized by the perpetrators are sourced from the social reasoning of the society that the deed is good.

The stages of *al-bai'* practice on clove seeds with the *mappalla* system in Bukkere society, are as follows;

First, The assessment mechanism in *mappalla* system is a mechanism used in *mappalla* system, to determine the growth of objects transacted by means of assessment. Its assessment is seen in the growth of cloves that become kacamba, then turned into seeds;

Second, The bidding mechanism in the *mappalla* 'a system is the price of clove seeds set by the farmer between Rp.10.000 to Rp. 15,000 per plant in the *polybag*. Most farmers require advance payment. Payment due in a transaction clove seeds with system *mappalla* ' not in complete with the proof of payment. The practice is done on the principle of trust and kinship between farmers and clove seed owners.

Third, *Ijab* and *qabul* in the *mappalla* system. When farmers and buyers do *ijab* and *qabul*, it is said to be valid when the pillars and conditions of *ijab* and *qabul* have been met, because this *ijab* and *qabul* is done with the intention of showing a sense of mutual willingness (*ridha*) to the trading transaction they do. The implementation of *ijab* and *qabul* then creates an obligation on each party in return. *Ijab* and *qabul* performed in the sale and purchase of clove seeds *mappalla* system 'to the Bukkere community by word of mouth and ended with a handshake as proof of *al-bai*' legitimacy.

To do *ijab* and *qabul*, both farmers and buyers say it not explicitly means that both parties do not use *lafadz ijab* and *qabul* as it should, but by using other words that show the same meaning in the *ijab* and *qabul*. The clove seed transaction in the *mappalla* system in Bukkere society prioritizes family principles and beliefs. As a *final offer* and *qabul* purchase seedlings clove system *mappalla* is usually done in the garden as the property of the peasants.

3.2. Islamic law perspective on *al-bai*' clove seeds in the *mappalla* system

Al-bai' is an economic activity in meeting the needs of human life. Every human being must have needs that must be met in living life in the form of shelter, food, and clothing. The need can be obtained from *al-bai*'.

Islamic law places *al-bai*' as an economic activity as well as a source of commendable and halal livelihood, in contrast to *riba* which is forbidden by Allah SWT. The scholars are of the view that *al-bai*' is a very noble and major source of livelihood. That is why in Islamic law prescribes some principles that aim for *al-bai*' to be implemented in accordance with human welfare (La Hafi & Budiman, 2017).

The practice of *al-bai'* on clove seeds which has become a source of livelihood for the Bukkere people with the *mappalla* system. Although *al-bai'* on clove seeds as a source of livelihood, it can still be tested from the aspect of legitimacy according to Islamic law, especially the aspect of *maslahah*.

Generally the scholars agree that there are at least three elements in *al-bai'* are *aqidain* (the parties who make a covenant), *maal-aqd* (object of the contract), *sighat al-aqd* (*ijab* and *qabul*) (Widjaatmadja & Solihah, 2019).

The scholars agree that the most important condition of *al-bai'* is to be sensible and puberty (Sarwat, 2018). The parties who performed *al-bai'* in clove seeds with the *mappalla* system in Bukkere society. In general, transactions in the system *mappalla* in accordance with the principles and conditions of *al-bai'*. In addition, *al-bai'* is also done on a voluntary basis.

The practice of *al-bai'* in clove seeds in Bukkere society that the goods that are the object of the contract or the goods that are transacted, the condition is pure and clean, but the form of the goods is not clear.

Al-bai' in principle all the *madzhabs* of the jurists agree that the object of *aqad* must be usable, sacred, its existence exists, is clearly known and can be accepted (Embong et al., 2019).

Regarding the clarity requirements of the amount or quantity used as the object of *al-bai'*, namely clove seeds, there is an element of *gharar*, that is in the form of goods sold, growth can not be guaranteed that clove seeds are still in the ground or *polybag*. The context if attributed to the opinion of scholars differs in responding to it regarding the legal status of *gharar*.

About *al-bai'* with plants that still are or buried in the ground, the scholars agree its legal status is *gharar*, but still different in setting its rates. According to Imam Syafi'i and Imam Abu Hanifah, establishing his legal status is a great *gharar*, and has the potential to be abandoned, so. While Imam Malik thinks his legal status is a light *gharar*, or it is impossible to leave, because it has become needs, until mubah (Embong et al., 2019).

Ibn Taymiyyah compared the view of *madzhab* from Imam Malik is the best *madzhab*, that is, it is permissible to do *al-bai'* if the object is needed, so that its *gharar* status is light and permissible. Thus, *al-bai'* on the clove seeds of the *mappalla* system is permissible even though the plant is still on the surface of the soil or *polybag*. *Al-bai'* is not included in *al-bai' bi al-gharar*, because it is done by people who have experience

and are able to detect the contents and rate of clove seedlings that have not grown or have not seen leaves.

Ijab and *qabul* are forms of agreement between the two parties to the transaction. Therefore, *ijab* and *qabul* are the will of both parties in *al-bai'*. The point of agreement and *qabul* it should be done by word of mouth (Supriadi, 2018).

Al-bai' from clove seeds with the *mappalla* system in the Bukkere community in doing *ijab* and *qabul* emphasizes with the principles of family and trust. *Al-bai'* from clove seeds are usually without the use of written evidence such as letters of agreement, receipts or other proofs of payment, so that they trust each other (Fikri, 2016). In addition, it has become a tradition in Bukkere society.

The custom or tradition of *al-bai'* on clove seeds with the *mappalla* system in the Bukkere community is when performing *aqad* is still found in the soil and has not grown leaves or stems.

Sources of *ijab* and *qabul* in *al-bai'* must remain, only the form depends on the habits of each community. The most important thing is that the meaning and purpose of *ijab* and *qabul* in *al-bai'* is the willingness of both parties to remain.

3.3. Risk of *al-bai'* in clove seeds with *mappalla* system

Al-bai' in Clove seeds with *mappalla* system in Bukkere society there is ambiguity about the growth of clove seeds. The risk posed is that farmers sometimes can not guarantee the growth of stems and leaves from clove seedlings well. That context can be detrimental to farmers who buy clove seeds, without providing a replacement for seeds already damaged by the seller. The loss is solely borne by the farmer who buys the clove seeds, but if the clove seedlings there is more preparation can be replaced by the trader. The connection with the *maslahah* approach is one of the methods of determining the purpose of Islamic law is the process of *al-bai'*, it is better to eliminate *harm* (damage) and also the loss of both parties who make the *agreement*.

The urgency of *maslahah* must be in line with the verses in Qur'an and hadith. The reason is that the approach *maslahah* as a goal in the determination of Islamic law shows the law that can be accepted by the intellect, applies generally in matters of *muamalah* (Hamid, 2015). The reality of *al-bai'* in clove seeds with the *mappalla* system, if there is a loss or damage from one of the parties to the transaction, in the *maslahah* approach can be replaced the loss. Islamic law rejects harm (damage) in *al-bai* transactions clove seeds in the *mappalla* system.

4. Conclusion

The application of *al-bai'* on clove seedlings using the *mappalla* system that the seeds are still in the soil which are traded by means of an estimate. The people of Bukkere generally work as clove farmers. They lived for years only relying on clove plants as a source of livelihood. Planting clove seeds using the *mappalla* system in the soil or polybags is considered easier and does not require longer maintenance. The reason is that the *mappalla* system has become a tradition for the people of Bukkere, even in Islamic law that tradition is known as *al-'urf*.

Payment in *al-bai'* using the *mappalla* system in the Bukkere society still uses the classic system, not accompanied by documents or evidence such as receipts or written letters. The Bukkere people use a payment model with a trust and kinship system among the farmers. The place of consent and *qabul* for *al-bai'* on clove seedlings using the *mappalla* system is usually done in farmers' gardens.

Al-maslahah in Islamic law regarding the practice of *al-bai'* on clove seeds with the *mappalla* system in the Bukkere society is very important to pay attention to the *gharar* aspect. *Al-bai'* with the *mappalla* system in Bukkere is unclear (*gharar*) because it carries out transactions on objects of goods that are not yet visible. Although the practice of *al-bai'* on clove seedlings using the *mappalla* system is the legal status of *gharar*, it is still categorized as light *gharar*, and it is still permissible with the transaction.

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