GERECHTIGHEID LAW JOURNAL
Volume 1 Number 1 February 2020
P ISSN: 2716-3660

Sale and Purchase Contracts Through the Internet (E-Commerce) Judging From Civil Law, Electronic Transaction Information Law (ETIL) and Islamic Law

Risky Kurniawan Hidayat, Syahruddin Nawi, and Sri Lestari Poernomo[1]

[1]Master of Law Study Program at the Muslim University of Makassar Indonesia Jl. Urip Sumoharjo Number 5, Panaikang, Panakkukang District, Makassar City, South Sulawesi 90231, Indonesia.

E-mail: riskykurniawan183@gmail.com

Abstract. Contracts or sale and purchase agreements that are regulated in the Civil Code and Islamic Law, while (e-commerce) is basically a modern trading transaction model regulated in Act Number 19 of 2016 amending Law Number 11 Year 2008 About Information and Electronic Transactions. The research aims to find out analyzing the validity of contracts for buying and selling via the Internet (e-commerce) in the Civil Law and Islamic Law (2) Similarities and differences in buying and selling contracts via the internet (e-commerce) according to the Civil law, the ETIL and Islamic Law. This research is included in the category of library research, namely research that analyzes books and produces a conclusion. The author makes a comparison of the results of the literature on contracts to buy and sell via the internet *(e-commerce)* in terms of the Civil Law and Islamic Law. Data sources consist of primary, secondary and tertiary legal materials for primary legal materials, namely the Civil Law and PERMA No. 2 of 2008 Sharia Economic Law Compilation, secondary legal materials include legal books and scientific journals and tertiary legal materials using legal dictionaries, and websites from the internet. The legal material from the results of the study was then analyzed by qualitative, qiyas (equalizing) and comparative analysis methods. The results of this study indicate that (1) The validity of e-commerce agreements in the Civil Law, is valid according to Article 1320 of the Civil Law and the principle of freedom of contract as stipulated in article 1338 of the Civil Law on freedom of contract. Whereas in Islamic Law, it is pronounced with a salam and istishna contract 'in article 20 of the Compilation of Sharia Economic Laws. So according to Islamic law it is also valid based on the salam agreement. (2) The similarity lies in the intent of the understanding of the sale and purchase agreement that together creates a legal relationship, the same concept of agreement, the equality of Article 1330 of the Civil Law and PERMA No. 2 of 2008 Article 4 Compilation of Sharia Economic Laws, equality of terms of the object of the sale-purchase agreement, equality of legal remedies against default parties. While the

P ISSN: 2716-3660

difference lies in a number of principles, differences due to the default law, and differences in dispute resolution.

Keywords: Contract of Sale and Purchase, Internet, Civil Law, Islamic Law.

1. Introduction

The internet is the largest computer network in the world currently used by millions of people spread all over the world. The internet as a media of information and electronic communication has been widely used for various activities, including browsing, searching for data and news, sending messages to each other via e-mail, communicating through social networking sites, and including buying and selling. Buying and selling activities by utilizing internet media is known as electronic commerce (e-commerce) [1]. At first the sale was carried out in barter between the two parties who met directly and met face to face who then made an agreement on what would be exchanged without an agreement. After the discovery of the means of payment, the barter gradually changed into trading activities, leading to the development of a developing trading procedure in the presence of an agreement between the two parties who agreed to enter into a sale and purchase agreement which contained in the agreement governing what rights and obligations between the two parties. The e-commerce agreement made by the parties is not like an agreement in general, but the agreement can be done even without a direct meeting between the two parties, but the agreement between the parties is carried out electronically.

The agreement between the parties is done by accessing the web page provided, containing clauses or agreements made by the first party (the seller), and the other party (the buyer) just presses the button provided as a sign of agreement on the contents of the existing agreement, without the need to affix signatures are like agreements in general, but use electronic signatures or digital signatures [2]. So that the parties do not need to meet in person to enter into an agreement, an agreement is considered valid if it meets both subjective and objective conditions. Compliance with these conditions will result in agreements that have been made valid. The agreement also binds the parties regarding their rights and obligations, so that the fulfillment of the legal requirements of an absolute agreement to be fulfilled, this will happen if in the future a problem or dispute occurs, then the settlement can be based on the agreed agreement. The first legal requirement is the agreement stipulated in Article 1320 paragraph (1) of the Civil Code. An agreement is a conformity of statement of will between one or more people with another party. What is appropriate is the statement, because the will cannot be seen/known by others. The purpose of making a written agreement is to provide legal certainty for the parties and as a perfect proof, when a dispute arises in the future. Proof in this contract of sale, can be interpreted to provide an absolute certainty, because it applies to everyone who makes an agreement. According to Article 164 of Herzien Inlandsch Reglement (HIR) mentioned evidence consists of: (1) Evidence of letters; (2) Witness evidence; (3) Estimation; (4) Confession, and (5) Oath.

P ISSN: 2716-3660

The development of e-commerce is regulated in Act Number 19 of 2016 amending the Act Number 11 of 2008 concerning Electronic Information and Transactions. The requirement to use electronic system facilities that have been certified is a preventive effort for the person who has an excuse or does not want to acknowledge after making an agreement on the grounds that the electronic contract is invalid and binding because it is not specifically recognized by the Act. Actually, without even being stated like this, every contract made through an electronic system is still valid because it must meet the legal requirements of the agreement. Because of the difficulty of measuring good faith in electronic transactions, the existence of Article 5 paragraph (3) of the Electronic Transaction Information Act is very good especially with regard to the validity of evidence later.

A businessman, or vendor (vendor) or corporation can display or post advertisements or information about its products through a website or site, either through its own site or through other commercial website service providers. If interested, consumers can contact through the website or guestbook available on the site and process it through the website by pressing the "accept", "agree" or "order" button. Payment can be immediately forwarded by writing a credit card number on the site.

But in addition to the benefits offered as mentioned above, online transactions also offer some psychological, legal and economic problems. Psychological problems, for example, most prospective buyers from an online store feel uncomfortable and safe when first making a purchase decision online [3]. There are doubts about the truth of data, information or massage because the parties have never met in person. Therefore, the issue of trust and good faith is very important in maintaining the continuity of the transaction.

Problems will arise from a transaction if one party breaks a promise. Settlement of problems that occur is always related to what is evidence in the transaction, especially if the transaction uses electronic means. This is because the use of electronic documents or data as a result of transactions through electronic media, has not been specifically regulated in applicable procedural law, both in the Civil Procedure Code and in the Criminal Procedure Code. Regarding the material law basically it has been explicitly regulated in Article 15 paragraph (1) of Law Number 8 of 1997 concerning Company Documents which states that "company documents that have been published on microfilm or other menia and or printouts are valid evidence." Furthermore, if we pay attention to the provisions in Article 1 number 2 regarding the understanding of documents and are associated with the provisions of Article 12 paragraph (1) and paragraph (2) of Law Number 8 of 1997 jo.

Sometimes the debtor in an agreement defaults. Prof. Subekti clarifies into 4 types of default, namely: not achieving at all, achieving but not late or on time, achieving imperfectly, and doing something that is prohibited in the agreement. The ends of this default are to compensate for losses in the form of costs, losses or interest, or contract termination can occur [4].

Islamic teachings have their own unique side, in which they are not only comprehensive, but also universal. Comprehensive means covering all aspects of

P ISSN: 2716-3660

life, both ritual and social (relationships between fellow creatures). Whereas Universal can be applied at any time, until the end of the day.

The foundation of the teachings of Islam Al-Qur'an and Al-Hadith has the reach and power, which can be universally seen from the side of the text which is always right to be implemented in the discourse of actual life, for example, the reach and control in economic matters. In this case the economy and other fields of science are not spared in Islamic studies, which aims to guide humans to always remain in the path of God, the path of truth and salvation, as other trading transaction models have been around for a long time, and are practiced in the wider community . In this transaction a set of rules is attached to the Qur'an and Al-Hadith.

The Word of God in Q. At-Taubah: 12

وَإِن نَّكَثُوٓاْ أَيۡمَٰنَهُم مِّنۢ بَعۡدِ عَهۡدِهِمۡ وَطَعَنُواْ فِي دِينِكُمۡ فَقَٰتِلُوٓاْ أَئِمَّةَ ٱلۡكُفۡرِ إِنَّهُمۡ لَآ أَيۡمَٰنَ لَهُمۡ لَعَلَّهُمۡ يَنتَهُونَ ١٢

Meaning: "If they break the oath (promise) after they promise, and they revile your religion, fight the leaders of the infidels, for indeed they are the people (who cannot be held) by their promises, so that they stop ”(Qs At-Taubah; 12)

The agreement stipulates how the shipping process, payment system or minimum order quantity can be made. But even so in practice there are still many disputes including, items that are late, damaged, or lost. The existence of these defaults makes the seller has an obligation to fulfill the responsibility of compensating for losses in accordance with applicable regulations. Based on the description and explanation above, the authors are interested in conducting more in-depth research on the implementation of the electronic system by taking the title "Contracts for Sale and Purchase Through the Internet (E-Commerce) in terms of Civil Law and Islamic Law"

Based on the background that the authors have outlined, the following problems can be formulated: (1) How is the validity of a sale and purchase contract via the Internet (e-commerce) in terms of the Civil Code and Islamic Law? (2) How are the similarities and differences of e-commerce contracts in the Civil Code, the ETIL and Islamic Law?

2. Literature Review

According to Lukman Santoso, an agreement is an event when someone promises to another person or when that person promises to carry out something that causes a legal/binding relationship and is concrete [5].

Article 1320 of the Law Book Civil Law regulates that an agreement is legally considered law so that it is binding on both parties, then the agreement must fulfill the legal conditions of the agreement. Terms of validity of the agreement include subjective conditions and objective conditions [6].

Engagement and agreement in the context of muamalah fiqh can be called a contract. The word contract comes from the Arabic *al-'aqd*, the plural form of *al-'uqud*, which means: binding (*al-rabith*), connection (*al-'aqd*), and promise (*al-*

P ISSN: 2716-3660

'ahd). As for the term or (terminology) understanding of the contract in general is everything that humans want to do it, whether the desire comes from one's own will, for example in the case of waqf, or the will arises from two people, for example in the case of buying and selling [7].

According to Wahbah Az-Zuhaili the understanding of the contract that is spread among the Malikiyyah fuqaha, Shafi'yyyah, that is, anything that is emphasized by someone to do it either comes with their own will like waqf, ibra '(abortion), divorce and oath, or that requires two will in creating it such as buying and selling, renting, tawkil (representative), and rahn (collateral) [8]. Thus the term contract can be equated with the term engagement or verbintenis, while the word al-'ahdu can be said to be the same as the agreement or overeenkomst, which can be interpreted as a statement of someone to do or not do something, and has nothing to do with the will of another party . The formulation of the contract indicates that the agreement must be an agreement between the two parties which aims to bind themselves to each other regarding the actions to be carried out in a specific case after the contract is effectively entered into force.

Meanwhile Ahmad Azhar Basyir, gave the following definition of the contract, the contract was an agreement between Ijab and qabul in a manner that was justified by syara which stipulated that there were legal consequences on the object. Consent is a statement from the first party regarding the contents of the desired engagement, while qabul is a statement from the second party to accept it [9].

3. Methods

The type of research used is normative legal research. The research method in this paper is normative juried, which views the law as a binding regulation, refers to legal norms as outlined in-laws and regulations, legal principles, legal history, and jurisprudence. The approach in the normative juridical method uses a statutory approach, a case approach, and a historical approach. Normative legal research aims to produce arguments, theories or concepts as prescriptions for solving problems [10]. Sources of data in this study are primary data obtained directly from research in the field and secondary data collected from library materials and documents that support this research [11], and tertiary legal material.

Primary legal material is a binding legal material or that makes a person obey the law. In this writing the author uses the principles of law, legal principles, the Civil Code and Compilation of Sharia Economic Laws, and legislation related to research. Secondary legal material is defined as legal material that is not binding but explains the primary legal material which is the result of the processed opinions or thoughts of experts or experts who study a particular field, in the form of books, scientific journals. Tertiary legal materials are legal materials that support primary legal materials and secondary legal materials by providing understanding and understanding of other legal materials. In this writing the author uses public dictionaries, legal dictionaries, and sites from the internet related to research.

The collection of material in this research was carried out through library research techniques, aimed at obtaining legal materials and information needed to complete this research sourced from laws and regulations, jurisprudence, books,

P ISSN: 2716-3660

scientific journals and documented data through internet sites that are considered relevant.

The legal material in this study uses qualitative analysis methods that are all primary legal materials, secondary legal materials and tertiary legal materials, as well as library materials, legal scientific journals, and legislation relating to research issues.

4. Results and Discussion

4.1. Analysis of Legitimacy of Contracts for Sale and Purchase Through the Internet (E-Commerce) Judging From the Book of Civil Law and Islamic Law

4.1.1 The Legitimacy of Contracts for Sale and Purchase Through the Internet (E-Commerce) Judging from the Civil Code

Transactions via the internet or often called e-commerce (electronic commerce), basically have been known in Indonesia for quite a long time, especially since the introduction of credit cards, automated teller machines, and telephone banking. It's just that lately the term is increasingly known because it has been used for broad purposes, such as in buying and selling. Legal relationships that occur between the parties that use the internet facilities based on the legal subjects involved, can be grouped in:

1. Business to business
   Transactions that occur between companies in this case, both the buyer and seller are a company and not individuals usually these transactions are carried out because they often know each other and the sale-purchase transaction is carried out to establish cooperation between the companies.
2. Business to customer
   Transactions between companies and consumers or individuals. In this type of transaction is spread in general, and consumers who take the initiative to make transactions. Producers must be prepared to receive responses from these consumers. Usually the system used is a web system because this system is commonly used among the public.
3. Customer to customer
   Buying and selling transactions that occur between individuals with individuals who will sell goods to each other.
4. Customer to business
   A transaction that allows an individual to sell goods to a company.
5. Customer to government.
   Government services to its citizens through e-commerce technology, other than that can be used for collaboration between the government and other governments or with companies [12].

Although there are five groups as mentioned above, basically those related to the sale and purchase agreement are only the first three groups because the customer to business basically involves the same parties as the second group above while the customer to government if related to buying and selling, can be grouped into the

P ISSN: 2716-3660

second group as well whereas when it comes to other interests such as tax payments, it is not related to legal provisions in buying and selling [6].

Offers in conducting e-commerce transactions are sellers who use the website to market the goods or services offered to everyone, except if the offer is done via e-mail which is a special offer to the intended e-mail holder. This seller provides a storefront that contains a catalog of goods or services offered. In addition, the buyer also seems to walk in front of the window to choose the item he wants. It's just the difference with if a buyer comes to buy directly to the store because with this e-commerce, the buyer doesn't need to have to go outside the house and don't have to worry that the store will close at certain hours.

If the buyer agrees to buy certain items or use certain services offered by the seller, the buyer expresses his approval through the website, e-mail, or electronic data interchange, depending on the cyber system. If the parties have agreed to the transactions, a payment can be made using the Automatic Teller Machine (ATM) system, cash payment, or by the use of a third party such as an online credit card or online check. With the completion of the payment, the goods purchased will be delivered by the seller, either delivered alone or through the services of a third party, and these shipping costs are usually calculated in the price component so that the buyer no longer needs to spend money on shipping the goods [6].

Electronic transactions can be carried out based on electronic contracts or other contractual forms as an agreement between the parties. Electronic contracts or e-commerce agreements are considered valid if:

1. There is an agreement of the parties
2. Performed by competent legal subjects or authorized representatives in accordance with statutory provisions
3. There are certain things, and the object of the transaction must not be in conflict with the laws and regulations, decency and public order.

This provision is in line with article 1320 of the Civil Code regarding the conditions for validity of the agreement [4].

Based on the provisions of Article 1320 of the Civil Code, actually there is no dispute regarding the media used in the transaction, or in other words Article 1320 of the Civil Code does not require the form and type of media used in the transaction. Therefore, it can be done directly or electronically. However, an agreement can be said to be valid if it has fulfilled the elements referred to in Article 1320. Likewise, the principle of freedom of contract adopted by the Civil Code, whereby the parties can freely determine and make an agreement or agreement in the transaction carried out in good faith (Article 1338). So whatever form and media of the agreement, it still applies and binds the parties because the agreement is the law for those who made it.

Speaking of the e-commerce sale agreement, it is inseparable from the concept of the agreement basically as contained in article 1313 of the Civil Code: an agreement is an act by which one or more people commit themselves to one or more other people [4]. Provisions governing the agreement contained in Book III of the Civil Code, namely having an open nature means that the provisions can be set aside, so that the function is to regulate it. Buying and selling through the internet (e-commerce) is basically the same as buying and selling in general, where

P ISSN: 2716-3660

buying and selling occurs when there is an agreement about the goods or services being traded and the price of the goods or services, which distinguishes only on the media used, if in conventional trading the parties must meet in person at a place to agree on what will be traded and at what price for the goods or services.

Whereas in e-commerce, the transaction process that occurs requires internet media as the main media, so the buying and selling process takes place without the need for direct meetings between the parties. E-commerce as an impact of technological developments has implications for various sectors, these implications always have an impact on the legal sector.

Judging from the discussion above, the agreement in e-commerce occurs between the two parties where one party promises to the other party to do something, where the agreement that occurs in e-commerce uses the basis of article 1313 of the Civil Code as a guide. So that what becomes a legal requirement for an agreement contained in the Civil Code Book must be considered so that the use of treaty rules in Indonesia that generally uses the Civil Code Book can be determined, as well as the agreement in e-commerce can be recognized its validity.

Agreement in e-commerce if reviewed with the Agreement Law in Indonesia which is sourced from the Civil Code is valid because it has fulfilled the conditions required both objective and subjective terms, then as is the case in general (conventional) agreements in e-commerce indirectly must fulfill the principles of agreement in the Civil Code:

1) Principle of Freedom of Contract

That everyone is free to make or not make an agreement, free to determine who will make the agreement, free to determine what is the object of the agreement, and free to determine the resolution of disputes in the future. Of course there is also a free limit, in the sense that the parties are prohibited from making agreements that are contrary to law, religion, decency, and public order that prevails in society [9]. This principle of freedom of contract is made up of the provisions of article 1338 of the Civil Code which states that "All treaties made legally apply as a law for those who make them". By emphasizing the word "all" the article seems to contain a statement to the public about the permissibility of making any agreement (as long as it is made legally) and the agreement will be binding on those who make it like the law [4].

The principle of freedom of contract relates to the contents of the agreement, namely the freedom to determine "what" and "with whom" the agreement is entered into. The agreement made in accordance with article 1320 of the Civil Code has binding power, so that with the principle of freedom of contract and the open nature of Book III of the Civil Code, the parties in e-commerce are free to determine the contents of the agreement agreed upon which will ultimately be binding on both parties. Based on this explanation, the fulfillment of the principle of freedom of contract in making the sale and purchase agreement in e-commerce is fulfilled.

2) The principle of consensualism

The principle of consensualism is often interpreted that an agreement is needed for the birth of an agreement. This understanding is incorrect because the purpose of the principle of consensualism is that the birth of an agreement is at the time of agreement. Thus, if an agreement is reached between the parties, an

P ISSN: 2716-3660

agreement is made, even though the agreement was not implemented at that time. This means that the achievement of an agreement by the parties gives birth to rights and obligations for them or it can also be said that the contract is obligatory, namely giving birth to the obligations of the parties to fulfill the agreement.

The principle of consensualism does not apply to all types of agreements because this principle only applies to consensual agreements while formal agreements and real agreements do not apply [6].

In e-commerce agreements that occur between merchants (sellers of goods / services) with customers are not just contracts spoken verbally, but a written agreement, where the written agreement in e-commerce is not like a conventional agreement that uses paper, but a form written use of digital data or digital messages or paperless contracts, where the will to bind from the parties arises because there is a common will, an agreement in e-commerce occurs when the merchant submits the form containing the agreement and the customer approves the contents of the agreement.

3) Good faith principle

Regarding this principle of good faith contained in the provisions of article 1338 of the Civil Code, which essentially states that any legal agreement must be carried out by the parties that entered into it in good faith. This doctrine of good faith is an essential doctrine of a long-standing agreement with the principle of Pacta Sunt Servanda.

4.1.2 The validity of a Contract of Sale and Purchase via the internet (E-Commerce) in Islamic Law

In the teachings of Islam for the validity of a contract/agreement, must be met with the terms and conditions of a pillar/contract. Pillars are elements that absolutely must be fulfilled in terms of things, events and actions. While the conditions are the main elements are consent and qabul [9].

In Book II of the Compilation of Sharia Economic Law concerning the contract meant by the contract is an agreement in an agreement between two or more parties to do and or not do certain legal actions. (Member of IKAPI, Sharia Economic Law Compilation, 2010: 10). A contract must meet the pillars as specified in article 22 of the Compilation of Sharia Economic Law. The agreement consists of:

1) Contracting parties

The parties to the agreement are people, partnerships, or business entities that have skills in carrying out legal actions. The parties that are bound in the sale-purchase agreement consist of the seller, the buyer, and other parties involved in the agreement. (Member of IKAPI, Sharia Economic Law Compilation, 2010: 25). Article 23 of the Compilation of Sharia Economic Law states that the parties to the contract are persons, partnerships, or business entities that have the skills to carry out legal actions. Article 2 of the Compilation of Sharia Economic Law states that a person is deemed to have the ability to carry out legal actions in the event that he has reached the lowest age of 18 years or has been married. While business entities that are legal entities or not legal entities, can carry out legal actions in the event that the taflis/bankruptcy is not declared based on a court decision that has obtained

P ISSN: 2716-3660

permanent legal force. (Member of IKAPI, Compilation of Sharia Economic Law, 2010: 16).

2) The contract object

The object of the contract is the legal guardianship or services required by each party. The shape of the contract object can be tangible objects, such as cars and houses, or intangible objects, such as benefits. Article 17 Compilation of Sharia Economic Law explains that the ownership of amwal is based on the principle of:

a. Amanah, that amwal ownership is basically entrusted by Allah SWT to be utilized for the benefit of life
b. Infiradiyah, that ownership of objects is basically individual and the unification of objects can be done in the form of business entities or corporations
c. Ijtima'iyah, that ownership of objects not only has the function of fulfilling the needs of the life of the owner, but at the same time there is a community right
d. Benefits, that ownership of objects is basically directed to enlarge the benefits and narrow mudharat.

3) The main purpose of the contract

The contract aims to meet the needs of life and business development of each party that holds the contract. According to scholars of jurisprudence, the purpose of the contract can be done if it is in accordance with the provisions of the sharia. If it is not appropriate, the law is invalid. According to article 26, the Compilation of Sharia Economic Law states that a contract is invalid if it conflicts with Islamic sharia, statutory regulations, public order and decency. (Member of IKAPI, Compilation of Sharia Economic Law, 2010: 17).

4) Agreement

The agreement can be done by writing, oral and gestures and the agreement referred to has the same legal meaning. The agreement was made to meet the needs and expectations of each party, both life needs and business development. (Member of IKAPI, Compilation of Sharia Economic Law, 2010: 18).

The third part in the Compilation of Sharia Economic Law (article 29 to article 35) explains that an agreement is null and void if it contains elements of:

a. Ghalat or error

Errors do not result in the cancellation of a contract unless the error occurs concerning the nature of the agreement

b. Performed under the spirit or coercion

Coercion is to encourage someone to do something that he does not allow and is not his free choice. Coercion can cause the cancellation of the contract if:

a) The coercive is able to carry it out
b) Parties who are forced to have a strong suspicion that the coercion will immediately carry out what is threatened if it does not fulfill the coercive order
c) Those who are threatened with pressure to the weight of the person being threatened. This depends on the person
d) Threats will be carried out immediately
e) Coercion is against the law. (Member of IKAPI, Sharia Economic Law Compilation, 2010: 19).

P ISSN: 2716-3660

c. Taghrir or hoax

Fraud is to influence other parties by deception to form a contract, based on that the contract is for the benefit, but in reality the opposite. Fraud is the reason for canceling a contract, if the ruse used by one party, is such that it is clear and obvious that the other party does not make the contract if it is not done ruse. (Member of IKAPI, Sharia Economic Law Compilation, 2010: 19).

d. Ghubn or disguise

Disguises are circumstances in which there is no equality between achievement and the rewards of achievement in a contract.

Seeing this explanation does not directly explain the validity of the sale and purchase agreement via internet e-commerce in the Sharia Economic Law Compilation. So the writer here uses the qiyas method. The qiyas method is to liken (equality) the law to a law that has not yet been established in an existing law. Meanwhile, according to Wahbah al-Zuhaili, qiyas is to equate cases where there is no legal provisions based on texts to cases that have legal provisions based on texts, due to the unity of the law between the two [13].

From the above definition, it appears that classical and contemporary scholars agree that the establishment of law through qiyas is not the determination of law from the beginning as the text, but only reveals and explains the law. Disclosure is meant to be done through research on ‘illat contained in Ashl and branches.

According to the Compilation of Sharia Economic Law Article 20 istishna contract 'is the sale of goods in the form of an order with certain criteria and conditions agreed between the buyer and the seller. (Member of IKAPI, Compilation of Sharia Economic Law, 2010: 11).

Whereas Bay 'al-salam, or abbreviated as salam, is also called salaf, which means to order or trade by placing an order first. Buying and selling orders in Islamic law is called as-salam, according to the Compilation of Sharia Economic Law, salam is a financing service related to buying and selling which is made together with ordering goods. (Member of IKAPI, Compilation of Sharia Economic Law, 2010: 14).

Although basically the istishna contract 'is similar to the salam contract in terms of its existence as a bai' ma'dum and is permissible because it has been popular in society and aims to meet the needs of the community, the Hanafi school of thought gives some basic differences, among others as follows:

a) The sale and purchase agreement is binding while istishna does not bind according to the majority of scholars. Therefore, the sale and purchase agreement cannot be canceled unilaterally while istishna 'may be canceled unilaterally. In this connection, jumhur ulama said that if the cancellation was from the producer, the consumer has the right to ask for compensation, that is, ask for the money back that he has paid. According to them, the consumer can only cancel the contract if the goods ordered are not in accordance with the characteristics, size, and type of goods ordered. Jumhur ulama also said that because the istishna contract is similar to salam, the khiyar right does not exist for consumers, because the khiyar right will make this contract invalid, unless the goods ordered do not match the requested characteristics.

P ISSN: 2716-3660

b) The sale and purchase agreement is required to surrender the price of goods ordered after the contract is agreed, but in the istishna contract 'this is not the case.
c) Salam trading agreement requires a certain grace period while in istishna contract 'is not the case.
d) The object of the contract in the sale of greetings, according to the Hanafi school of thought is a form of debt that must be resolved and the object is a kind of item that exists for example on the market. However, in the istishna contract, the items ordered are material, for example, which are not on the market and although they are, are not the same. However, jumhur ulama did not differentiate between the goods which were the objects of the two contracts.

Based on these explanations, so it can be equated/shaken up by a sale and purchase agreement via the internet (e-commerce) with a greeting agreement. Because greetings are generally accepted for items made and others. In regards also required to pay in advance while istishna 'is not the case.

So, the agreement/sale and purchase agreement via the internet (e-commerce) can be agreed with the as-salam or salaf agreement. In Book II Compilation of Sharia Economic Law article 20 (point 34) the salam contract is a financing service related to buying and selling, which is made at the same time as ordering goods. The contract in this area is done first, then the goods are handed over the next time. The sale and purchase agreement or a bai'alam agreement is bound by the consent and qabul as in ordinary sales. Buying and selling greetings can be done on condition that the quantity and quality of goods is clear. The quantity of goods can be measured by the measurement or scale and or meter. The specifications of the ordered goods must be fully known by the parties. (Member of IKAPI, Compilation of Sharia Economic Law, 2010: 17).

Greetings must meet the conditions that the goods sold, the time and place of delivery are clearly stated. Payment of goods in the sale and greetings made at the agreed time and place. The embryo of a sale-purchase agreement (e-commerce) at the time of the Prophet, which was marked by surah al-Baqarah verse 282:

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓاْ إِذَا تَدَايَنتُم بِدَيۡنٍ إِلَىٰٓ أَجَلٖ مُّسَمّٗى فَٱكۡتُبُوهُۚ وَلۡيَكۡتُب بَّيۡنَكُمۡ كَاتِۢبُۢ بِٱلۡعَدۡلِۚ

Meaning: O you who believe, if you do not bermuamalah in cash for a specified time, you should write it down and let a writer of you write it correctly.

The appearance of the verse can indeed have a double meaning. First, concerning accounts receivable that must be recorded. Secondly, due to the rise of sale and purchase agreements via the internet (e-commerce), (greetings/*salaf*) that are developing at this time.

From these explanations, it can be concluded that the so-called greetings are purchases that pay in advance and delivery of goods in the future with a clear price, specifications, quantity, quality, date and place of delivery, and agreed in advance in the agreement. The basis of Islamic law regarding *bay'al-salam* is the hadith about *bay 'al-salam*:

P ISSN: 2716-3660

حَدَّثَنَا عَمْرُو بْنُ زُرَارَةَ أَخْبَرَنَا إِسْمَاعِيلُ بْنُ عُلَيَّةَ أَخْبَرَنَا ابْنُ أَبِي نَجِيحٍ عَنْ عَبْدِ اللَّهِ بْنِ كَثِيرٍ عَنْ أَبِي الْمِنْهَالِ عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ قَدِمَ رَسُولُ اللَّهُ صَلَّى اللَّهِ عَلَيْهِ وَسَلَّمَ الْمَدِينَةَ وَالنَّاسُ يُسْلِفُونَ فِي التَّمَرِ الْعَامَ وَالْعَامَيْنِ أَوْ قَالَ عَامَيْنِ أَوْ ثَلَاثَةً شَكَّ إِسْمَاعِيلُ فَقَالَ مَنْ سَلَّفَ فِي تَمْرٍ فَلْيُسْلِفْ فِي كَيْلٍ حَدَّثَنَا مَعْلُومٍ مَعْلُومٍ وَوَزْنٍ حَدَّثَنَا مُحَمَّدٌ أَخْبَرَنَا إِسْمَاعِيلُ عَنْ ابْنِ أَبِي نَجِيحٍ بِهَذَا فِي كَيْلٍ مَعْلُومٍ وَوَزْنٍ مَعْلُومٍ ﴿٣٤﴾
(رواه البخاري)

Meaning: Having told us' Amru bin Zurarah had preached to us Isma'il bin Ulayyah had preached to us Ibn Abi Najih from Abdullah bin Kathir and Abu Al Manhal from Ibn Abbas radliallahhu anhuma said: when the Prophet sallallaahu over wasallam arrived in Medina the people of - people practice the sale and purchase of fruit with the salaf system, which is to pay in advance and receive the goods after a period of one or two years later or he said two or three years later Ismail doubted in this regard. So he said: "Whoever practices salaf in the sale and purchase of fruits should do it with a known measure and scale (certain)". Has told us (Muhammad) has told us (Isma'il) of (Ibn Abi Najih) like the editor of this hadith: "with known measurements and scales (definite)". (Narrated by Bukhari).

According to the author's understanding that salam transactions are perfectly permissible in Islamic law, with the basic law of clarity and mutual interest (maslahat). Other elements which are also permitted voluntarily 'if the original law of something is permitted, unless there is a cause (illat) which can affect the original law. For example (illat) is meant for example, if e-commerce does not have a "guarantee of trust" to give up one another then the cause (illat) can change the original law.

The sale and purchase agreement with greetings (orders) contains the following pillars:

1. Buyer (musalam)
2. Seller (musalam ilaih)
3. Speech (sighah)
4. Goods ordered (musalam fi)

While the trading conditions with the order system are as follows:

1. Payments are made in cash, with gold, or silver, or metals, so that ribawi things are not traded with the like by delay.
2. The commodity must be of clear character, for example, by specifying its type and size, so that there is no conflict between a Muslim and his brother which causes revenge and enmity between the two.
3. The time of delivery of the commodity must be determined, for example, the next half month or more.
4. Submission of money is done in one assembly [14].

P ISSN: 2716-3660

Bay 'al-salam beside the pillars must also be known also the fulfillment of all conditions in each pillar, namely as follows:

1. Salam capital, the conditions that must be met in the capital bay 'al-salam as follows:
   a. Capital must be known. The initial law regarding payment is that it must be in cash. The scholars differed on the issue of the possibility of payment in the form of trading assets. Some scholars consider it permissible.
   b. Receipt of payment greetings. Most scholars require that greetings be paid at the contract place. This is so that payments made by *al-musalam* (buyers) are not used as seller debt. More specifically, greeting payments cannot be in the form of debt relief that must be paid from *musalam ilaih* (seller). This is to prevent the practice of *ilaih* (seller) problems. This is to prevent the practice of usury through the mechanism of greetings.
2. *Al-Muslam fi* (goods)
   Among the conditions that must be fulfilled in al-musalam fih or goods that are transacted in bay 'al-salam are as follows:
   a. It must be specific and can be recognized as debt
   b. It must be clearly identified to reduce errors due to lack of knowledge about the type of goods (eg rice or cloth), about the classification of quality (for example, main quality, second class, and export), and about the amount.
   c. Delivery of goods is done at a later date.
   d. Most scholars demanded the surrender of the fiqh muslam to be postponed at a later time, but the Shafi'i school allowed immediate surrender.
   e. May determine the grace period of delivery in the future for the delivery of goods. The scholars agree that the time of delivery in the future may be determined at the time of the transaction. For example, they agreed that delivery should not depend on uncertainty, such as the availability of uncertain funds. Or it depends on someone's arrival. However, some scholars allow the seller to promise to surrender musalam fiih at a certain time, but not to set a specific date. For example, the promise to hand over musalam fih in the harvest season or the upcoming pilgrimage season. However, the ulama generally gave very special conditions. The Maliki school and the Hanafi school allow a salesperson to specify a specific time period for the submission of musalam fīh. The date or season to be chosen as the surrender time in the future should be adjusted according to the possibility of the availability of the musalam. This is necessary to prevent gharar or uncertainty, and allow ilaih musalam to fulfill its obligations. The Hanafi School requires that the availability of the fiq musalam continue to be known, from the time of contracting to the time of delivery. The specific musalam fiih is accepted based on the explanation of musila ilaih. The supply of musya fi which will be sent later may not depend on the production of one particular party. Once again, this provision is to prevent the occurrence of gharar and encourage ilaih musalam to be more able to fulfill its obligations. The limitation of musalam fiih only comes from certain sources. Musalam ilaih is required to look for alternatives to the provision of musalam fīīh as long as they have exactly the same specifications as agreed upon.

P ISSN: 2716-3660

f. Place of Submission. The contracting parties must indicate the agreed place where the musalam fĩh must be surrendered. If the two contracting parties do not determine the place of delivery, then the goods must be sent to a place that is customary, for example, the Islamic warehouse or purchase department.
g. Sale of winter before receipt.
Jumhur ulama forbid the resale of musalam fih by musalam ilaih before being accepted by musalam. The scholars agree, musila ilaih may not take advantage without fulfilling the obligation to surrender musalam fih. Imam Malik agreed with the opinion of the ulema's jumhur when the mushalam musalam was in the form of food.
However, if the ilaih musalam is not food, Imam Malik allows the resale of the item before the buyer receives it as long as it meets the following requirements:
1) If the item is resold to the musalam ilaih, the sale price must be the same as the original contract price or lower.
2) If the item is sold to a third party, the selling price may be higher or lower than before, depending on quality.
h. Replacement of Islamic Pilgrimage with other items.
The scholars forbade the replacement of musalam fih with other items. Exchange or replacement of al-salam goods is not permitted, because the goods have not been surrendered, and no longer have musila ilaih, but they already belong to musalam. If the goods are replaced with goods that have the same specifications and quality, even though the source is different, the scholars allow it [14].

4.2. Analysis of Similarities and Differences of Contracts for Sale and Purchase via the Internet (E-Commerce) in the Civil Code and Islamic Law

4.2.1 Similarities and differences in understanding of sales agreements/contracts

Article 1313 of the Civil Code states that: “An agreement is an act where one or more people commit themselves to one or more other people".

The purpose of the agreement explanation in Article 1313 of the Civil Code here can be said to be the same as the contract. As explained in Article 20 of the Compilation of Sharia Economic Law: "A contract is an agreement in an agreement between two or more parties to do or not do certain legal actions".

Based on the understanding of the agreement and the contract above, according to the author there are similarities in the purpose of the agreement and the contract, namely the existence of a legal relationship between the parties who made the agreement or the contract. The legal relationship has a binding nature that gives rise to achievements or rights and obligations, as well as being an aspect of the fulfillment of the agreement or contract. As for the other similarities there are in buying and selling and *bai'*. Buying and selling is regulated in Article 1457 of the Civil Code namely: "Buying and selling is an agreement with which one party binds itself to deliver an item, and the other party pays the price promised".

Meanwhile, if seen from the definition of bai 'in Article 20 of the Compilation of Sharia Economic Laws that: "*Bai"* is buying and selling between objects and objects, or exchanging objects for money. "

P ISSN: 2716-3660

According to the above definition, this article is quite clear and also covers the essence of the trading in Article 1457 of the Civil Code, which is to surrender an item and in return by paying an agreed price. Thus it can be seen that the understanding of the sale-purchase agreement / sale-purchase agreement has the same direction. It's just the difference, namely:

This difference lies in the legal consequences of the agreement / contract contained in Article 1339 of the Civil Code and Article 45 of the Compilation of Sharia Economic Laws. Article 1339 of the Civil Code states that; "Agreements are not only binding for matters expressly stated therein, but also for anything that according to the nature of the agreement, is required by propriety, custom or law".

Whereas Article 45 of the Compilation of Sharia Economic Law states that; "A contract is not only binding for the things expressly stated in it, but also for everything according to the nature of the contract which is required by the propriety, customs and sharia texts."

Based on the explanation above, it can be seen that Article 1339 of the Civil Code and Article 45 of the Compilation of Sharia Economic Laws have differences. Where Article 1339 of the Civil Code is not listed "sharia texts" while Article 45 of the Compilation of Sharia Economic Laws there is no "law".

4.2.2. Similarities and differences on the agreement side

In the Civil Code, agreements are categorized as a condition for the validity of the agreement relating to the subject of the engagement. As is known, the understanding of an agreement is as a conformity of the will between the parties, namely the meeting between the offer and the acceptance. When examined this offer and acceptance have in common with the concept of consent and Kabul in Islamic law. As explained by Ahmad Azhar Basyir, consent is the first party's statement regarding the content of the desired engagement, while Kabul is the second party's statement to accept it. From this explanation it is quite clear that there is a similarity in the intent between the concept of consent and the Kabul with the concept of offer and acceptance. But besides that the two still have differences, the concept of offer and acceptance is based on laws or other regulations, while the consent and Kabul here must be based on the provisions of Islamic law.

4.2.3 Similarities and differences in terms of one's abilities

As it is known that there is a measure in determining one's skills, as explained in Article 1330 of the Civil Code, it is explained that there are some people who are not capable of making agreements, namely persons who are not yet mature and those who are under their guardianship or guardianship. Similar to the Civil Code, the Compilation of Sharia Economic Laws also regulates the same thing as regulated in Article 4 of the Compilation of Sharia Economic Laws, those who are not capable of carrying out legal actions are entitled to guardianship. In this article, it indirectly explains that competent people can carry out legal actions, are adults and are not under guardianship or guardianship.

As for the difference between the Civil Code and the Compilation of Sharia Economic Law, which is the age limit in determining one's skills. Where Article 1330 of the Civil Code regulates the limits of a person who is considered an adult

P ISSN: 2716-3660

or capable of law, if he is 21 years old or less than 21 years but has been married. Whereas Article 2 paragraph (1) of the Compilation of Sharia Economic Laws stipulates that a person's legal skills can be measured by two things: a person has reached the lowest age of 18 (eighteen) years or has been married.

4.2.4 Similarities and differences in the object of the agreement/contract

The object to be promised must fulfill the objective conditions in the agreement, namely the third condition "a certain thing" and the fourth condition "a halal cause". Regarding the third requirement for a certain thing, that the object promised must be in accordance with Article 1332 to Article 1334 of the Civil Code, that is, objects that can be pledged are goods that can be traded, are clear and can be determined by type, or the goods are only available at the same time will come. On the other hand, the Compilation of Sharia Economic Law also regulates the object of the contract as the second pillar of agreement, as stated in Article 24 of the Compilation of Sharia Economic Law that the object of the contract is the legal guardian or halal services needed by each party. The word "amwal" in the Sharia Economic Law Compilation is stated as objects that can be owned, controlled, cultivated, and transferred, both tangible and intangible objects, registered and unregistered objects, movable or immovable objects, and have economic value . The author concluded that the object of the agreement and the contract had similarities to the terms of the object. In addition, Article 24 of the Compilation of Sharia Economic Law also includes the four conditions of the agreement, namely "halal reasons". Halal causes referred to here are of course different from "halal causes" referred to in the Civil Code. Halal causation referred to in the Sharia Economic Law Compilation is halal based on Islamic sharia with all its aspects. As stated in Article 26 of the Compilation of Sharia Economic Laws, "The contract is invalid if it is against Islamic law, regulations, public order and/or decency."

While the halal causes contained in the Civil Code are not the case. As the intention of Article 1337 that "A cause is prohibited, if prohibited by law, or if it is contrary to good decency or public order." Thus the purpose of halal causes in the Civil Code is that as long as what is promised is not contrary to the law, decency, and public order.

For example, liquor may become the object of a legal agreement according to the Civil Code if it is transacted in accordance with the provisions of the law (such as being sold to consumers of a certain age, sold in certain regions, etc.). While in the Sharia Economic Law Compilation, liquor cannot be made an object of agreement because of its lawfulness according to Islamic law.

4.2.5 Some principles of agreements and contracts that need to be compared because they have similarities and differences, include the following:

First, the principle of consensualism which has an element of conformity of the will related to the birth of an agreement. This principle requires that the agreement must be based on consensus or agreement of the parties making the agreement. Whereas when viewed from the Sharia Economic Law Compilation, the principle of consensualism is slightly identical to the principle of voluntary mentioned in the Sharia Economic Law Compilation as the first principle. Because

P ISSN: 2716-3660

in the principle of ikhtiyari it is explained that each contract is carried out on the wishes of the parties, thus showing the similarities between these principles.

Second, the principle of binding power of an agreement (pacta sunt servanda). This principle relates to the consequences of the agreement. According to this principle the agreement of the parties is binding as is the law for the parties that made it. This principle requires that what someone states in a relationship be law for them. Whereas the Sharia Economic Law Compilation mentions a similar principle, the principle of trust. In the explanation of the principle of the mandate, it is stated that each contract must be carried out by the parties in accordance with the agreement stipulated by the parties concerned, and at the same time avoiding breach of contract.

Third, the principle of good faith. This principle is clearly stated in article 1338 of the Civil Code that the agreement must be implemented in good faith. In general, good faith must always be present at every stage of the agreement so that the interests of one party can always be considered by the other party. Whereas in the Sharia Economic Law Compilation the principle of good faith is regulated as the 12th principle which contains, the contract is carried out in the context of enforcing equipment, does not contain elements of entrapment and other bad deeds.

Fourth, the principle of equality in law. This principle explains that there is a legal equality in placing the parties including equality, there are no differences regarding differences in skin, nation, wealth, power and position. This principle is the same as the principle in the Sharia Economic Law Compilation, namely the principle of taswiyah/equality.

Fifth, the principle of balance. This principle is a continuation of the principle of legal equality which explains that the position of creditors and debtors is balanced. The principle of balance also includes the scope of the taswiyah/equality principle established as the sixth principle in the Sharia Economic Law Compilation.

As for the difference is the principles above as in the concept of the contract in the Compilation of Sharia Economic Law referring to the provisions of Islamic law, while the principles which become the substance of the agreement in the Civil Law Book rests on the law and other rules .

4.2.6 Similarities and differences in the rights and obligations of the parties in the sale/purchase agreement/contract according to the Civil Code and Compilation of Sharia Economic Law

Basically the main obligation of the seller in Article 1474 of the Civil Code is to surrender the goods being traded and bear or guarantee the goods. The main obligation of the buyer in accordance with Article 1513 of the Civil Code is to pay the purchase price at the time and place agreed upon. While the rights of the seller are the obligations of the buyer, and vice versa the rights of the buyer are the obligations of the seller.

In general the rights and obligations of parties in the sale and purchase agreement of the Civil Code are the same as those in the Sharia Economic Law Compilation. As explained in Article 63 of the Compilation of Sharia Economic Laws, the main obligation of the seller is to surrender the object of sale in

P ISSN: 2716-3660

accordance with the agreed price. And the main obligation of the buyer is to surrender money or objects of equal value to the object of sale. But the difference here is that in the Sharia Economic Law Compilation there are no other main obligations of the seller, namely; bear and guarantee the goods sold as contained in the Civil Code.

4.2.7 When compared with the elements of default in the Civil Code and the Compilation of Sharia Economic Laws

The writer here only uses the theory of R. Subekti as a comparison because this theory is more practical and includes an outline of the elements of default in the Civil Code. According to R. Subekti as conveyed by R. Subekti that the elements of default are:

1. Not doing what is promised will be done; (1236 Civil Code).
2. Carry out what was promised but not as promised; (1236 Civil Code).
3. Doing what he promised but too late; (Article 1238 of the Civil Code).
4. Do something that according to the agreement cannot be done. (Article 1242 of the Civil Code)

In addition, the Sharia Economic Law Compilation also mentions the same elements of achievement, regulated in Article 36 of the Sharia Economic Law Compilation, namely:

a. Not doing what was promised to do it;
b. Carry out what he promised, but not as promised;
c. Doing what he promised, but too late; or
d. Doing something according to the agreement cannot be done.

Based on the above comparison, it is clear that the elements of achievement in the Civil Code and the Compilation of Sharia Economic Laws are the same.

The difference is that there is a result of default. The Civil Code has regulated the consequences of implied default as follows:

1) Compliance with the agreement; (Article 1267 of the Civil Code).
2) Compliance with the agreement accompanied by compensation; (Article 1241 of the Civil Code).
3) compensation only; (Article 1242-Article 1252 of the Civil Code).
4) Cancellation of the Agreement; (Article 1240 of the Civil Code).
5) Cancellation accompanied by compensation; (Article 1240 and Article 1267 of the Civil Code).

While the consequences or sanctions contained in Article 38 of the Compilation of Sharia Economic Law, namely:

1) Pay compensation;
2) Cancellation of contract;
3) Risk transition;
4) Fines; and/or
5) Paying court fees

The comparison above shows some differences that in the Civil Code there is no result of default in the form of risk transition, fines and payment of court fees as contained in the Sharia Economic Law Compilation. Even so, the authors assume that fines and court fees are included in the category of compensation in the Civil

P ISSN: 2716-3660

Code. Whereas in the Sharia Economic Law Compilation there is no fulfillment of the agreement/contract either accompanied by compensation or not and cancellation accompanied by compensation.

4.3. Comparison in Legal Efforts Against the Party of Default, The Disputes that Have Relevance Relations with Research are:

Disputes relating to civil and Islamic economic issues can be resolved in two common ways, namely the resolution of disputes outside the court (non-litigation) and the resolution of disputes within the court (litigation).

Settlement of civil disputes outside the court can be carried out as follows:

1) Negotiations;
2) Mediation;
3) Conciliation; is the settlement of procurement contract disputes outside the court through a process of negotiation between the two parties to reach an agreement that is assisted by the Conciliator by providing solutions to the parties to the dispute.
4) Arbitration, generally settled by BANI (Indonesian National Arbitration Board).

4.3.1 Application of Online Arbitration in Indonesia Based on Law Number 30 Year 1999;

The proceedings in free arbitration are governed by each party insofar as it has been firmly established and written, this is in accordance with the provisions in Article 31 paragraph (2) of Law Number 30 Year 1999. Based on this article, the parties can determine their own form of the event in the arbitration process, including conducting online arbitration. Furthermore, the provisions of Article 31 paragraph (3) of Law Number 30 of 1999 regulates that if the parties do not choose to use certain arbitration proceedings, the arbitration process will follow the provisions in Law Number 30 of 1999.

The implementation of online arbitration in Indonesia is appropriate and does not conflict with existing laws and regulations, particularly Law Number 30 Year 1999. Although, the legal basis for the implementation of online arbitration already exists, the problem is that there are no implementing regulations governing how the online arbitration is carried out .

Whereas the resolution of sharia economic disputes outside the court in accordance with Article 52 paragraph (2) of Law Number 21 Year 2008 concerning Sharia Banking, has almost the same method of settlement including:

1) Deliberation;
2) Banking Mediation;
3) Arbitration, generally settled by BASYARNAS (National Sharia Arbitration Board);

5. Conclusion

Based on the discussion, the writer can draw the following conclusions: (1) The validity of the e-commerce or online agreement is legal by basing on the provisions of Article 1320 of the Civil Code that is actually not concerned about the media used in the transaction, or in other words, it does not require the form and

type of media used in the transaction. However, an agreement can be said to be valid if it has fulfilled the elements referred to in Article 1320. In Islamic law, it is pronounced with a *salam* and *istishna* contract 'regulated in article 20 of the Compilation of Sharia Economic Laws. So that the validity of the e-commerce agreement in Islamic Law is also valid based on the said agreement; (2) Equality of understanding of agreements/contracts of sale that together gives rise to legal relations, similarity of concept of agreements, similarities of Article 1330 of the Civil Code and Article 4 of the Compilation of Sharia Economic Laws, While the difference lies in halal and illegal trading agreements/contracts , differences in the source of the agreement, differences in age limit skills.

References

[1] Ahmad M. Ramli, 2004 *Cyber Law and IPR in the Indonesian Legal System* (Jakarta: Refika Aditama).
[2] Sylvia Christina Aswin 2006 Contract Validity in Electronic Commercial Transactions *Thesis* Postgraduate Program at Diponegoro University, Semarang.
[3] Putra Unggul Pambudi and Java Creatiity 2013 *Success in Buying and Selling Online* (Jakarta: Elex Media Komputindo).
[4] Subekti, R. and Tjitrosudibio 2009 *Civil Code (Burgerlijk Wetboek)* (Jakarta: R Intermasa).
[5] Lukman Santoso 2012 *Legal Contractual Agreement* (Yogyakarta: Horizon).
[6] Ahmadi Miru 2014 *Islamic nuanced contract law* (Jakarta: RajaGrafindo Persada).
[7] Qamarul Huda 2011 *Fiqh Muamalah* (Yogyakarta: Terrace), pages 25-26.
[8] Wahbah Az-Zuhaili 2011 *Fiqh of Islam Wa Adillatuhu Volume 4, translation of Abdul Hayyie al-Kattani et al*. (Jakarta: Gema Insani)
[9] Ghofur Anshori, Abdul Hukum 2010 *The Association of Islam in Indonesia* (Yogyakarta: Gadjah Mada University Press).
[10] Indah Kusuma Dewi 2019 The role of village community empowerment institution in Galanti village development of Buton district *Jurnal Hukum Volkgeist* Volume 4 Issue 1, December 2019 p 17-25.
[11] I K Dewi, Hardin, L O D Abdullah, L M R Zeldi, D Andara, F M Ramadhan, Irwansyah and H Lembang 2019 The role of forestry police in the prevention and eradication of forest destruction. *IOP Conf. Series: Earth and Environmental Science 343* (2019) 012130 IOP Publishing doi:10.1088/1755-1315/343/1/012130
[12] (http://e-journal.uajy.ac.id/7998/1/JURNAL.pdf Accessed on 19 May 2019)
[13] Suwarjin 2012 *Usul Fiqh.* (Yogyakarta: Terrace).
[14] Ismail Nawawi. 2012 *Classical and Contemporary Muamalah Jurisprudence* (Bogor: Ghalia Indonesia).