

## The Mystery Box Transaction Practice In The Perspective Of Islamic Law And Civil Law

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### Abstract

*This Study aim to analyze the practice of buying and selling the mystery box system on the site [www.Shopee.com](http://www.Shopee.com) viewed from the perspective of Islamic law and civil law. This research is a field research using interview, observation, documentation data collection methods with a sociological juridical approach. From the results of this study, according to Islamic law buying and selling with the mystery box system is a prohibited sale, because in the sale and purchase clause the buyer is not given the right to complain and return the goods or in Islam it is called the khiyar right. According to Article 1320 of civil law, the sale and purchase of the mystery box system on the [www.Shopee.com](http://www.Shopee.com) site is null and void because it does not meet the objective requirements, namely regarding Halal causes, which violate the provisions of prohibited items no. 1 and 2 which explain related to information in the store should be clear.*

*Keywords: Buying; Selling, Islamic; Law; Civil Code.*

### 1. Introduction

Economic development in Indonesia requires substantial funds, so it is necessary to expand the means of providing the funds needed by the community.<sup>1</sup> Economics through the internet which is currently still widely found around us, namely economic transaction agreements that make it easier for consumers. The Internet is a very global computerized network.<sup>2</sup> In this millennial era, almost everyone uses technology, especially the internet.

Lately, on online buying and selling sites, we find buying and selling products where buyers don't know what goods they will buy. Sellers will only provide information about the type of goods they sell. In practice, we know this as the mystery box or mystery box, which is one of the products offered by the seller and is starting to mushroom among *Shopee* trading site sellers.

Seller on the *Shopee* trading site that sells products with this mystery box system sell their goods at various prices. Depending on the type of goods that will be obtained by the buyer. Seller only writes the type of goods in the description column. For example, in the seller's description, the item is "jewelry", so the prospective buyer does not know what kind of jewelry and the motive is or does not know. This will make potential buyers

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<sup>1</sup> Angga Kusumah and Aryani Witasari, *Law Enforcement on Fiducia Security Objects Due to Withdrawal of Fiducia Security Objects*, Law Development Journal Vol. 3 No 1 (2021) url: <http://jurnal.unissula.ac.id/index.php/ldj/article/view/14236/5412>

<sup>2</sup> Anita Afrelia, Lathifah Hanim, *Legal Protection For Parties In Economic Transactions Through Instagram*, Law Development Journal Vol. 2 No 2 (2020) url: <http://jurnal.unissula.ac.id/index.php/ldj/article/view/11470/4533>

wonder and wonder what items they will get if they buy the mystery box with the “jewelry” description.

Buying and selling is the act of two parties, one party as a seller/sell and the other as a buyer/buyer, so in this case there is a legal event, namely buying and selling. In accordance with this, the Indonesian nation has a goal to achieve national development, namely to create a just and prosperous society materially and spiritually based on Pancasila and the 1945 Constitution.<sup>3</sup> Law will be laid as the basic foundation in a state government that functions as a means to regulate people's lives, as a basis for the validity of policies, actions and decisions taken, as a means to prevent and resolve conflicts, as an effort to protect human rights.<sup>4</sup> Buying and selling is a legal event in the civil realm, according to Soeroso, buying and selling is a compound legal event, which consists of more than one event, namely in the sale and purchase there will be bargaining events, delivery of goods, and receipt of goods.<sup>5</sup>

Seeing the existing phenomenon, where online buying and selling is still not clear in accordance with Islamic law and applicable positive law. So the purpose of this study is to analyze the practice of buying and selling the mystery box system on the site [www.Shopee.com](http://www.Shopee.com) viewed from the perspective of Islamic law and civil law.

## 2. Research Methods

The research method is a way of doing something with a mature way of thinking to achieve a goal of searching, recording, formulating and analyzing to compiling a report.<sup>6</sup> The approach method used in this research is a sociological juridical approach.<sup>7</sup> The research specification used is descriptive-analytical, which is the author trying to describe the facts that exist or existing facts and describe a problem that has occurred in the the practice of buying and selling mystery box systems on the site [www.Shopee.com](http://www.Shopee.com). The data needed in this study are primary data, secondary data, and tertiary data. In analyzing the data the author uses a qualitative method, which is the author describe systematically so as to answer the whole problem with the research results constructed in a conclusion.

## 3. Results and Discussion

### 3.1. Mystery Box Trading Practice in Bukalapak

The results of the interview with Fadhlan, as a buyer with the Mystery Box buying and selling system stated that the Mystery Box buying and selling mechanism is the same as the mechanism in the online shopping process in general, the mystery box purchase

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<sup>3</sup> Limbong and Lathifah Hanim, Granting of Loans Cooperative to Members who Affected by Flood (Study in KSP Forma Branch of Cirebon), *Jurnal Daulat Hukum*, Vol 1 No 3 (2018) url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/3402/2511>

<sup>4</sup> Andi Pradikta Alvat, Politics Of Law Human Rights Protection In Indonesia, *Jurnal Dulat Hukum*, Vol 2 No 4 (2019) url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8354/3873>

<sup>5</sup>R. Soeroso, *Pengantar Ilmu Hukum*, (Jakarta : Sinar Grafika, 2011), p. 252-253.

<sup>6</sup>Kustriyo and Aryani Witasari, *Abuse of Authority in Position and Redemption of Credit Fictitious Apparatus for Civil State (ASN) PD. People's Credit Bank (BPR) Source, Cirebon District*, *Jurnal Daulat Hukum* Vo 1 No 3 (2018) url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/3396>

<sup>7</sup>Zainudin Ali, *Metode Penelitian Hukum*, (Jakarta: Sinar Grafika, 2014), p. 105.

transaction process mechanism at *Shopee* is not difficult. The first step is to open the site at [www.Shopee.com](http://www.Shopee.com), or by making a purchase using the *Shopee* application via mobile. After entering the *Shopee* website or application, the next step is to go to the search box section in the upper left corner. Buying and selling with the mystery system is indeed a lot of people who are tempted to participate in buying the items in it, because the price is not according to the proper standard, and if you are lucky you will get items that are more expensive than the original price.

Furthermore, Najib Hamdani added that in searching for what items to buy on this *Shopee* site, in this case, the buyer will buy the item promoted in the mystery box, the buyer writes the word "mystery box" in the search column and presses the search button. After that, mystery box products will appear that are sold by *Shopee* sellers. Many mystery box products will appear on the *Shopee* page and then the buyer chooses the desired product or according to the buyer's heart.

The results of the interview with Ahmad Muzakki stated, after the product to be purchased was obtained, the next stage was the payment process. In this process, the buyer is asked to write down personal information including name, complete address as well as postal code, electronic mail address, telephone number, as well as email address. After writing complete personal information data, the next step is to process the payment. In this payment process, the buyer will be given a choice on the payment method and the courier sending the goods.

Of the thousands of buyers, on average they give 1 and 2 star ratings in the rating column after the goods are received. Buyers are not satisfied with the goods they have purchased. Because the goods purchased do not necessarily match the products that have been described in the seller's shop with the mystery box system.

### **3.2. Analysis of Islamic Law on the Practice of Buying and Selling Mystery Box System on the website [www. Shopee.com](http://www.Shopee.com)**

The principle of buying and selling as the basic principle in the concept of muamalah, namely: Buying and selling brings benefit.<sup>8</sup> Based on the Qur'an sura An-Nisa verse 29, that Allah SWT. wants mankind to carry out buying and selling activities as a form of fulfilling the necessities of life carried out in the right way, namely by way of commerce based on mutual pleasure. In order to achieve what is meant by the verse, in the trading process, the requirements and pillars that have been determined by Islam must be met. Therefore, an analysis will be carried out on the practice of buying and selling using the mystery box system on the [www.Shopee.com](http://www.Shopee.com) site, especially the newglobalacc and animeyu.case stalls.

إِنَّمَا الْبَيْعُ عَنْ تَرَاضٍ. رواه ابن حبان

"Indeed, buying and selling is valid if you like it and like it." (Reported by Ibn Hibban).<sup>9</sup>

In determining the pillars of buying and selling, there are differences of opinion among the scholars. There are three pillars of buying and selling, namely the existence of *sighat (ijab and qabul)*, people who are in contract (seller and buyer), and *ma'qud*

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<sup>8</sup>Farkhani, *Studi Keislaman di Perguruan Tinggi*, cet. Ke-1 (Salatiga: STAIN Salatiga Pres, 2013), p. 201-204.

<sup>9</sup>Sulaiman Rasjid, *Fiqh Islam*, (Bandung: Sinar Baru Algensindo, 2014), p. 281-282.

*alaih* (object of the contract).<sup>10</sup> *Ijab and qabul* do not require certain words, because what is the measure in buying and selling is the contract and its purpose, not the words and shape.<sup>11</sup> And the conditions that must be fulfilled are that he must be intelligent, of his own will, and a *mukallaf*.<sup>12</sup>

In practice, this mystery box sale and purchase is according to the information from the seller and the buyer, the items available are mobile phone accessories, men's/women's fashion, household needs, and others that can be used, owned by the seller and can be handed over. As for the opinion regarding cases where the goods are not clear according to the Imams of different schools of thought. Buying and selling with the mystery box system only mentions the type, including buying and selling which is allowed, mentioning the type of goods in this case is the same as explaining the nature of the goods, as in the opinion of Hanafi, Maliki, Hambali. However, for mystery boxes where there is information when the goods have arrived at the buyer, whatever the item is, the buyer is prohibited from complaining, let alone exchanging goods and giving guarantees, this includes prohibited buying and selling.

### 3.3. Civil Law Analysis of the Practice of Buying and Selling Mystery Box System on the site [www.Shopee.com](http://www.Shopee.com)

The sale and purchase agreement is an important agreement that is used in everyday life.<sup>13</sup> In this case, there was a legal event of buying and selling which was seen that in the sale and purchase agreement involved two parties who exchanged or exchanged.<sup>14</sup> But sometimes we do not realize that what we do is a legal act which of course will have legal consequences that follow. Reaching an agreement does not cause the goods to become the property of the buyer, however, they must go through a process of leveraging.<sup>15</sup> But in article 1458 of the Civil Code which reads as follows: "The sale and purchase is considered to have taken place between the two parties, immediately after the person reaches an agreement on the object and the price, even though the object has not been submitted and the price has not been paid".<sup>16</sup> A sale and purchase agreement as defined in Article 1457 of the Civil Code will be considered valid if it fulfills the conditions stipulated by law, in this case Article 1320 of the Civil Code.<sup>17</sup>

There are four conditions regulated in the article, including agreeing to enter into an agreement, being able to make an agreement, a certain thing and a lawful cause.

#### 1. Agree to make an agreement

Mystery box buyers on the Bukalapak site have consciously agreed on the things that have been determined by the mystery box seller through product information

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<sup>10</sup>Rohmansyah, *Fiqh Ibadah dan Mu'amalah*, (Yogyakarta: LP3M Universitas Muhammadiyah Yogyakarta, 2017), p. 116.

<sup>11</sup>Sulaiman bin Ahmad bin Yahya Al-Faifi, *Mukhtashar Fiqih Sunnah Sayyid Sabiq*, (Solo: PT Aqwam Media Profetika, 2010), p. 259-260.

<sup>12</sup>Deden Kushendar, *Ensiklopedia Jual Beli dalam Islam*, (yurcom, 2010), p. 28.

<sup>13</sup>I Ketut Oka Setiawan, *Hukum Perikatan*, (Jakarta: Sinar Grafika, 2016), p. 158.

<sup>14</sup>Suhrawardi K. Lubis dan Farid Wadji, *Hukum Ekonomi Islam*, cet. Ke-2 (Jakarta: Sinar Grafika, 2014), p. 139.

<sup>15</sup>Evi Ariyani, *Hukum Perjanjian*, (Yogyakarta: Penerbit Ombak, 2013), p. 31.

<sup>16</sup>Kitab Undang-Undang Hukum Perdata, Graha Media Press, 2016, p. 306.

<sup>17</sup>Moch. Isnaeni, *Perjanjian Jual Beli*, ed.1, (Bandung : Refika Aditama, 2016), p. 31.

information that is included in each product displayed on the lapak. This action means that both parties (especially the buyer) consciously agree to bind themselves to enter into a sale and purchase agreement. So that there is no problem for the first condition stipulated by the Civil Code Article 1320.

2. Able to do Agreement

The law stipulates that everyone has the right to make an engagement unless the person is said to be legally incompetent (Article 1329 of the Civil Code). For people who are not capable of making laws, it is explained in Article 1330 of the Civil Code, namely people who are not yet mature, people who are placed under guardianship and women who are married (removed by SEMA No. 3/1963 and Act No. 1 of 1974).

3. A certain thing

In line with the practice, stalls that sell mystery boxes have listed the types of items in the mystery boxes. The newglobalacc stall lists the types of cellphone accessories, men's/women's fashion, household needs, and toys at a price of IDR1980 and the animeyu.case stall lists toys at a price of IDR 15,000-IDR100,000

Article 1333 of the Civil Code states:

"An agreement must have a principal in the form of an item of which at least the type can be determined."<sup>18</sup>

So in terms of this particular matter, Article 1333 of the Civil Code states that at least the type can be determined. Article 1334 of the Civil Code also states that new items that will be available in the future may become the object of the agreement. So to buy and sell mystery boxes at the newglobalacc and animeyu.case stalls. In practice, seller does not provide clear information regarding the goods being sold, this includes buying and selling which is prohibited because the type is not specified.

4. *Halal* cause

Article 1337 of the Civil Code clearly states that what is lawful is the object of an engagement or agreement which must not conflict with the law, public order or morality. the object of buying and selling in this mystery box system on the newglobalacc stall lists types of cellphone accessories, men/women fashion, household needs, and toys at a price of IDR1980 and for the animeyu.case stall lists toys at a price of IDR 15,000-IDR100,000 whose contents are completely unknown and only the seller knows the contents of the mystery box.

From the explanation above, it was found that not all the requirements in Article 1320 of the Civil Code have been fulfilled. The conditions that are not fulfilled are the conditions regarding lawful causes, which are objective conditions. So that the existing legal implications if the objective conditions are not met is that the agreement is automatically null and void.

#### 4. Closing

From the results of the research and discussion above, the following conclusions can be drawn: According to Islamic law, buying and selling with the mystery box system is a sale and purchase that is prohibited, because in the sale and purchase clause the buyer is not given the right to complain and return the goods or in Islam it is referred to

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<sup>18</sup>Op.Cit, p. 284.

as *khiyar* rights. According to Article 1320 of civil law, the sale and purchase of the mystery box system on the [www.Shopee.com](http://www.Shopee.com) site is null and void because it does not meet the objective requirements, namely regarding *Halal* causes, which violate the provisions of prohibited items no. 1 and 2 which explain related to information in the store should be clear.

For sellers, it is better to sell goods using a general system, which must provide clear information regarding what goods the buyer will buy, not a random system of delivery, because things like that can disappoint the buyer. And buyers must also be observant when they want to buy goods, especially in online shops, which have not seen the goods physically, so the quality of the goods cannot be guaranteed. Moreover, buying and selling with a mystery box system where there is a stipulation that if the goods have been sent, they cannot be returned or exchanged.

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