

Dropshipping in a Contemporary Muamalah Fiqh Perspectives

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ABSTRACT

This research aims to analyze the dropshipping model according to Islamic jurisprudence. The research focuses on the completeness of the terms and conditions of buying and selling in the dropshipping system and how they relate to three economic disasters, namely zhulm, usury and ghoror. The novelty of this research is that it divides transaction objects into two categories, ribawi goods and non-ribawi goods and criticizes the arguments that allow dropshipping transactions. Literature studies are used to define dropshipping, normative descriptive models are used to define contracts in dropshipping according to Islam. In jurisprudence, content analysis is used to find syar'i solutions in dropshipping. The results show that the law of origin in dropshipping is prohibited (haram) because it contains usury nasi'ah for ribawi goods and selling before ownership of non-ribawi goods. The syar'i solutions found for dropshipping are modified ijab qobul, wakalah bil ujroh (dropshipper becomes consumer representative) and ba' salam, but the final solution is marjuuh, because capital is not distributed at the start of the assembly.

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INTRODUCTION

The increasingly developing information technology is also spreading to progress in the field of trade. Before the 20th century, buying and selling transactions could usually only be carried out by presenting both parties in one assembly, but with the development of smartphones and the internet, the long distance between producers and consumers making transactions is no longer an obstacle to meeting their needs. Census data from the Central Statistics Agency (BPS) also states that the Indonesian e-commerce industry in the last 10 years has increased by 17 percent with the total number of e-commerce businesses reaching 26.2 million units (Rahayu, 2019). The development of online transactions is apparently also supported by the increasing development of goods delivery and logistics courier services. Not only domestic players, but also foreign. There are approximately 50-60 third party logistics companies, 3000 transporters and courier companies according to Asperindo reaching 1,200 companies (Rahayu, 2014). This is certainly very pampering for everyone to carry out online transactions, whether as a seller or buyer.

The potential for e-commerce in Indonesia can be seen from data on internet users, which number 171.1 people, namely 64.8% of the total population of Indonesia. Of the total internet users above 2.1% search for products, 1.9% sell online, 1.7 shop online and 0.1 make transfers online (APJII, 2018). What's interesting about the data above is that the number of online buyers and sellers is almost equal. Meanwhile, the items most sought after were fashion at 14.6%. Meanwhile, in terms of rupiah value, Bank Indonesia data states that

Indonesian online shop transactions in 2018 reached IDR 77.766 trillion, an increase of 151% (yoy) from 2017 which reached IDR 30.942 trillion (Daniel, 2019). A phenomenon that often occurs in online business, we often find that many buyers feel disappointed after seeing clothes they have purchased online. Whether it's the quality of the fabric, or whether the size doesn't fit your body. Doing business online, even though it has many advantages and conveniences, does not mean it is without problems.

Various problems can arise in online businesses. Especially problems related to the level of trust between both parties, there could be someone who makes a purchase or order but after the goods are sent to him, he does not make payment or does not pay off the remaining payment. The principle of buying and selling in Islam is that it must not harm either party, either the seller or the buyer, namely by avoiding usury and its practices. Buying and selling can be carried out legally and provide the right benefits, so the terms and conditions of the sale and purchase must be realized in relation to the seller, buyer and the goods being bought and sold so that the sale and purchase can be carried out correctly, honestly and fairly. Dropshipping is product sales that allow the dropshipper to sell goods to customers using photos from suppliers or shops (without having to stock the goods) and sell at prices determined by the dropshipper. The provisions for dropshipping are selling the supplier's goods with the supplier's permission to buyers using a cellphone and internet connection without stocking the goods. If the seller gets an order, the seller will forward the order to the distributor or supplier.

This dropshipping system marketing process can be done online or offline, but usually the online method is more effective for most people. They don't have to have goods in stock. It is enough to use several facilities or media owned by the seller to market products online, namely WhatsApp, Instagram and Facebook applications, then if there is an order, the seller forwards the order to the supplier or wholesaler. After that, the supplier or wholesaler sends the goods directly to the buyer under the name of the sender, namely the seller. This system also helps producers develop their marketing system by making dropshippers their agents. Meanwhile, the dropshipper has pride as an online shop owner, because even though he doesn't have the merchandise yet, the supplier will send the goods to consumers on behalf of the dropshipper. At first glance, this system will benefit both parties, namely the dropshipper who has the opportunity to earn a living with minimal capital, while the supplier gets the opportunity to increase its market share.

However, research conducted by Prabowo et al (2016) found that when there is a discrepancy in the goods received, delays in delivery of goods or other forms of consumer complaints, it is the consumer who suffers. Because in terms of management, not many dropshippers have the budget to respond to and manage customer complaints, so the solutions offered are usually peaceful or even doing nothing. Then the dropshipper can easily change the name or website where he markets his merchandise. This of course includes *zhulm* behavior which is prohibited in buying and selling transactions that comply with sharia. Apart from that, the practice of *horror* also arises when the goods displayed on the website are different from the goods sent later, as revealed in research (Lestari, 2019) because the dropshipper does not know specifically about the goods he is selling. This includes *horror* in terms of the unclear object of the transaction being traded. So this research examines the dropship system from its legal origin based on sources of *ma'ruf* Islamic law, and the opinions of Islamic and contemporary *ulama*, especially related to the object of goods to be transacted, namely *ribawi* and *non-ribawi* goods. as well as reviewing several previous researchers' opinions that prohibit and allow the dropship system in the perspective of contemporary *muamalah fiqh*.

METHOD

This research was conducted using a literature review to examine the dropshipping buying and selling transaction model. Next, a descriptive normative approach is used to study Islamic law which can become a legal basis for contemporary *muamalah* practice. The normative approach originates from religious motivations and goals, while the descriptive approach is an implication of intellectual or academic curiosity motivation. (Anwar, 2017). Content analysis is used to examine several alternative sharia solutions available and the legal force contained therein.

RESULTS

A. Dropshipping Ribawi Goods

Contemporary scholars agree that transactions that require cash handover of goods and money are not permitted to be carried out by dropshipping, such as buying and selling gold and silver with currency. In the illustration above usury *nasi'ah* occurs twice, namely:

1. First: between the dropshipper and the consumer, namely the dropshipper (seller) receives a transfer of purchase money from the consumer and the dropshipper at the same time and at the same time does not hand over the gold to the consumer. Here there is no handover of gold with Islamic currency and this is usury *nasi'ah*.

2. Second: between the dropshipper and the marketplace, namely the money is transferred by the dropshipper to an account appointed by the marketplace (seller/seller's representative), then the dropshipper (buyer) asks the marketplace to send the gold to a third party whose status is the buyer of the dropshipper. And the gold will be received by the dropshipper consumer some time after the money is transferred by the dropshipper to the gold seller. So what actually happened was that there was no handover of gold with **بدا** currency and this is usury *Nasi'ah*.

B. Dropshipping of Non-Ribawi Goods

For all goods other than non-usurious goods that do not require cash handover in buying and selling, namely apart from gold/silver and currency, dropshipping is also prohibited, because the dropshipper sells goods that he does not yet own, because when the consumer buys, the dropshipper does not yet own the goods and This is haram, according to the words of the Prophet *sallallaahu 'alaihi wa sallam* which were narrated by Hakim bin Hizam *radhiyallahu 'anhu*, he said which means:

“O Messenger of Allah, someone came to me to buy an item, but I didn't have the item, is it permissible for me to sell it and then buy the item he wants from the market? So the Prophet *sallallaahu 'alaihi wa sallam* answered, “Don't sell things you don't have yet! (HR. An Nasai. This hadith was authenticated by Al-Albani).”

The dropshipper sells goods that are not owned and have not been received from the first seller, then he asks the first seller to send the goods directly to the consumer. This is forbidden based on the words of the Prophet *sallallaahu 'alaihi wa sallam* which were narrated by Hakim bin Hizam *radhiyallahu 'anhu*. Hakim bin Hizam said, “I said, O Messenger of Allah! I buy and sell, what is lawful for me and what is forbidden? The Prophet said, “If you buy something, don't sell it before you receive it.” H.R. Ahmad, Arnauth said, “The degree of this hadith is *sahih lighairihi*”.

C. Sharia Solutions for Dropshipping

1. Modifications in *Ijab Qobul*

According to Bariroh (2016), the dropshipper's honesty is the most important factor for the sale and purchase agreement to be valid, so the modification of the *qobul* agreement that the dropshipper can carry out is by following the following steps:

- a) Notify every prospective buyer that the application for the goods provided does not mean an agreement from the seller (site owner).
- b) After the prospective buyer fills in the form and sends it, the site owner or dropshipper may not directly accept the sale and purchase agreement. However, the site owner must first purchase the goods from the actual manufacturer or supplier. After he receives the goods, he can then answer the buyer's request for goods and ask him to transfer money to his account, after that the goods will be sent to the buyer.
- c) In order to avoid losses caused by consumers withdrawing their desire to buy during the waiting period, the dropshipper can require the manufacturer or supplier that he has the right to return the goods within a few days after the goods were purchased, according to the agreement. This is called *khiyar* condition.

2. Using the *Wakalah bil Ujroh* Agreement

Based on previous research as stated by Nubahai (2019), Hadi (2019) and Fauzia (2015), the practice of dropshipping can be justified if using a *wakalah* contract. So, in implementing the *wakalah* contract, the dropshipper must state to the consumer that he is the representative of the buyer and he asks for a fee for the service of finding goods and purchasing goods on behalf of the consumer.

3. Using the Greeting Agreement

Some people offer a solution for dropship by changing the sales contract into a greeting contract, as mentioned by Cahyadi (2018), Dzikrullah (2014) and Khulwah (2019). *Salam* is a contract for ordering goods, with money paid in cash up front and the goods delivered later according to the agreement. This greeting contract is legally agreed upon by all *ulama*. Based on the hadith, the Prophet *sallallaahu 'alaihi wa salam* came to Medina and he found the people of Medina carrying out the greeting contract (and the goods were handed over) after two and three years had passed. So he said,

“Whoever carries out a *salam* transaction should specify the weight and size of the goods and the time for handing over the goods should also be clear.” (HR. Bukhari and Muslim).

D. Review of Jurisprudence for *Salam* Contracts

This solution is not strong because the main requirement in the greeting contract is that the *ra'su maal salam* must be handed over at the contract ceremony and this does not happen in dropship transactions. This is because consumers do not hand over money to the dropshipper before leaving the contract. The handover of

ra'su maal salam at the contract ceremony is required so that there is no buying and selling of debts with debts which are haram based on the consensus of the ulama as quoted by Ibnu Qudamah, he said:

"Buying and selling debt with debt is not permitted based on ijma'. Ibn Munzir said, "The scholars have agreed that buying and selling debt for debt is not permitted. Imam Ahmad said, "Indeed ijma has occurred." (Al Mughni 4/37).

Al Kasani al Hanafi (died 587H) said about the conditions for ra'su maal salam, It is required that it be handed over at the greeting ceremony, because Muslims believe in debt (not cash). Meanwhile, separating the two parties in a greeting transaction without a handover taking place is parting with the condition of debt for debt and this is legally prohibited based on the hadith that the Prophet sallallaahu 'alaihi wa sallam has prohibited buying and selling debt for debt, namely not cash for non-cash. (Storm' Shanai' 5/202).

Asy Syarbaini said,

"The first condition: submission of the ra'su maal (payment instrument) at the contract ceremony before the contract becomes customary, because the contract becomes customary by parting. If the delivery of the ra'su Maal salam is late then this is buying and selling debt for debt." (Mughni Muhtaj 2/102).

Az zarkasyi said,

"Sixth condition: that the ra'su maal salam be handed over before separating from contract ceremony to avoid the occurrence of buying and selling debt with debt. So it falls under the prohibition of buying and selling (بالكالي الكالي). (And Imam Syafii has taken this law from the words of the Prophet sallallaahu 'alaihi wa sallam: «من أسلف فليسلف»

"Whoever makes a greeting contract, let him give it. He said, "Because greetings cannot be said to be greetings in language until the money is given to the seller of the greetings before separating from the person selling the greetings." (Syarh Zarkasyi ala Mukhtashar al Khiraqi 4/14).

And according to the results of the OIC fiqh division's presentation, it is not permissible to carry out greeting contracts online because the handover of ra'su maal salam does not occur at the contract ceremony. Majma' Al Fiqh Al Islami (OKI fiqh division) decision no. 52 (3/6) of 1990, which states, Firstly: "If the contract occurs between two people who are far apart, not in the same party and the perpetrators of the transaction, each other does not see each other, does not hear each other's transaction partners, and the medium between them is writing or letters or messengers, this can be applied to fax, telex, and computer screens (internet). So the contract takes place with the arrival of consent and qabul to each party to the transaction.

"If the transaction takes place at one time while both parties are in far away places, this can be applied to transactions via telephone or cell phone, then the consent and qabul that occurs is immediate as if both were in the same place". Fourth: The rules above cannot be applied to marriage contracts because testimony is required, ... also cannot be applied to salam contracts, because greeting contracts are required to hasten the handover of the ra'su maal." Wallahu a'lam, from the reasons above, this solution is a weak solution.

CONCLUSION

The conclusion of this research is that the original law of dropshipping is based on ma'ruf arguments and is haram. Dropshipping usurious goods is prohibited because of riba nasi'ah. Meanwhile, non-usurious goods are prohibited because they violate the hadith of the Prophet as narrated by Hakim bin Hizam radhiyallahu 'anhu regarding the prohibition of selling goods that are not yet owned, and that it is haram to sell goods that have not been received. This research also offers a syar'I solution for dropshippers in the form of a modification of the Ijab Qobul which requires the dropshipper to have the goods first from the supplier. With additional terms and conditions for consumers. The second solution is to use a wakalah contract, namely the dropshipper states to his supplier that the dropshipper is the representative of the buyer who gets the ujroh from the service of finding goods for the buyer. Meanwhile, the third solution, namely ba'isalam, is considered weak because in dropship transactions there is no handover of ra'su maal at the contract ceremony, which is the main requirement in the greeting contract. The handover of ra'su maal salam at the contract ceremony is required so that there is no buying and selling of debts with debts that are haram based on the consensus of the ulama.

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