

## REVIEW OF ISLAMIC LAW ON THE PRACTICE OF "PAYLATER" IN BUYING AND SELLING TRANSACTIONS



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### Abstract

PayLater is a financial facility in the form of a payment method with installments without a credit card. E-commerce transactions are legal as long as the goods sold are in accordance with the details, pictures, and illustrations displayed on the internet page. This research is included in the category of literature study, and if viewed from the side of the research paradigm, it is a type of descriptive-qualitative research. After an in-depth study, it was concluded that if the practise of PayLater in buying and selling transactions is allowed for clear contractual reasons and judging from the general argument that allows it and also the nash that prohibits it, it does not exist. The important thing is that the price increase on the suspension is still at a fair and reasonable price, and there is no element of coercion between the two parties. However, it needs to be balanced based on an understanding of the potential risks it poses, such as consumptive and the risk of debt, if not used wisely and carefully.

*PayLater adalah sebuah fasilitas keuangan yang berupa metode pembayaran dengan cicilan tanpa adanya kartu kredit. Transaksi e-commerce sah hukumnya selama barang yang dijual belikan sesuai dengan rincian, gambar dan ilustrasi yang dipajang di laman internet. Penelitian ini termasuk kategori studi literature yang ditinjau dari sisi paradigma penelitian maka termasuk jenis penelitian deskriptif-kualitatif. Setelah dilakukan kajian mendalam diperoleh sebuah kesimpulan bahwa praktik PayLater dalam transaksi jual beli diperbolehkan dengan alasan akad yang jelas dan karena dilihat dari dalil umum yang membolehkan dan juga nash yang mengharamkannya tidak ada, yang penting penambahan harga pada penangguhannya masih dengan harga yang pantas dan sewajarnya, dan tidak ada unsur pemaksaan antara kedua belah pihak. Namun perlu diimbangi berdasarkan pemahaman atas potensi risiko yang ditimbulkannya, seperti konsumtif dan resiko berhutang jika tidak dipergunakan secara bijaksana dan seksama.*

## INTRODUCTION

The development and advancement of technology are familiar. In the era of digitalization, everything has become easier, starting with ordering food, shopping for daily necessities, buying clothes, and other needs that can be done at home using devices. Cashless payments and the use of credit cards are growing along with the advancement of digitalization, which can now be accessed easily only with a device. Technologists are developing payment methods to make them more convenient and easier. The development of this payment method is known as financial technology, which is then shortened to fintech. *Fintech* is a combination of financial services and technology that changes business models from conventional to moderate. Initially, people paid face-to-face, but now they can make remote transactions by making payments that can be done quickly.<sup>1</sup>

<sup>1</sup> Khairul Wafa. "Tinjauan Hukum Ekonomi Syariah terhadap ShopeePay Later." *Jurnal Hukum Ekonomi Syariah*, Vol. 4, No. 1, 2020: 16-30.



Trade transactions that are now growing rapidly as a result of the combination of internet technology gave birth to an online trading system called e-commerce. The birth of e-commerce has a positive impact because of the ease of transactions created, such as time savings and consumer freedom to choose the goods and/or services needed.<sup>2</sup> E-commerce is a form of utilizing information technology and electronic transactions as regulated in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law).<sup>3</sup> E-commerce presents a modern business model that is non-face (does not present business people physically) and non-sign (does not use original signatures). This business model is said to be more practical and easier. This condition causes distance to no longer be an obstacle in the business world, so that business actors can make transactions without having to meet in person.<sup>4</sup>

Shop now, PayLater or more often known as PayLater, is a product of fintech. Pay Later makes it easier for everyone to buy products in the form of goods or services and can also be paid in installments without having to have a credit card. Things like this certainly make it easier for Indonesian people to meet their needs or even fulfill their desires. If they don't have money, then people can have something (goods or services) now and pay in installments in the future. This feature is increasingly popular because the payment feature is used to pay 'later' various kinds of transactions ranging from daily needs such as online shopping, travelling, hotel reservations, and internet data package contents. PayLater has the exact same system as credit cards. However, the main concept is 'Buy now, pay later'. This payment system technology applies to commerce giants such as Tokopedia, Shopee, Traveloka, Bukalapak, Lazada, Gojek, etc.<sup>5</sup>

The PayLater feature is actually an easier and more convenient alternative for people to access credit without a credit card. Because the process of applying for a credit card at a bank generally goes through several stages that are complicated and not short, understanding the PayLater feature is needed so that users avoid debt bondage and wrapped installments. The number of parties involved, including banks, in the development of this feature can also add profitable choices for users. Based on this background, the researcher wants to study the use of PayLater. The purpose of this study is to find out the disadvantages and advantages of using PayLater and examine how the Islamic economic perspective on PayLater.

## METHODS

The research methods used include library research, which, when viewed from the perspective of the research paradigm, is a type of descriptive-qualitative research. Descriptive research is intended to describe phenomena that exist today or in the past. Qualitatively, research will place more emphasis on observing the phenomenon and the substance of the meaning of the phenomenon. In this study, there are several sources of data used by researchers as reference material. *First*, the primary data sources in this study are books and books that are directly related to the object being studied, namely books and books related to the review of buying and selling transactions in Islam.

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<sup>2</sup> Ning Rahayu, *Ini Dampak Perkembangan E-Commerce Bagi Indonesia*, <https://www.wartaekonomi.co.id/read216033/ini-dampak-perkembangan-e-commerce-bagi-indonesia.html> diakses tanggal 2 April 2020.

<sup>3</sup> Pasal 4 huruf b Undang-Undang Nomor 19 Tahun 2016 tentang perubahan atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik.

<sup>4</sup> Imam Sjahputra, 2010. *Perlindungan Konsumen Dalam Transaksi Elektronik*. Alumni, Bandung, hlm. 2.

<sup>5</sup> Sarah Safira Aulianisa. 2020. "Konsep Dan Perbandingan Buy Now, Pay Later Dengan Kredit Perbankan Di Indonesia: Sebuah Keniscayaan Di Era Digital Dan Teknologi." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* (2020), Vol. 9, no. 2: 183-194.

*Second*, secondary data sources are sources that are indirectly related to the object of this study and are very relevant. This research uses the literature study method. The author collects data by examining books, records, and archives related to the review of buying and selling transactions in Islam. The author chooses the documentation technique because the research study conducted by the author is a literature review, so the author simply uses documentation techniques without using other techniques.

## RESULT AND DISCUSSION

### Definition and Types of Buying and Selling

Buying and selling is a common transaction carried out by the community to meet daily needs and for investment purposes. Etymologically, buying and selling is the exchange of something for something else. There are several terms used for buying and selling, namely *al-bai'u*, which is to deliver goods and receive payment; *al-syir'a*, which is to put substances into property rights in return; *al-mubādalah* (exchange); and *al-tijārah* (commerce between people or exchange between the life of the world and the hereafter).<sup>6</sup>

The explanation of the meaning of buying and selling is etymologically connected with the holy book of the Qur'an as a source of law, namely: *first*, QS. Yusuf (12) verse 20, which explains that Joseph's brothers sold Yusuf at a low price (*wasyarauhu bitsamanim bakhsin*, *wasyarauhu* means; *bai'uhu*, selling him). *Second*, QS. al-Baqarah (2) verse 102 explains that buying and selling that contains elements of magic (deception) is a bad deed that will not bring profit (in the hereafter).<sup>7</sup>

Scholars, jurists, and experts define it differently depending on their respective points of view. According to Ibn Qudamah, trade is the exchange of wealth for property to make it his. Al-Nawawi stated that the sale and purchase of property ownership in exchange for sharia provisions. Another opinion was put forward by al-Hasan; he put forward the opinion of the Hanafi School: buying and selling is the exchange of property (mall) with property through a system that uses a certain method. The system of exchanging wealth for property in the context of property has benefits, and there is a human tendency to use it. What is meant in a certain way is to use the expression (*shīghat ijab kabul*).<sup>8</sup>

Buying and selling as a means of mutual help between human beings has a strong foundation in the Qur'an and Hadith. There are several verses of the Qur'an and Hadith that discuss buying and selling, including:<sup>9</sup>

The word of Allah SWT in surah al-Baqarah verse 275 which means; *"Those who eat usury cannot stand but are like the establishment of a person who has been converted by the devil because of madness. Their condition is because they say, Indeed, buying and selling is the same as usury, even though Allah has legalized buying and selling and forbidding usury. Those who have come to him with the prohibition of his God, then continue to stop (from taking usury). then for him what he had taken first (before the prohibition came); and his business (is up) to Allah. He who repeats (takes usury), then that person is the inhabitants of hell; they remain in it". (QS al-Baqarah: 275).* Buying

<sup>6</sup> Sri Sudiarti, *Fiqh Muamalah Kontemporer* (Sumatera Utara: Febi UIN-SU Press, 2018), hlm.74.

<sup>7</sup> Jaih Mubarak, Hasanudin, *Fiqh Mu'amalah Maliyah Akad Jual-Beli* (Bandung: Simbiosia Rekatama Media, 2017), hlm. 3.

<sup>8</sup> Ismail Nawawi, *Fikih Muamalah Klasik dan Kontemporer Hukum Perjanjian, Ekonomi, Bisnis, dan Sosial* (Bogor: Ghalia Indonesia, 2012), hlm. 75.

<sup>9</sup> Ridwan, *Hukum Ekonomi Syariah di Indonesia*, (Purwokerto: STAIN Press, 2016), hlm. 114.

and selling can be divided into several kinds according to different points of view. In more detail, it can be explained as follows: Buying and selling are seen from the side of the trading object, divided into;<sup>10</sup>

*First, bai'u al-muqayyadah* is the buying and selling of goods (*ba'i al-'ain*), commonly known as barter. Barter buying and selling is permissible in Islam provided that it fulfills the conditions as explained in the words of the Prophet of Allah: "selling gold with gold, silver with silver, wheat with wheat, dates with dates, salt with salt (if similar), then it must be the same (quality and quantity), then it must be cash." If it is not the same (quality and quantity), then sell as you wish in cash" (HR. Muslim and Ahmad). Based on the hadith quotation, it can be seen that if, in exchange, the object is the same, it must meet the requirements of quality similarity when weighed and quantity similarity when calculated. But if the two types of exchanged objects are different, it is not a problem to buy and sell.

*Second, bai'u al-muthlaq*, i.e., buying and selling goods using a certain currency (*bai'u al-'ain bi al-'ain*) according to the agreed price (*tsaman*), This kind of buying and selling is the most common form of everyday life. But because the object of exchange is goods with money, there are two possibilities; *first*, when in the sale and purchase of goods, delivery is carried out in cash by determining the cost of goods plus the agreed profit margin, it is called *murabahah*. The definition of price (*tsaman*) is a value agreed upon by both parties. While the material value contained in an item is called *qimah*, In *murabahah*, although the delivery of goods is in cash, payment of the price can be made in cash (*naqdan*), installments (*taqsih*). *Secondly*, when the delivery of goods is handed over in a formidable manner, it is called *salam/istisna'*. The difference is that in buying and selling greetings, the delivery of goods is in *Tanggung* and the payment is in advance in cash. Meanwhile, in *istisna'*, even though the delivery of goods is *Tanggung*, payment is not made in cash but by installments or *Tanggung* payment at the end.

*Third, bai'u al-sharf* is a form of buying and selling valuables of both similar and unsimilar value in cash. In *muamalah* jurisprudence, usually, the object of the *sharf* contract is embodied in the form of currency exchange for currency. Then, because the object of exchange is in the form of currency, the place of transaction is known as a money changer.

### PayLater Features in Online Shopping

PayLater is a financial facility that uses payment methods in installments without a credit card. The 'buy now, pay later' facility can also be used for travel, food purchases, daily transportation, and many other consumer products. PayLater, which is usually on e-commerce sites, does not need to use a card in physical form. Plus, the registration process is very short and quick. In addition, its use is also very easy and practical; you can use it anytime and anywhere.<sup>11</sup> PayLater is a financial facility that uses payment methods in installments without a credit card. The 'buy now, pay later' facility can also be used for travel, food purchases, daily transportation, and many other consumer products. PayLater, which is usually on e-commerce sites, does not need to use a card in physical form. Plus, the registration process is very short and quick. In addition, its use is also very easy and practical; you can use it anytime and anywhere.<sup>12</sup>

<sup>10</sup> Burhanuddin S, *Hukum Kontrak Syariah* (Yogyakarta: BPFE – Yogyakarta, 2009), hlm. 76.

<sup>11</sup> Aria, P. (2019, September 28). Pahami Risiko PayLater, Fitur Penggoda Milenial Berbelanja— Katadata.co.id. Kata Data.

<sup>12</sup> Farras, B. (2019, Mei). Gojek Hingga Traveloka, Ini Platform yang Sediakan PayLater. CNBC Indonesia.

## Benefits of Using Paylater

The advantages of paylater, in addition to its convenience and practicality, are as follows:<sup>13</sup> first, The Process is Fast and More Practical. The 'buy now, pay later' payment method is very practical to use, especially when there is an urgent need. For example, when we want an item that is needed and we must buy it right away, but it is not yet payday, This feature offers light terms and conditions for those who want to register. The process of activating is faster and easier. Second, Tenor Varies. The choice of tenor or payment term can be adjusted to the wishes and abilities of the buyer. Some e-commerce sites only charge 1% interest for those who choose a 1-month term. Third, Many attractive promotions. More and more promos attract users who use the PayLater feature. For example, free shipping promos and cash back discount promos.

## Islamic Law Review of The Paylater Concept

Transactions using electronic media are categorized as *kināyah* transactions, whose validity and legal force are the same as transactions carried out directly (*sarih*). E-commerce transactions are legal as long as the goods sold are in accordance with the details, pictures, and illustrations displayed on the internet page. If an electronic transaction is a legal act, then the reference is the intention and purpose of each party who transacts.<sup>14</sup>

Besides the advantages of the PayLater feature, it turns out that there are also negative impacts.<sup>15</sup> *First*, potential for waste. According to the Islamic Economic view, Islam has given guidance and guidance to its people to always be modest and forbid from extravagance and excessive shopping attitudes, this is as Allah Almighty says: "And those who when spending (property), they are not excessive, and not miserly, and are in the middle of such things." (QS. al-Furqan: 67). And in another verse it is said: "And eat and drink yourselves, but do not excess for verily God does not like extravagant people." (QS. al-A'raf 31). *Second*, potential to increase debt. According to the Islamic view, accounts receivable are known as *al-Qardh*, which is linguistically derived from the word *al-Qath'u*, which means to cut. According to the term, accounts receivable (*al-Qardh*) is defined as the gift of property (which can be in the form of money or others) as a form of affection to those who will later use the property, when the borrower will return the property in accordance with what he has borrowed. The law of *qardh* is basically a good deed that has been prescribed in Islam. The law is changed or permissible. Basically, *qard* is a good deed commanded by Allah and the Messenger.

The legal basis of *qard* is regulated in the Qur'an, hadith, and *ijma'*, among others:<sup>16</sup> "whoever will lend to Allah, a good loan (spend his wealth in the way of Allah), then Allah will multiply the payment to him by many folds, and Allah narrows and expands (sustenance) and to Him and you are returned." (QS al-Baqarah: 245). Hadiths about accounts receivable include: "From Ibn Mas'ud, indeed, the great Prophet (peace be upon him) said: a Muslim who owes a Muslim twice as if he had given alms to him once."

<sup>13</sup> Aristanti, N. D. (2020). PayLater, Kartu Kredit Zaman Now yang Ternyata Bisa Bikin Kalap Belanja! Koin Works.

<sup>14</sup> Mardani, *Fiqh Ekonomi Syariah* (Jakarta: Prenadamedia Grup, 2012), hlm. 108 – 109.

<sup>15</sup> Prastiwi, I. E., & Fitria, T. N. (2021). Konsep Paylater Online Shopping dalam Pandangan Ekonomi Islam. *Jurnal Ilmiah Ekonomi Islam*, 7(01), 425 – 432.

<sup>16</sup> Abdul Ghofur Anshori, *Hukum Perjanjian Islam di Indonesia (Konsep, Regulasi, Dan Implementasi)* (Yogyakarta: Gadjah Mada University Press, 2010), hlm. 42.



The scholars agreed that the legal question was permissible. *Qardh* is allowed because qard has the nature of *mandup* (recommended) for people who owe and *mubah* for people who owe. This agreement is based on human nature: a man cannot live without the help or assistance of his brother. Therefore, lending and borrowing have become a part of life in this world.<sup>17</sup> The purpose and wisdom of allowing such loans is to make life easier for mankind so that people who lack them can take advantage of debts from sufficient parties.<sup>18</sup> The law of *qardh* is basically *sunnah* for people who give debts and *mubah* for people who ask for debts. A person can go into debt if he is forced to avoid danger, such as buying food so that he can avoid starvation.<sup>19</sup> Scholars from the four schools of *Syafi'i*, *Hanafi*, *Maliki*, *Hanbali*, and *Zaid bin Ali* and the majority of scholars allow buying and selling with the credit practices, whether the price of the goods that are the object of the transaction is equal to the cash price or higher.

However, they require clarity of the contract; that is, there must be an understanding between the seller and the buyer that buying and selling is indeed a credit system. In this kind of transaction, the seller usually mentions two prices, namely cash and credit. The buyer must be clear that he wants to buy with cash or credit. In PayLater credit practice, e-commerce also provides advance information to PayLater users about shopping payment options, namely paid next month with no interest or paid with a maturity of 2 months, 3 months, and 6 months with an additional interest of 2.95%.<sup>20</sup>

According to Quraish Shihab, buying goods in installments is not prohibited as long as the time and amount of the installments are clear to both the seller and the buyer, even if the price is higher than the cash selling price. Such sellers benefit both parties, i.e., the seller gets a higher price and the buyer gets a grace period of payment. Imam Ahmad narrated through the wife of the Prophet Aisha (r.a.) that a slave named Burairah was sold by his master in installments for nine years.<sup>21</sup>

The credit practise has a difference of opinion; to conclude, the credit practise is not allowed on the grounds that there is an additional price, which is usury, while *riba* is prohibited in Islamic business ethics. And if the opinion is permissible for the practise of credit on the grounds that the contract is clear, then the suspension is the price, because they see from the general proposition that it allows, and the *nash* that forbids it does not exist. The important thing is that the additional price of the suspension is a fair and reasonable price, and there is no element of coercion from both parties.<sup>22</sup>

## CONCLUSION

Based on the explanation and discussion above, it can be concluded that the PayLater feature, with the main concept of 'buy now, pay later, has fulfilled several conditions and pillars of buying and selling contracts and *bai'u al-taqsih* (buying and selling credit). In a review of Islamic law on the practise of PayLater in buying and selling transactions, there is an opinion that allows (*mubāh*); the opinion of scholars

<sup>17</sup> Muhammad Dannirrahman, "Tinjauan Hukum Islam Terhadap Praktik Jual Beli Kredit Online Pada Aplikasi *Cicil.co.id*", skripsi (Semarang : Universitas Islam Negeri Semarang, 2019), hlm. 6.

<sup>18</sup> Sulaiman Rasjid, *Fiqh Islam (Hukum Fiqh Lengkap)* (Bandung: Sinar Baru Algensindo, 1994), Cet. Ke – 27, hlm. 281.

<sup>19</sup> M. Ali Hasan, *Berbagai Macam Transaksi dalam Islam (Fiqh Muamalah)* (Jakarta: PT Raja Grafindo Persada, 2003), hlm. 124.

<sup>20</sup> Muhammad Arifin bin Badri, *Panduan Praktis Fikih Perniagaan Islam* (Jakarta: Darul Haq, 2015), hlm. 47.

<sup>21</sup> Syekh Abdurrahman as-Sa'di dkk, *Fiqh Jual Beli: Panduan Praktis Bisnis Syariah* (Jakarta: Senayan, 2008), hlm. 337.

<sup>22</sup> Ubay Harum, Murabahah dalam Perspektif Fiqh dan Sistem Perbankan Islam, *Jurnal Hukum Islam*, Vol V, 2006.

allows credit buying and selling, which is most important to be carried out with the rules or guidelines of buying and selling properly; then the clarity of the agreement between the seller and the buyer must have a clear agreement when carrying out *ijāb* and *qabūl*; it will be consensual and no one feels disadvantaged. The PayLater feature does have advantages for users, such as being more practical, faster, and having many attractive promos. However, it is necessary to balance his understanding of the potential risks that can be caused, such as consumption and the risk of debt, if not used wisely and carefully.

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