

## ISLAMIC ECONOMIC LEGAL REVIEW TOWARDS GOLD TRADING BY THE BROKERS IN “PASAR 45 MANADO”

**Adriandi Kasim**

Syariah Faculty, Institut Agama Islam Negeri Manado, Sulawesi Utara, Indonesia  
SH Sarundajang Kawasan Avenue, Ring Road I Manado City, 95128

E-mail: [adriandikasim@iain-manado.ac.id](mailto:adriandikasim@iain-manado.ac.id)

### ABSTRACT

*Using a qualitative method with a sociological-normative approach, it was found that most of the gold brokers in Pasar 45 Manado were not honest in the practice of gold trading transactions between brokers and sellers, if the broker found a seller who wanted to sell their gold are compromising, then the dishonest broker will take advantage which is not reasonable or contrary to Islamic principle. For example: manipulating the weight of the gold which are going to sell, because the gold is suspected to not belong to the seller, or because the seller at that time is in dire need of money, or even the gold is the result of stealing, so in this case not a few gold brokers in Pasar 45 Manado market deal with the law because of being caught in a case of fraud. Thus the implications in this study are 1. For gold brokers in the 45 Manado market area, in order to follow the rules of law and Islamic law that have been determined in the Koran so that no party is harmed and every fortune obtained gets blessings from Allah. 2. For gold brokers in the area of Pasar 45, in making transactions they must pay attention to the conditions of the goods to be sold so that they do not harm other people and themselves. 3. For religious leaders in order that constantly give an understanding to the people of Manado City about how to trade in accordance with Islamic principles.*

**Keywords:** Gold Trading; Brokers; Pasar 45 Manado;

## **INTRODUCTION**

Allah SWT has made human in need of one another, so that they can assist, exchange the necessities in all matters of their life, whether by way of trading, leasing, cultivation, or other enterprises, in matters of personal interest and public interest. In this way the life of the people becomes well-organized as well as fertile, the relationship with one another also becomes stronger. Everyone who works to earn a living must know his or her knowledge in order to make things right and his transactions far from harm.

Trading is one of the forms of economic activity which is in fact helping one another with the provisions of the law in Islamic law. Allah SWT has proclaimed in his Qur'an and the word of the Prophet SAW in his hadith has given clear limits on the scope of the matter, especially in relation to what is allowed and forbidden. God has allowed the trade of goods in which there is a reciprocal relationship with the human being in order to meet the needs of his life. Allah SWT prohibits all forms of trade that are not in accordance with Islamic law. In trading, the payment method may be in cash or deferred, in accordance with the seller and buyer agreement. Then the deferred payment has two models, namely credit by paying the installment in few times of a certain amount on each installment or by debt paid at a time to the due date.

In the business sphere we often hear of buyers and sellers are deceived, the scams that occur in trading are due to sellers and buyers who are too greedy for the high profits, however, such trading would be misleading.

Some instances of the Prophet when he was trading with Siti Khadijah are principles that should be taken care of by the sellers and buyers, including being honest and fair in the scales, not using the wrong way, not containing the elements of usury and fraud. That principle is the primary starting capital for a person who is going to trade because in that case, the business will gain the trust of other people or businessmen. Allah has provided in Q.S. An-Nisa (4: 29), which translates: "O you who have believed, do not consume one another's wealth

unjustly but only [in lawful] business by mutual consent. And do not kill yourselves (or one another). Indeed, Allah SWT is to you ever Merciful.” (RI Department of Religion, 1985).

In conducting transactions of trade, other than its fulfillment, the conditions must also be met. Among the legal requirements of trading that must be fulfilled, such as:

1. Concerning the subject, both parties which perform trading agreement must be reasonable so that the transaction is legitimate, with their own will not be forced (they are not redundant, mature, and adult).
2. Concerning the object, the goods which are traded must be a clean, not prohibited object, can be utilized, the utilization of the goods is not conflicted with the religion.
3. Belong to the person making the contract. In other words, the goods being traded are from the rightful owner.
4. Able to deliver, in other words, the seller can deliver goods in accordance with the shape and number of goods promised at the beginning of the purchase.
5. Ascertaining, if the condition of the goods and the price is not known in trading, then the sale agreement is invalid. Because it could be the agreement contains an element of fraud.
6. The existence of the goods. Trading of unexisting goods is prohibited because the goods may be damaged or cannot be delivered as promised (Chairuman Pasaribu, 2004)

In this modern world, information can be received quickly and precisely. If in the past people got information through radio and newspapers which information speed might still be very slow, now with a typing on the keyboard, we can easily looking for various information, quickly and instantly and can do anything with that information. These rapid technological advances cause humans to do whatever they want. Indeed, all these rapid technological advances have a negative and positive impact on human survival on earth.

In relation to economic activities, humans will be greatly helped, for example, in terms of trading, as well as marketing, goods, and services. The rapid advancement of technology, information, and communication certainly makes every economic and business competition very competitive, and every actor associated with the activity is willing to do anything with the aim of getting the maximum profit and reducing the risk of loss or bankruptcy.

The development of the types and forms of trading *muamalah* carried out by humans since ancient times until now is the same way to the development of human needs and knowledge itself. On that basis, it is found in various types and forms of *muamalah* that are diverse, which basically carry out social interaction with one another in meeting their individual needs.

The rate of economic development is accelerating in line with the rate of information and technology that is getting more advanced. This progress becomes a new challenge for Muslims so as not to lag behind these developments without forgetting their religious principles in the sense that this progress must certainly be supported by faith and science in order a Muslim can safely pass through this life. In carrying out these various efforts, humans must have good competence related to technical, social, managerial, and intellectual (Ismail Nawawi, 2009).

Economic activities carried out by humans have the same goal that is looking for profits from every business they run. The business must be in accordance with religious teachings, for example, businesses that are run must not with objects that are forbidden such as liquor, carcasses, pork or with a trade that contain elements of usury or there is an element of deception that actually in religion is strictly prohibited from doing something like that.

In Islam, there is no limitation to owning property and there is no prohibition to seek the gifts of Allah as much as possible, as long as their distribution and utilization are clear (Ali Hasan, 2003), as the word of God in Surah Al-Baqarah: 198 “There is no blame for you for seeking bounty from your Lord...” (Ministry of Religious Affairs, 1971)

The above verse implies that every human being has the right to seek sustenance that Allah SWT has provided, so that humans can use and distribute to others and are always grateful for the gifts that have been achieved.

In the daily life of every individual, society as a whole will always face economic issues, such problems that require someone or the community to make decisions about the best way to carry out an economic activity (Sadono Sukirno, 2006).

In this world, it is impossible for humans to live alone without society because it is impossible for each individual to provide and carry out their needs without involving others. There are people who have an item but do not have another item. Thus humans must be interconnected, exchanging needs. It is not even limited to material matters, but also services and skills expertise (M. Ali Hasan, 2003).

Trading activity is one of the economic activities that is widely carried out by the community to benefit from the results of trade, in fact, there is trading that is allowed and not allowed.

This includes buying and selling which are seen from the way of payment and trading which is seen from the commodity. Trading which seen from the goods is buying and selling that the goods must be able to be seen by people who perform trading, not with other people's property, and there is no prohibition on religious principles.

Allah commands over trade to give relief to his servants. Every individual of the human race has needs for food, attire, and other things that cannot be ruled out while he is still alive. If the buying and selling agreement is carried out with the terms and conditions that have been fulfilled, the consequence is the transfer of seller's ownership of the goods sold to the buyer and the transfer of ownership of the buyer over the exchange to the seller. Each of them may take action on what ownership has been transferred to him by all kinds of actions permitted by Islamic principles.

Based on the existing problems, the authors are interested in examining the issue, How is the system of buying and selling gold on gold brokers on the 45th market, and also how the review of Islamic Economic Law on gold trading by the brokers in “Pasar 45 Manado”.

A theoretical and factual review of matters relating to the problem of gold trading by the brokers in Pasar 45 Manado, based on the observations, it found that there is fraud committed by the brokers frequently, they often reduce the scales for a variety of reasons. The importance of conducting this research is to prove that the sale and purchase transactions carried out by gold brokers in Pasar 45 Manado are against Islamic law.

### **Trading Concept in Islamic Perspective**

The words of “buying and selling” consist of two syllables namely buying and selling. Actually the words “sell and buy” have the opposite meanings to one another. The word sell indicates that there is an act of selling, while buying is an act of buying. Thus, the words of sale and purchase indicate the existence of two actions in one event, namely one party sells and the other party buys. So in this case there was a law of buying and selling (trading). From the above expression, it can be seen that in a sale and purchase agreement involved two parties perform trading (Suhrawardi, 2004).

Buying and selling etymologically mean exchanging assets for assets. In terminology, it means an exchange transaction other than with facilities and enjoyments. Deliberately given the exception of facilities and enjoyment, so as not to include rent and marriage (Abdullah al-Mushlih and Shalah ash-Shawi, 2004). Buying and selling according to the Civil Code is an agreement in which one party binds his/herself to hand over a commodity, and the other party to pay the promised price (Tim Writer, 2008). So, what is meant by muamalat is the exchange of goods or something that provides benefits in a specified manner, such as trading, renting, wages, lending, borrowing, farming, association, and other businesses (Sulaiman Rasjid , 1994). Therefore, religion provides the best rules, because, with regular muamalat, human livelihood is guaranteed as well as

possible so that the dispute and revenge will not occur because of regulations governing the sale and purchase.

Buying and selling are done with *Ijab* and *Qabul*. Something small is excluded from this provision. In it, there is no need for *Ijab* and *Qabul*, but it is sufficient to do by handing each other things on a voluntary basis. This is returned to the traditions and customs that prevail in society. In *Ijab* and *Qabul* there are no specific *lafazh* that must be used because what determines the contract is its purpose and meaning. The basis for this is the willingness to exchange and express the ownership, as the seller says, "I have sold", "I have surrendered", "I have given ownership", "This item is yours" or "Pay the price", and the buyer says, "I have bought", "I have received", "I have been willing" or "Take the money" (Muhammad Sayyid Sabiq, 2011).

Because the trading agreement is a legal act that has the consequence of a transfer of rights to an item from the seller to the buyer, then automatically in this legal act must be met with harmony and the legal conditions of sale and purchase. As for the pillar in legal acts of sale and purchase consist of: (Suhrawardi Lubis, 2004) the existence of the seller and the buyer, the existence of money and objects, and the existence of pronouncement.

The requisite of sellers and buyers are rational so that he is not fooled. People who are crazy or ignorant which perform trade, their trading considered as not legitimate; By their own will, not be forced; Not wasteful, because the property of the wasteful person is in the hands of his guardian; *Baliq*, aged 15 years and over/ adult). Children's trading is unlawful. As for children who understand but have not reached adulthood, according to the perspectives of some scholars, they are allowed to trade small items, because if it is not allowed, it will certainly be a difficulty as well as and complicacy, whereas Islam will never set rules which brings inconvenience to its adherents.

The requisite of Money and Objects Purchased are: (Shobirin, 2015) Sacred, unclean goods in Islamic perspective are not lawful to be sold, such as

animal skins or carcasses; There are benefits. It is not allowed to sell something that is useless. It is also forbidden to take the exchange because it is included in the meaning of waste (banned treasures in the scriptures); The goods can be delivered. It is not legal to sell an item that cannot be handed over to the buyer. For example, fish in the sea, spoil goods which are still in the hand of harpy, goods that are being pledged, because they all contain deception; The goods are the property of the seller, the property he represents, or who commercializes; The goods are known by the seller and the buyer, the substance, shape, content level), and their characteristics are clear so that the two will not be deceptive.

In trading, there are several conditions that must be fulfilled in order to be legal. Among these conditions are those relating to the person making the contract and some relating to the goods acquired, it is the assets that one party wants to transfer to another, both the exchangers and the goods sold. People who make the contract must be rational and *mumayiz*. A contract made by a madman, a drunken person, and a child who is not yet *mumayiz* is not legal. If a person sometimes aware and sometimes become lunatic, then the contract when conscious is legitimate and the contract when lunatic is invalid. A *mumayiz* child contract is legal but depends on the guardian's permission. If the guardian allows it, the contract is recognized by Islamic law. On the goods which are transacted, six things are required: (Rahmat Syafei, 2001) The sanctity of the goods; Utilization of goods; Ownership of people in possession of goods; The ability to deliver goods; Knowledge of goods; Received goods which are sold.

There are two kinds of requirements for trading, namely: (Munir Salim, 2017) Legitimate terms and invalid terms. Legal terms are conditions that are consistent with the consequences of the contract. These conditions are divided into three types. Conditions that are a consequence of trading, such as conditions for exchanging and paying prices; Conditions that are part of the contract benefits, such as conditions for suspending payments or suspending part of it, or conditions for fulfilling certain characteristics of goods sold, for example, camels that are sold must have entered the third year of their age or must be pregnant, or the eagle



sold must be good at hunting. If these conditions are met, trading is binding. If these conditions are not fulfilled, the buyer may cancel the contract because the terms are ignored; The conditions in which there are certain benefits for the seller or buyer. For example, someone sells a house and requires that he may take advantage of it for a certain time, such as occupying it for one or two months. Another example, someone sells a camel and requires that the camel take it to a certain place. Jabir once sold a camel to The Prophet SAW and requires that he may ride it to Medina.

The illegitimate conditions are divided into three types, namely: (Rahmat Syafei, 2001) Conditions that cancel the contract from the principal. For example the conditions for entering into another contract, such as the seller's words to the buyer, "I will sell this item to you on condition you have to sell me yours", or "lend it to me". Ahmad said, Likewise everything which has the same meaning, like the words of the seller, "I will sell this item to you on the condition that you have to marry me to your daughter", or on condition that I will marry you with my daughter; The conditions with which the trading are valid, but the terms themselves are null because the conditions are conflicted to the consequences of trading. For example, the conditions proposed by the seller to the buyer not to sell or give away the goods bought; The terms with which the sale and purchase are cancelled such as the seller's words "I sell this item to you if someone (else) is willing" or "what if you bring (someone/ something) to me". Every sale and purchase which depends on future conditions.

### **The Concept of Brokers in Islamic Perspective**

Brokers in the Arabic word is *samsarah*. It is a broker who sells commodities or find buyers or intermediaries between sellers and buyers to facilitate buying and selling. It is clear, that a broker is a profession that benefits a lot for the community, especially for producers, consumers, and the broker themselves. This profession is needed by the community as well as other professions (Muhammad Sayyid Sabiq, 2011).

Makelar or *samsarah* (السمسرة) is an intermediary for trading among people who selling goods or finding buyers, or intermediaries between sellers and buyers to facilitate buying and selling (Ali Hasan, 2003). A broker is a trade intermediary who functions to sell other people's commodities by taking wages without taking risks, in other words, a broker is an intermediary between the seller and the buyer to simplify trading. Brokers in Islamic legal terms are called *simsars*, they are people who become liaison or intermediaries who facilitate the trading process between seller and buyer. (Suhardi Lubis, 2004) A broker is an intermediary between the buyer and the seller of the goods. The job of a broker, is to enter into agreements on behalf of, on the orders and costs of others (M. Ali Hasan, 1997).

Brokers in the earlier books of *fiqh* are referred to as *samsarah* or *simsarah*. Brokers come from Arabic, namely *samsarah* which means trade intermediaries or intermediaries between sellers and buyers to facilitate trading (Zuhdi, Mafisuk, 1993). A broker is an intermediary trader whose function is to sell other people's goods by taking wages without taking risks, in other words, a broker is an intermediary between the seller and buyer to facilitate trading. A trusted broker is not be charged the risk of any damage or accidental loss of goods. (Syamsul Efendi, 2017) A broker is an intermediary between the buyer and the seller of the goods. The job of a broker is to enter into agreements on behalf of, on the orders and costs of others. A broker is an intermediary trader who is appointed by the authorized official for this purpose. He organizes the company by doing work on the mandate by doing the work of others by getting a certain salary or provision. Before carrying out his work, he must swear to the District Court which belongs to his jurisdiction.

If you pay attention to this definition, it can be drawn several important elements, specifically: (Agus Sardiono, 2014) A broker is a company; To carry out his work, he must first obtain an appointment from the authorized official; Before conducting activities as a broker, he must take an oath first; The broker does his work on the orders of others; In making a contract mandated to him, the

contract is carried out on behalf of the mandate; The broker gets a provision for the work.

The work of a broker according to Islamic perspective is included to *ijarah* contract, that is an item such as a house, or people, such as a servant, or the work/expertise of an expert such as the services of a lawyer, consultant, and so forth with the return. Because the work of the broker is considered as an *ijarah*, accordingly for the validity of the broker's work, it must fulfill several conditions, including agreement between the two parties; The contract object can be known the real benefits and can be turned over; The object of the contract is not immoral or unlawful things, for example finding a casino and so on; Brokers must be honest, sincere, open, and do not commit fraud and illicit as well as obscurity businesses in Islamic perspective (*syubhat*). He reserves the right to receive a reward after successfully fulfilling his contract, while those who use the services of a broker must immediately provide compensation. If the amount of compensation is not specified in the agreement, then this will be returned to the customs in force in the community. For example in Indonesia according to tradition, the broker is entitled to receive a reward of between 2.5% to 5%, depending on the number of transactions. If the sale and purchase transaction is less than Rp. 1.000.000,00 the return will be 5%, while transactions in excess of Rp. 1.000.000,00 in return is quite 2.5%. *Muamalah* by using customs or customary law is justified by Islam.

## **RESEARCH METHOD**

To obtain the answers to the issues above, the authors conducted a type of qualitative research with a case study method, and in data collection techniques, the authors used the techniques of observation, interviews, documentation, and reference studies. This research is used to find out the answers to the above problem formulations.

Purpose of Research

In research on the Review of Islamic Economic Law towards gold trading by the brokers in Pasar 45 Manado, it has several objectives:

1. to find out the gold trading system by the brokers in Pasar 45 Manado
2. to find out the illustration of the gold trading system by the brokers in Pasar 45 Manado

Benefits of Research

1. Theoretically, this research is expected to provide an overview of the system of gold trading by the brokers in Pasar 45 Manado.
2. Practically, it can find out the Islamic Economic perspective concerning the gold trading by the brokers in Pasar 45 Manado.

## **RESULT AND DISCUSSION**

### **The Gold Trading System by The Brokers in Pasar 45 Manado**

The gold brokers in Pasar 45 Manado have implemented the gold trading in the long-term, so that they possess a lot of experience in buying and selling gold. This condition can be seen in the table below:

**Table 1. Time/ Duration of Brokers in Pasar 45 Manado**

<b>No.</b>	<b>Name</b>	<b>Profession</b>	<b>Age of Profession</b>
1.	Sumarni Hadji	Gold Broker	22
2.	Darmitha Hadji	Gold Broker	35
3.	Kamaria Tama'un	Gold Broker	25
4.	Hariani Pakaya	Gold Broker	30
5.	Hj Muna Pou	Gold Broker	35
6.	Salma Liti	Gold Broker	36
7.	Yanti Akase	Gold Broker	32
8.	Asmina Takaliwang	Gold Broker	18
9.	Hj Kara	Gold Broker	40

10.	Djuhria Labadjo	Gold Broker	31
11.	Undeng Wahid	Gold Broker	34
12.	Arifin Maku	Gold Refiner	19
13.	Safri Madeali	Gold Refiner	39

Source: Data was Obtained from the Interview

From the data above the author obtained, the author can conclude that the gold brokers who are around Manado city have carried out gold trading transactions in the long-term, yet there are also those who can still be said to be in the profession as gold brokers newly. Starting from seven years to forty years they work as gold brokers as well as gold refiner, so they as brokers already have experience in conducting gold trading transactions.

From the author's observation at the research location that most of the gold brokers were the mothers and those who became the gold refiners were the fathers. The gold they purchase from the sellers is not fully paid by using their own money but returns to the word of broker itself, which is where they only act as intermediaries in the sale and purchase of gold itself. While the gold buyers are those who work as a gold refiner.

The system of gold trading used by gold brokers and gold sellers is the same as the terms of sale and purchase in general which there are goods to be traded, there is money as a means of payment, there is an *Ijab Qabul* (agreement) between the gold broker and gold seller, and there are sellers and buyers.

The *Ijab Qabul* used by gold brokers and sellers in Pasar 45 Manado is the same as the opinion of the majority of scholars who say *lafadz* (words) of *Ijab Qabul* in every sale and purchase transaction but in their own language. In Muhammad Sayyid Sabiq's book, *Fiqh Sunnah*, there is no need for *Ijab Qabul* in it, but it is sufficient to do this by handing over things on a voluntary basis on both sides. This is returned to the traditions and customs that prevail in society.

Since the author made observations at the research site that almost every gold broker pays to gold sellers by using cash from real gold buyers. The real gold

buyers are those who demand gold or can be called as a gold refiner which later the gold will be processed again into precious metal, then the gold broker will take advantage of the price agreed upon with the seller of gold, there are also those who pay for gold using his personal money if they are still able to pay the price to be paid to the seller of gold. Subsequently, after it is handed over to the gold refiner, the gold refiner will pay the gold according to the gold price.

The advantage gained from the broker itself is by offering the price of gold to the seller of gold, with the lower price of taking the gold price from the refiner, to find out what price will be paid to the seller, the gold broker will first check the authenticity of the gold and then ask the real buyer, what is the price of taking for the gold, then the gold broker will offer to pay the gold to the gold seller at a price below the price of taking from the gold refiner, if the gold seller agrees there will be a sale and purchase transaction of gold, where the gold seller hands over the goods, then the gold broker paid for the item. The difference in price between the broker and the seller, and between the broker and the buyer is the profit of the broker.

According to Ms. Undeng Wahid, "I have been a gold broker since 1980 heretofore, I commit this profession to support the financial of my family, *Thank God* I have sent my children to school until they become a bachelor" (Result of an interview with Mrs. Undeng Wahid, Gold Brokers in Pasar 45 Manado in front of Bank Syariah Mandiri, 20<sup>th</sup> of May 2015).

According to Ms. Kara, "I have been a gold broker since 1974 to the present, and I've ever had a huge profit in a day approximately Rp. 18,000,000" (Results of an interview with Ms. Kara, a Gold broker in Pasar 45 Manado, 20<sup>th</sup> of May 2015).

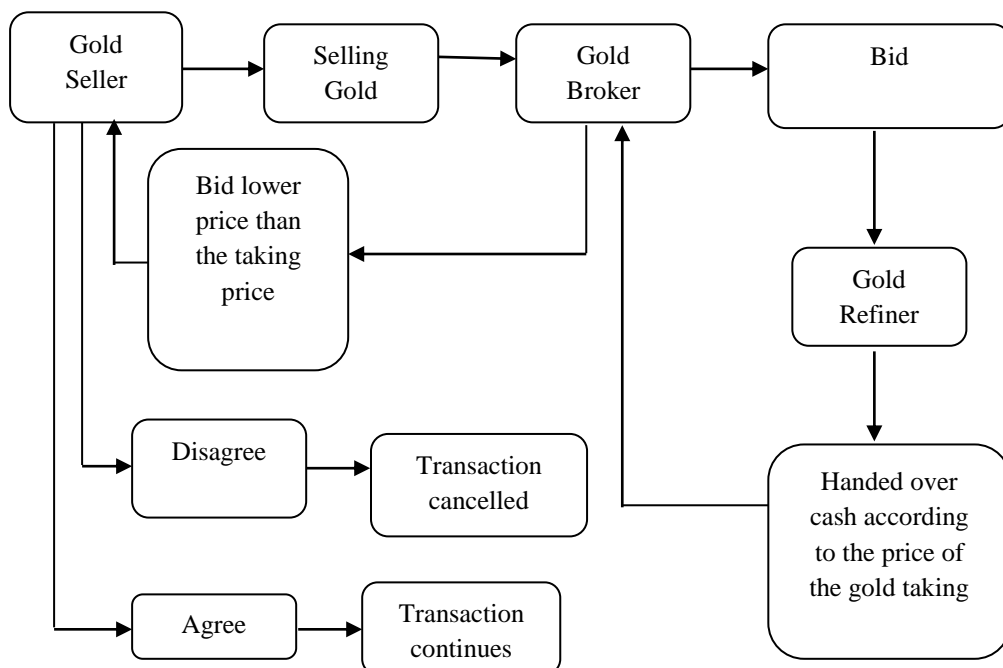
As reported by Ms. Djuhria Labadjo who has been a gold broker since 1983 located in Pasar 45 Manado, she said that "my friends and i as gold brokers are often examined by the police, because they think that we frequently pay the gold which as a result of theft. However, it is only finite to being examined by the police. This often happens because the broker pays the gold in the form of jewelry

with or without the purchase invoice from the gold seller”. (Results of an interview with Mrs. Djuhria Labadjo, a Gold broker in Pasar 45 Manado, in front of Bank Syariah Mandiri, 20<sup>th</sup> of May 2015).

As stated by Ibu Hariani Pakaya, “Our profit which as the results of the gold trading, we did not enjoy it ourselves, but part of the profit was given to other gold broker women.” Results of an interview with Mrs. Hariyani Pakaya, Gold Broker in Pasar 45 Manado, 25<sup>th</sup> of May 2015).

Based on Ms. Asmina Takaliwang who has been a gold broker since 1996, she said that “Not every gold broker in Pasar 45 Manado commits transactions dishonestly, but most of the gold brokers in Pasar 45 Manado carry out transactions in ways that are not in accordance with Islamic law”. Results of an interview with Ms. Asmina Takaliwang, Gold Broker in Pasar 45 Manado, 25<sup>th</sup> of May 2015).

**Figure 1. The Gold Transactions Conducted by Gold Brokers in A Scheme Below**



Source: Obtained from the result of interview

Furthermore, according to Mr. Arifin Maku who works as a gold refiner, located in front of Lanvin Store in the area of Pasar 45 Manado, he said that he merely took the profit of Rp. 25,000 to Rp. 30.000 per gram. At the time the authors conducted research on February 1<sup>st</sup>, 2015 the price of Precious Metals is Rp. 500.000/ gram, but to take advantage, Mr. Arifin bought gold to be sold for Rp. 475.000/ gram for 99.99 % gold or 24-carat gold. Furthermore, this price will be the taking price from the gold refiner and gold broker, for more details about the price of taking gold, and how the broker takes advantage in every sale and purchase of gold. Mr. Arifin outlines his calculations as follows:

1. The price of gold by a gold refiner

For instance, the price of precious metal is Rp. 500.000/ gram, Mr. Arifin gave a price of Rp. 475.000/ gram:

- a. For 22 carat gold the 70% content is calculated:

$$\text{Rp. } 475.000 \times 70\% = \text{Rp. } 332.500/ \text{ gram}$$

- b. For 22 carat gold the 75% content is calculated:

$$\text{Rp. } 475.000 \times 75\% = \text{Rp. } 356.250/ \text{ gram}$$

- c. For 23 carat gold the 87.5 % content is calculated:

$$\text{Rp. } 475.000 \times 87.5\% = \text{Rp. } 415.625/ \text{ gram}$$

- d. For 24 carat gold the 99.99 % content is calculated:

$$\text{Rp. } 475.000 \times 99.99\% = \text{Rp. } 475.000/ \text{ gram}$$

2. Pricing by the brokers to gold sellers

The price given by the gold broker to the gold seller is below the price of gold price-taking by the gold refiner, so that the difference can be a profit for the broker himself, if the seller agrees with the price offered by the broker. (Results of an interview with Mr. Arifin Maku, a Gold refiner in Pasar 45 Manado, 15<sup>th</sup> of May 2015).



It can be seen from the data sources above that gold trading which takes place in the field is not problematic because, in the trading pillar, there are buyers and sellers, then there are goods, there is money and when they have agreed with each other, the buying and selling are legal. Thus, the gold trading practical occurring in Pasar 45 Manado is legitimate.

Because the sale and purchase agreement is a legal act that has the consequence of a transfer of rights to an item from the seller to the buyer, then automatically in this legal act must be met along with the legal conditions of sale and purchase. As for who gets along well in the act of buying and selling consists of:

- a. The existence of sellers and buyers
- b. The existence of money and objects
- c. The existence of pronunciations

From the results that have been stated above, the author can state that there is a factor that causes them to do work as brokers, it is one factor of economic, which means that they commit that economic activity to fulfill their daily needs. It is truly a matter of pride for the mothers who are involved in this work, because with this work they can maintain life and support the family. Even though their income is not so great, but with a job as a gold broker, they can earn money to fulfill their daily needs.

Islam encourages its people to consistently look for halal sustenance because in Islam everything that is halal is certainly good and useful for daily life. It also teaches people so that in social life must maintain good relations with others because without the help of others also humans cannot do activities economy for survival.

### **Islamic Economic Legal Review Towards Gold Trading by The Brokers in “Pasar 45 Manado”**

Reviewed from the law and nature of sale and purchase, *jumhur* scholars divide sale and purchase into two kinds, namely sale and purchase which is categorized as legitimate and sale and purchase that is categorized as illegitimate. Legitimate trading is sale and purchase that meets law provisions, both in the pillar and its conditions, whereas illegitimate trading is sale and purchase that does not meet one of the terms and conditions so that the sale and purchase are damaged by the *fasid* or is canceled.

Humans are social creatures who entail interaction. By interacting, they can take and benefit one another. One of the practices as a result of interactions among humans is the sale and purchase with which they are able to get the needs they want. Islam also regulates this problem in detail as well as carefully, so that when conducting a sale and purchase transaction, humans are able to interact in the corridors that have been intended. Human needs in carrying out a sale and purchase transaction are essential. By conducting the sale and purchase transaction, a person being able to own the goods of another person who is desired without violating sharia restrictions.

According to Mrs. Sumarni Hadji, who has been a gold broker since 1992, located in front of Taman Kesatuan Bangsa(TKB), said that there are some gold brokers who are dishonest in the process of trading transactions between the broker and the seller, if they find a seller who is suspicious of the gold items he wants to sell, then the dishonest broker will take advantage in this case. For instance:

- a. Reducing the scale because the seller does not know the weight of the gold to be sold
- b. Saying that the gold value is not in accordance with the actual gold value, because the seller does not know the level of gold to be sold

As stated by Mrs. Sumarni Hadji, “I only trade with the seller if their gold has a purchase invoice, so that it guarantees that the goods to be sold are entirely private property and not from the result of theft”. (Results of an interview with Ms. Sumarni Hadji, Gold Broker in the Pasar 45 Area in front of the National Unity Park, 15<sup>th</sup> of May 2015).

In the book Muhammad Sayyid Sabiq, it said that it is forbidden for a Muslim to purchase an item while he knows that the item was taken from the owner in an unauthorized manner. Taking the goods in an unauthorized manner does not transfer ownership from the owner's hands. Therefore, if he buys it, then he has bought it from someone who does not have it. Besides he has assisted that person in committing sins and transgressions.

The command of Allah in the Koran to earn a living after worshipping, implies that a person should follow the permissible behavior in earning income, with a clean and sincere heart should also purify their intentions and methods in making a living and income.

In the Koran and the Traditions of the Messenger of Allah SWT which emphasizes the importance of earning a living by lawful ways. Because it is very important concerning *halal* and *haram* issues in obtaining property. Then, the rules on this matter are made explicit. Likewise in state law, legal protection is required for the copyright owner so that the right owner can relish and utilize his creations. If in the future there are people who want to reproduce the work of the owner of the rights, they must first ask permission from the copyright owner.

## CONCLUSION

In general, the sale and purchase that occurs in Pasar 45 Manado in conducting trading transactions are similar to trading in general. There are sellers and buyers, there are goods to be traded, there is money as a means of payment, and *Ijab Qabul* but *Ijab Qabul* does not like the opinion of the majority of scholars in the Syafi'i perspective which must consist of saying *lafadz* of *Ijab Qabul* in every sale transaction but through actions between each party also

represents the *Ijab Qabul* in the practice of trading, such as handing over goods on a voluntary basis. Things like this are returned to the traditions or customs that prevail in society.

In a trading system that occurs in Pasar 45 Manado according to the Islamic Economy, in the Koran, it strictly forbids the taking of people's property illegally without rights, because the dishonest practice of trading violates the provisions of the Shari'a, because there are some gold brokers who are not honest in the process of sale and purchase transactions between the broker and the seller. If the broker finds a seller who is suspicious of the goods that the seller wants to sell, then the dishonest broker will take advantage in this case. For instance: he will reduce the scales because the seller does not know the weight of the gold he wants to sell and reduces the level because the seller does not know the level of gold that he wants to sell. However, not all gold brokers in the 45 market area are dishonest.

## REFERENCES

### Journals

- Munir Salim, 2017) "Jual Beli Secara Online Menurut Pandangan Hukum Islam", Jurnal Al-Daulah No. 2/6.  
Shobirin, 2015) "Jual Beli Dalam Pandangan Islam", Jurnal Bisnis dan Manajemen Islam, No. 2/3.  
Syamsul Efendi, 2017) "Jual Beli Dengan Sistem Transfer Dana Melalui Bank Dalam Pandangan Islam", Jurnal Riset Akuntansi Multiparadigma, No. 3/4

### Books

- Abdullah al-Mushlih dan Shalah ash-Shawi, 2004) *Fikih Ekonomi Keuangan Islam*, Jakarta: Darul Haq.  
Agus sardjono, 2014) "*Pengantar Hukum Dagang*", Jakarta: Rajawali Pers cet II  
Chairuman Pasaribu dan Suhrawardi K. Lubis, 2004) *Hukum Perjanjian Dalam Islam* Jakarta: Sinar Grafika.  
Departemen Agama RI, 1985) *Al-Quran dan Terjemahannya*, Cet. IV; Jakarta: Pelita.  
Ismail Nawawi, 2009) *Ekonomi Islam-Perspektif Teori Sistem dan Aspek Hukum* Cet. II; Surabaya: CV. Putra Media Nusantara,  
M. Ali Hasan, 2003) *Berbagai Transaksi Dalam Islam* Jakarta: Grafindo Persada,

- M.jAli Hasan, 1997) Masail Fiqhiyah “*Zakat, Pajak, asuransi dan lembaga keuangan*”, Jakarta: Grafindo Persada.
- Muhammad Sayyid Sabiq, 2009) *Fiqih Sunnah* Cet. I: Jakarta: PT. Pena Pundi Aksara.
- Muhammad Sayyid Sabiq, 2011) *Fiqih Sunnah*, cet III, Jakarta: Pena pundi Aksara.
- Rahmat Syafei, 2001) *Fiqih Muamalah*, Cet.IV, Bandung: CV Pustaka Setia.
- Sadono Sukirno, 2006) *Mikro Ekonomi Teori Pengantar* Jakarta: PT.Raja Grafindo Persada.
- Suhardi K. Lubis, 2004) *Hukum Ekonomi Islam*, Jakarta: Sinar Grafika, Cet III.
- Sulaiman Rasjid, 1994) *Fiqih Islam* Cet. 27; Bandung: Sinar baru Algensindo.
- Zuhdi, Masjfuk, 1993) *Masailul Fiqhiyah*, CV.Haji Masagung, Jakarta.