

LEGAL STATUS ON PURCHASE TRANSACTIONS BY MINORS IN BANDA CITY: AN ISLAMIC LAW PERSPECTIVE

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Abstract

The phenomenon of minors involved in buying and selling transactions in Banda Aceh City is a complex issue influenced by economic, educational, socio-cultural factors, as well as weaknesses in regulation and law enforcement. This research aims to analyse the factors causing this phenomenon and view it from the perspective of Islamic law and Law No. 13 of 2003 concerning Manpower. In Islamic law, a child who has not reached the age of maturity is considered not qualified to engage in valid transactions without the supervision of a guardian. Meanwhile, labour regulations in Indonesia prohibit minors from working except under certain conditions. This study uses a qualitative approach with a descriptive-analytical research type. Data were obtained through observation, interviews, and documentation methods, supported by secondary data from the literature. The research results show that poverty, low parental education, social norms, and the impact of the COVID-19 pandemic are dominant factors driving children to work in the informal sector. In Islamic law, small transactions conducted by children are considered valid if they meet the principles of justice and basic needs without exploitation. However, high-value transactions require guardian supervision to ensure validity. This research recommends the need for strict supervision, community education, and consistent law enforcement to protect children's rights in accordance with Islamic law and legislation.

Keywords: Islamic Law, Sale and Purchase Transactions, Minors

Abstrak

Fenomena anak di bawah umur yang terlibat dalam transaksi jual beli di Kota Banda Aceh merupakan masalah yang kompleks yang dipengaruhi oleh faktor ekonomi, pendidikan, sosial budaya, serta lemahnya regulasi dan penegakan hukum. Penelitian ini bertujuan untuk menganalisis faktor-faktor penyebab terjadinya fenomena tersebut dan melihatnya dari perspektif hukum Islam dan UU No. 13 Tahun 2003 tentang Ketenagakerjaan. Dalam hukum Islam, seorang anak yang belum mencapai usia baligh dianggap tidak memenuhi syarat untuk melakukan transaksi yang sah tanpa pengawasan dari wali. Sementara itu, peraturan ketenagakerjaan di Indonesia melarang anak di bawah umur untuk bekerja kecuali dalam kondisi tertentu. Penelitian ini menggunakan pendekatan kualitatif dengan tipe penelitian deskriptif analitis. Data diperoleh melalui metode observasi, wawancara, dan dokumentasi, serta didukung oleh data sekunder dari literatur. Hasil penelitian menunjukkan bahwa kemiskinan, rendahnya pendidikan orang tua, norma sosial, dan dampak pandemi COVID-19 menjadi faktor dominan yang mendorong anak bekerja di sektor informal. Dalam hukum Islam, transaksi kecil yang dilakukan oleh anak dianggap sah jika memenuhi prinsip keadilan dan kebutuhan dasar tanpa eksploitasi. Namun, transaksi bernilai tinggi membutuhkan pengawasan wali untuk memastikan keabsahannya. Penelitian ini merekomendasikan perlunya pengawasan yang ketat, edukasi masyarakat, dan penegakan hukum yang konsisten untuk melindungi hak-hak anak sesuai dengan hukum Islam dan peraturan perundang-undangan.

Kata kunci: Hukum Islam, Transaksi Jual Beli, Anak di Bawah Umur

INTRODUCTION

Children are the greatest gift to the family, religion, nation and state. In the life of the nation and state, children are the successors of ideals for the progress of a nation. Children's human rights are protected in Article 28 B (2) of the 1945 Constitution, which reads that every child has the right to survival, growth and development and the right to protection from violence and discrimination.¹

Children are a trust and a gift from the almighty God, in whom the dignity of a human being is inherent. However, it turns out that around us there are many disadvantaged children who are forced to survive by working,

¹ Sri Setya Ningsih, "Legal Protection of Minor Workers Based on Law No. 13 Year 2003 on Labour (Case Study in Palu City)", in *Legal Opinion Journal of Law*, (Palu: Tadulako University). Edition 5, Volume 3, Year 2015, p. 3

at too young an age, better known as underage workers. The term worker is any person who works by receiving wages or rewards in other forms. Children are the successors to the ideals of the nation's struggle who have a strategic role and have special characteristics and characteristics that are expected to ensure the existence of the nation and state in the future. Therefore, children have the right to get the widest possible opportunity to grow and develop optimally, both physically, mentally and socially and have noble morals because even from the womb they have the right to life.²

Every child has the right to grow and develop so parents are prohibited from neglecting their children, as regulated by Law No. 35/2014 on Child Protection. Parents are subject to severe penalties, including companies that employ minors. Nevertheless, there are still many children who cannot enjoy their right to grow and develop due to various factors related to the family's limited economic capacity or poverty. Poor families are forced to mobilise family resources to collectively fulfil their needs. Such conditions encourage children who have not reached the age to work to be forced to work. The results of the study show that children who work are not to fulfil their own needs but to help fulfil the needs of the family economy. Law No. 13/2003 on Labour states that underage workers are children under the age of 18. Children may be employed provided they have parental permission and work a maximum of 3 hours a day.³

Juridically, Indonesia seeks to realise the fulfilment and legal protection of a child's rights through the existence of several laws, namely:

1. Law No. 39/1999 on Human Rights, which includes children's human rights.
2. Law No. 13 Year 2003 on Labour, which regulates the prohibition of employing minors, employing children in the worst jobs, children working to develop their talents and interests, the government's responsibility in providing protection to child labourers.

Meanwhile, Article 68 explains "Employers are prohibited from employing children". However, Article 69 of this law still provides

² Indar Wahyuni, "Problems of Underage Labour: Maqashid Shari'ah Perspective", in *Mahkamah Journal*, (Pati: Department of Shari'ah STAI Pati), Vol. 9 No. 1 January-June 2015, pp. 8

³ Nandi, "*Underage Labour and its Problems*", in *GEA Journal*, (Bandung: Faculty of Social Science Education UPI), Vol. 6, No.2, October 2006, pp. 1-2

opportunities for minors to work, as can be seen in paragraphs 1, 2 and 3 as follows:

1. The provisions as referred to in Article 68 may be exempted for children aged between 13 (thirteen) years and 15 (fifteen) years to do light work as long as it does not interfere with physical, mental, and social development and health.
2. Employers who employ children in light work as referred to in paragraph (1) must fulfil the requirements:
 - a) Written permission from parents or guardians.
 - b) Employment agreements between employers and parents or guardians.
 - c) Maximum working time is 3 (three) hours.
 - d) It is conducted during the day and does not interfere with school time.
 - e) Occupational safety and health.
 - f) There is a clear working relationship.
 - g) Receive wages in accordance with applicable regulations.
3. The provisions as referred to in paragraph (2) letters a, b, f, and g are exempted for children who work in their family business.⁴

Islamic law, especially in the field of muamalah, is increasingly important in the rapid development of the economic world with the birth of new ideas.⁵ Such as buying and selling in markets, online, coin machines, and so on. So far, it is not only adults who carry out these buying and selling transactions, but children who are still minors also do these things.

However, this is not so easy because of the lack of buyer interest in buying an item caused by several factors. With the many factors that result in a lack of buyer interest, several heads of families arise. Some heads of families shift their duties to their children. They use their children to attract buyers. This goal is done so that there is compassion from buyers who make buyers choose to make buying and selling transactions with them.

⁴ Legality Team, *The Latest and Most Complete Labour Law*, (Yogyakarta: Legality, 2017), pp. 11

⁵ Chairul Fahmi and Syarifah Riyani, 'ISLAMIC ECONOMIC ANALYSIS OF THE ACEH SPECIAL AUTONOMY FUND MANAGEMENT', *Wahana Akademika: Journal of Islamic and Social Studies* 11, no. 1 (2024): 89–104, <https://doi.org/10.21580/wa.v11i1.20007>.

The process of buying and selling transactions carried out by minors that occur at the red light at intersection five JL. Sri Ratu Safiatuddin, Simpang Lima, Peunayong, Kuta Alam, to several coffee shops around the city of Banda Aceh This phenomenon can be seen as a mother gives some of her sales to her child such as fried noodles, cut fruit or the like, not only that, the child is also ordered by his parents to sell his merchandise to several shops around it until all sold.

From interviews with local people, the children who sell and buy come from the Krueng Raya area, Aceh Besar. They start the action from morning to evening, to get to the location they use public transport such as Transkoetaradja, becak, etc. This has been happening since 5 years ago, various efforts have been made by the government under the auspices of the Social Service through joint apparatus, namely the pamong praja police unit.⁶

The incident was very concerning, the lack of knowledge of the buyers about the validity or not of buying and selling carried out by minors made them continue to carry out these transactions. The number of buyers who make buying and selling transactions is based on compassion and want to help as fellow social beings.

In Islam, buying and selling by minors has different scholars' opinions, namely the Hanafi Madhhab which considers that minors have not yet received the burden of law, while the Shafi'i Madhhab considers it invalid because minors do not have eligibility. The fiqh scholars are unanimous in stating that the person who makes the sale and purchase contract must fulfil the conditions. Therefore, the sale and purchase made by a child who has not yet come to his senses is invalid. `As for a child who has mumayyiz, according to the Hanafiyyah scholars, if the contract he makes brings benefits to him, such as receiving grants, wills, and alms, then his contract is valid. On the other hand, if the contract brings harm to him, such as lending his property to others, endowing it, or giving it away, then this legal action is not permissible. If the transaction of a mumayyiz child involves both benefit and harm, such as buying and selling, renting, and trading partnerships, then it is valid, if his guardian gives permission.

In this regard, the guardian of a child who has mumayyiz should consider the child's interests. A child who is mumayyiz is around seven years old, so transactions made by a madman and a child who is not mumayyiz are

⁶ Results of interviews with local communities

not valid, because the transaction is related to the wishes of the two parties. Words and the like, such as writing and signalling, can be evidence of the wishes of both parties. Therefore, this evidence must come from a person who is *mumayyiz*.

RESEARCH METHODS

This research uses a qualitative approach with a descriptive-analytical research type. The qualitative approach was chosen because this research aims to find out the phenomenon.⁷ Descriptive-analytical research is used to find out the conditions of the implementation of Islamic financing schemes and analyse them based on the principles of Islamic law.⁸

The data sources in this study include primary data, which is data obtained directly by researchers from the original source. Primary data is often referred to as new data or original data that is up-to-date. To collect primary data, researchers extracted information directly through various methods, such as observation, interviews, and documentation. This approach ensures that the data obtained has high relevance and accuracy in accordance with the research needs. Secondary data is data obtained or collected by researchers from pre-existing sources. This data can be accessed through various references, such as books, reports, and journals. In this research, secondary data serves as relevant supporting material and includes *library research*.

RESULTS AND DISCUSSION

A. The Concept of Buying and Selling in Islamic Law

Buying and selling in fiqh terms is called al-bai' which means selling, replacing, and exchanging something for something else. In Arabic it is sometimes used for its opposite meaning, namely the word asy-syira' (buy). Thus, the word al-bai' means selling, but it also means buying.⁹

⁷Le, J. K., & Schmid, T. *The practice of research method innovation. Organisational Research Methods*, Vol. 25, No. 2022, pp. 308-336. Library research is a series of activities related to library data collection methods, reading, and recording and processing research materials.

⁸ Muhammad Siddiq-Armia, *Determining Legal Research Methods and Approaches*, ed. Chairul Fahmi (Indonesia: Lembaga Kajian Konstitusi Indonesia (LKKI), 2022).

⁹ Gemala Dewi, *Islamic Law of Association in Indonesia*, Cet. 1, (Jakarta: Prenada Media, 2005), 101.

According to al-Sayyid Sabiq, buying and selling in the lughawiyah sense is exchanging. The words al-ba' (sell) and al-syira (buy) are usually used in the same sense. The word each has two meanings that are contradictory to each other.¹⁰

Meanwhile, according to Ibrahim Muhammad al-Jamal, buying and selling is the exchange of property by mutual consent or transferring property by getting an exchange according to the method permitted by religion.¹¹ According to etymology, buying and selling means the exchange of something for something else. Other words for al-ba'i are *ash-shira'*, *al-mubadalah* and *at-tijarah*. This is as the word of Allah SWT in Surah Fathir verse 29 which reads:

اِیْرْجُوْنَ تِجَارَةً لَّنْ تَبُوْرَ

Meaning: "The exchange of something for something (else).¹²

Buying and selling is also an act of exchanging goods for goods or money for goods, without the aim of making a profit. This is because the reason people sell or buy goods is for a need, regardless of the profit or loss. Thus, it can be said that every trade can be said to be buying and selling, but not every buying and selling can be said to be trading.¹³

From these definitions, it can be understood that the essence of buying and selling is an agreement to exchange objects or goods that have value voluntarily between the two parties, one of which receives the object and the other party accepts it in accordance with the agreement or conditions that are justified by shara' and agreed upon. In accordance with the provisions of the law means fulfilling the requirements, pillars, and other matters related to buying and selling, and if the conditions and pillars are not fulfilled, it means that it is not in accordance with the will of shara'.¹⁴

Objects can include the notion of goods and money, while the nature of the object must be assessable, namely objects that are valuable and can be

¹⁰ Sayid Sabiq, *Fiqh al-Sunnah*, Juz III, (Cairo: Maktabah Dar al-Turas, ed.) 14

¹¹ Ibrahim Muhammad al-Jamal, *Fiqh al-Mar'ah al-Muslimah*, Transl. Anshori Umar Sitanggal, "Fiqh of Women", (Semarang: CV Asy-Syifa, 1986), 490.

¹² Department of Religious Affairs of the Republic of Indonesia, *Al-Qur'an and its Translation*, (Semarang: Asy Syifa, 1992), 700.

¹³ Ibn Mas'ud, et al., *Fiqh Madzhab Syafi'i Complete Edition Muamalat*, Munakahat, Jinayat, (Bandung: CV. Pustaka Setia, 1999), 22.

¹⁴ Chairul Fahmi, 'Revitalising the Implementation of Sharia Law in Aceh (A Study of Law No.11 Year 2006)', *TSAQAFAH* 8, no. 2 (30 November 2012): 295–310, <https://doi.org/10.21111/tsaqafah.v8i2.27>.

justified for use according to Shara'. The object is sometimes movable (moved) and there are times when it is fixed (immovable), some of which can be divided, some of which cannot be divided, there are assets that have an example and some that resemble and others. The use of such assets is permissible as long as it is not prohibited by Shara'.

The scholars have agreed that buying and selling (al-ba'i) is an economic activity that is legalised or allowed by Islamic law.¹⁵ Buying and selling as a means of helping fellow human beings and is an act of transaction that has been prescribed has a strong foundation in the Qur'an and sunnah of the Prophet Muhammad SAW.

In Surat al-Baqarah verse 275:

وَالَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

Meaning: Those who eat usury cannot stand except as one who staggers because of a demon. This is because they say that buying and selling is the same as usury. But Allah has made buying and selling lawful and usury unlawful. If a warning from his Lord comes to him (concerning usury), then he stops, and what he used to earn is his, and it is up to Allah. Whoever repeats (the usury transaction), they are the inhabitants of Hell. They shall abide therein.¹⁶

The above verse explains that Allah has justified buying and selling and forbidden usury. The above verse can also be understood to make buying and selling by complying with the rules that have been established in Islam and not doing what is prohibited in Islam. Surat al-Baqarah verse 188:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ.

Meaning: Do not eat of the wealth among yourselves by means of unlawful means and do not bring it before the judges so that you may eat of the wealth of others by way of sin, when you know.¹⁷

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

¹⁵ Hamdan Rashid, *Fiqh Indonesia Set of Actual Fatwas*, (Jakarta: Al Mawardi Prima, 2003), 290.

¹⁶ Ministry of Religious Affairs, *Al-Qur'an and its Translation*, 69.

¹⁷ *Ibid* 107-108

Meaning: O you who believe, do not eat of your neighbour's wealth by unlawful means, except in the form of consensual trade between you. Do not kill yourselves. Verily, Allah is Most Merciful to you.¹⁸

Based on Surah Al-Baqarah verse 188 and An-Nisa verse 29, it explains the necessity to heed the rules set and not to do what the verse above terms *batil*, which is a violation of religious provisions or agreed terms. The use of the word eat in the two verses above to prohibit obtaining property unlawfully because the basic human need is to eat. If eating, which is a basic need, is forbidden, then it is certainly even more forbidden if the acquisition by false means involves secondary and tertiary needs.

Furthermore, Surah an-Nisa' verse 29 also emphasises the need for the willingness of both parties, or what is termed. Although willingness is something hidden in the depths of the heart, its indicators and signs can be seen. *Ijab* and *qabul* or whatever is known by custom as handover are the forms that the law uses to show willingness.¹⁹

The Prophet's hadith also mentions the permissibility of buying and selling, as the Prophet's hadith states: "From Rifa'ah bin Rafi' r.a. (he said): Indeed, the Prophet Muhammad, was once asked, which is the best business? He replied: it is the labour of a man with his own hands and all clean trades." (HR Imam Baihaqi)

Besides, it also prioritises honesty in trade, where Allah through His Messenger provides facilities and virtues for traders who are honest and trustworthy. This is reflected in the Prophet's hadith: "From Abi Said of the Prophet SAW. Said: honest traders who are trusted will be with the prophets, the righteous and the martyrs." (HR. Turmudzi)

The Hanafi school of thought asserts that there is only one pillar of buying and selling, namely *ijab*. According to them, the most important principle in buying and selling is mutual consent with the willingness to give goods to each other. So, if there has been an *ijab*, there the sale and purchase is considered to take place. Of course, with *ijab*, there must be things related to it, the person who made the contract, the object of sale and the exchange rate.²⁰

¹⁸ *Ibid* 122

¹⁹ M. Quraish Shihab, *Tafsir Al-Misbah*. (Jakarta: Lentera Hati, 2002). 41

²⁰ M. Yazid Afandi, *Fiqh Muamalah and its Implementation in Islamic Financial Institutions*, (Yogyakarta: Logung Pustaka, 2009), 57.

The existence of willingness cannot be seen because willingness is related to the heart, willingness can be known through external signs, a sign that clearly shows willingness is *ijab* and *qabul*. Customary buying and selling, such as buying and selling something that is a daily necessity, does not require *ijab* and *qabul*, this is the opinion of the majority of scholars.

However, the majority of scholars state that there are four pillars of buying and selling, namely:

1. There are people who act or *al-muta'qidain* (sellers or buyers),
2. There is a *sighat* (recitation of *ijab* and *qabul*),
3. There are items purchased,
4. There is a replacement exchange rate.²¹

B. Factors Influencing Underage Workers in Buying and Selling Transactions in Banda Aceh City

In Banda Aceh City, the phenomenon of child labour involved in buying and selling is a complex issue that is influenced by various factors, including economic, social, cultural, and environmental. This phenomenon occurs due to a combination of family economic needs, low education levels, social norms, and weaknesses in law enforcement that should protect children from exploitation.

1. Economic Factors

Poverty is a major factor that forces children to engage in economic activities such as buying and selling. Many families in Banda Aceh, especially those in low-income neighbourhoods, rely on the economic contributions of their children to fulfil their daily needs. Children often work in the informal sector, such as helping their parents in the market or selling snacks, which makes it easier for them to conduct independent transactions. Data from the Banda Aceh Manpower Office (Disnaker) shows that poor families tend to allow or even encourage their children to work, even though this violates labour laws.²²

2. Education Factors

The low education level of parents is another important cause. Many parents in Banda Aceh do not understand the importance of formal education

²¹ *Ibid.* 60-61

²² Central Bureau of Statistics (BPS). 2023). *Percentage of Children 10-17 Years of Age Working by Province*. Accessed from <https://www.bps.go.id>](<https://www.bps.go.id>)

as a long-term investment for children. Instead, they see early employment as a way for children to gain life experience or skills. According to the Central Bureau of Statistics (BPS), working children generally come from families with low education, with most parents having only primary school education or not completing formal schooling. This condition has an impact on increasing school dropout rates, because children have to work to help the family economy.²³

3. Social and Cultural Factors

Social norms in some communities also influence children's involvement in buying and selling. In some families in Banda Aceh, especially in neighbourhoods with a strong traditional culture, working from an early age is considered part of a child's moral responsibility towards the family. Children help their parents trade or work in small businesses without being seen as exploited. Unfortunately, this view often ignores the negative impacts on children's physical, mental and educational development.²⁴

In addition, the lack of supervision over the implementation of child protection laws is also a serious obstacle. Although the city of Banda Aceh implements strict sharia law, attention to the issue of child labour is still not optimal. Children involved in buying and selling transactions often escape the supervision of the government and the community, so they continue to be exploited.

4. Regulatory and Law Enforcement Factors

Law No. 13/2003 on Labour actually prohibits minors from working. However, in Banda Aceh, the implementation of this regulation is still weak. Reports from the Manpower Office show that the majority of child labourers are in the informal sector, which is difficult to reach by labour inspectors. In fact, some people consider this phenomenon to be normal, so they are reluctant to report cases of child labour.²⁵

5. Psychological and Environmental Factors

²³ Office of Manpower (Disnaker) of Banda Aceh City. (2023). *Annual Report on the Condition of Child Labour in Banda Aceh*. Banda Aceh: Banda Aceh Manpower Office.

²⁴ Chairul Fahmi, *Aceh After MoU Helsinki: Discourses on TRC, Security Reform, and Legal Reform* (Banda Aceh: The Aceh Institute Press, 2011).

²⁵ Ministry of Labour of the Republic of Indonesia. (2003). *Law Number 13 Year 2003 on Labour*. Jakarta: Ministry of Manpower of the Republic of Indonesia.

Social environment and family conditions also play a big role in encouraging children to work. Children who grow up in families with conflict or economic pressure often feel compelled to take on responsibilities early. In addition, the influence of peers who also work can reinforce a child's desire to earn their own income through buying and selling activities.²⁶

6. Impact of the COVID-19 Pandemic

The COVID-19 pandemic has exacerbated this situation. The job losses experienced by many parents in Banda Aceh mean that children have to help fulfil the family's needs by working. Many of them are involved in informal work such as selling snacks or helping out in small kiosks. The impact of the pandemic has reinforced the phenomenon of child labour, especially among poor families.²⁷

It can be concluded that in Banda Aceh City, the phenomenon of child labour involved in buying and selling transactions is influenced by various social and economic factors. Poverty is the main factor that encourages children to work, because parents need economic contributions from their children to meet family needs. In addition, the low level of education of parents often causes a lack of awareness of the importance of education for children, so they are more likely to allow or even encourage children to work. Data from the Central Statistics Agency (BPS) shows that in 2023, the percentage of children aged 10-17 years working in Aceh Province reached 1.03%, although this figure is lower than the national average. This condition shows the need for serious attention from various parties to overcome the problem of child labour in Banda Aceh.

C. The Law of Buying and Selling of Minors in Banda Aceh City as Seen from Islamic Law

In the perspective of Islamic law, buying and selling transactions carried out by minors have clear rules to ensure justice and protection for all parties involved, especially the children themselves. Islamic law great attention to the

²⁶ Muhammad Aqshal Riyadhhi. (2023). *Analysis of Underage Child Labour in Economic and Educational Perspectives in Banda Aceh*. Repository of Ar-Raniry State Islamic University. Accessed from <https://repository.ar-raniry.ac.id> (<https://repository.ar-raniry.ac.id>).

²⁷ Siregar, A. N. (2021). *The Impact of the Pandemic on the Increase in Child Labour in Indonesia*. Journal of Social Welfare, 15(2), 56-68.

maturity of reason (*rushd*) and legal responsibility (*ahliyah*) as conditions for valid transactions.²⁸ The city of Banda Aceh, as an area that applies sharia law, faces this phenomenon in a unique social and cultural context. The following is a detailed explanation of the law of buying and selling transactions by minors when viewed from Islamic law.

In Islamic law, a minor is someone who has not reached the age of baligh. The signs of puberty in Islam include:

- 1) Minimum age of 15 years for both males and females.
- 2) Physical signs, such as menstruation for women and *ihtilam* (wet dreams) for men.²⁹

Children who have not reached puberty are considered not yet *mukallaf*, meaning that they are not yet fully responsible for religious orders and do not yet have the legal authority to carry out complex transactions. In this context, children are considered not to have full *ahliyah al-'aqd* (eligibility to make contracts), so their legal actions, including buying and selling, require supervision from guardians or parents.

Islamic law stipulates several conditions for the validity of buying and selling transactions. These conditions include:

- 1) *Ijab and Qabul*: The transaction must be conducted with an agreement between the seller and the buyer.
- 2) *Eligibility of the Actors (Ahliyah)*: Both parties involved in the transaction must have legal capacity, namely *akil* (reasoning), *baligh* (adulthood), and not under pressure or coercion.
- 3) *Clear and Halal Objects*: The goods or services traded must be clear, halal, and not contain elements of *gharar* (uncertainty).
- 4) *No Fraud or Exploitation*: Transactions must be conducted with fairness without any element of fraud, exploitation, or harm to either party.³⁰

Minors, because they are considered not to have the maturity of reason, do not meet the full requirements of *ahliyah al-'aqd*. Therefore, transactions

²⁸ Chairul Fahmi, 'The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industry in Aceh, Indonesia', *Peuradeun Scientific Journal* 11, no. 2 (30 May 2023): 667–86, <https://doi.org/10.26811/peuradeun.v11i2.923>.

²⁹ Al-Bukhari, Muhammad Ibn Ismail. *Shahih Al-Bukhari*. Beirut: Dar Ibn Kathir, 1987. Page 112

³⁰ Al-Mawardi, Abu al-Hasan. *Al-Ahkam Al-Sultaniyah*. Beirut: Dar al-Kutub al-Ilmiyyah, 1999. 93

made by children require the consent or supervision of a guardian to ensure the validity and fairness of the transaction.

The scholars have a relatively uniform view on the status of transactions conducted by minors:

- 1) The Hanafi school of thought Transactions made by minors are considered *fasid* (invalid) if they are made without the permission or supervision of a guardian. However, if the guardian gives consent, then the transaction can be considered valid. Shafi'i school of thought: Transactions of minors who have not reached puberty are generally considered invalid, unless they are done for urgent basic needs and have the permission of the guardian.
- 2) Maliki and Hanbali schools: Transactions carried out by children are considered valid only in certain cases, such as buying and selling small items that do not cause major losses and are carried out in reasonable conditions.³¹

This view shows that Islamic law places great emphasis on protecting the rights of children, so that their transactions should not harm any party.

In the city of Banda Aceh, where sharia law applies, buying and selling by children is common, especially in the informal sector. Many children are involved in economic activities such as helping their parents with trade or petty selling. In the context of sharia law, this practice is considered legal as long as it fulfils the following criteria:

- 1) Transactions are done on a small scale or for basic needs.
- 2) There is no element of fraud or exploitation that harms the child.
- 3) Children are not employed in conditions that violate their rights, such as interfering with their education or endangering their health.³²

However, if the transaction involves a large value or a high-value item, Islamic law requires the involvement of a guardian or parent to ensure the legitimacy and fairness of the transaction. Islamic law places great emphasis on the protection of children. The principle of *la dharar wa la dhiraar* (no harm or mutual harm) is the main basis for regulating buying and selling transactions, including those involving children. In the Islamic view:

³¹ Ibn Qudamah, Muwaffaq al-Din. *Al-Mughni*. Riyadh: Dar al-Alam al-Kutub, 1997. 118

³² Indonesian Ulema Council. *Fatwa on Transactions with Minors*. Jakarta: MUI, 2020. 71

- 1) Children should be protected from any form of economic exploitation or fraud in transactions;
- 2) Parents or guardians have a moral and legal responsibility to ensure children do not engage in economic activities that are detrimental to their physical, mental and spiritual development.³³

In addition, Islam also encourages the education and development of children so that they can understand their rights and obligations in accordance with Sharia when they grow up.

The municipal government of Banda Aceh has a great responsibility in ensuring that sharia law is applied fairly, including in protecting children from unauthorised or harmful transactions. Steps that need to be taken include

- 1) Educate the public on the importance of protecting children from unlawful transactions.
- 2) Monitor economic activities involving children, especially in the informal sector.
- 3) Strictly enforce the law against those who use children for harmful economic purposes.³⁴

It can be concluded that in the perspective of Islamic law, buying and selling transactions carried out by minors must be seen carefully because they involve several provisions aimed at protecting children. Children who have not reached the age of *puberty* are considered not to have fulfilled the requirements of *ahliyah al-'aqd* (contract eligibility), which is the basis for the validity of transactions. Islamic law stipulates that transactions are only valid if they are made by mature individuals, i.e. those who have reached *baligh*, either through a certain age (15 years) or certain physical signs such as menstruation in women and *ihtilam* in men. Therefore, transactions conducted by minors require the supervision of a guardian or parent to ensure that the transaction does not harm the child.

In the city of Banda Aceh, which applies sharia law, the phenomenon of children engaging in buying and selling transactions common, especially in

³³ Chairul Fahmi, 'PHILOSOPHICAL TRANSFORMATION IN THE APPLICATION OF ISLAMIC SYARIAT (Critical Analysis of the Implementation of Islamic Shari'at in Aceh)', *Al-Manahij: Journal of Islamic Legal Studies* 6, no. 2 (2012): 167-76.

³⁴ Zainuddin, Z. "The Role of Sharia in Child Protection in Aceh." *Journal of Law and Sharia*, Vol. 10, No. 1, 2023.

the informal sector, such as helping parents trade or running small businesses. Under Islamic law, small transactions that do not involve high-priced goods or do not incur losses are considered valid, as long as they are done for basic needs and there is no element of exploitation or fraud. However, if the transaction involves large amounts of goods or money, Islamic law requires the involvement of a guardian to ensure the validity and fairness of the transaction. In this case, the principle of *la dharar wa la dhiraar* (no harm or loss) is the main foundation in Islamic law that prohibits any form of transaction that can harm children.

The challenge in Banda Aceh lies in poverty and low education among most families, which often pushes children to work and engage in buying and selling transactions to help the family economy. A lack of understanding of the importance of protecting children in the context of sharia law can exacerbate this situation, leaving children vulnerable to exploitation. Therefore, the municipal government has a great responsibility to educate the public about children's rights and increase supervision of the informal sector involving children.

The Banda Aceh Municipal Government needs to take strict measures, such as tightening supervision of children's economic activities, providing education on the importance of education and legal protection of children, and strictly enforcing the law to prevent exploitation. With a consistent and comprehensive application of sharia principles, it is hoped that buying and selling transactions involving children can be carried out with justice, without harming any party, especially the children themselves.

D. Legal protection of buying and selling transactions of minors in Banda Aceh City in terms of Law No. 13 Year 2003 on Labour

Law No. 13 Year 2003 on Labour provides protection for children, including a prohibition on the employment of minors, as stipulated in Article 68. This law states that children under the age of 18 should not be employed, except in light work that meets certain criteria, such as children aged 13-15 who may only work for a maximum of 3 hours per day, with the consent of parents or guardians, and in a safe working environment.³⁵

In the context of buying and selling transactions in Banda Aceh City, if a minor is involved as a seller, then their participation must be subject to these

³⁵ Indonesia. (2003). *Law of the Republic of Indonesia Number 13 Year 2003 on Labour*. Jakarta: Ministry of State Secretariat

provisions so as not to interfere with their physical, mental and social development. This is also in line with the mandate of child protection as stipulated in Law No. 23 of 2002 (as amended by Law No. 35 of 2014), which affirms that children have the right to be protected from all forms of economic exploitation.³⁶

Legally, children's involvement in buying and selling transactions also needs to be reviewed from the perspective of their ability to perform legal acts. Based on Article 1330 of the Civil Code, minors are considered legally incapable, so their transactions require the consent or assistance of a guardian or parent.³⁷ In the absence of such consent, the transaction can be considered null and void. In this context, if minors in Banda Aceh conduct buying and selling transactions without adequate supervision, there is the potential for legal violations that could harm them.

Social practices in Banda Aceh city show that children are often involved in economic activities, either as a form of helping their families or as part of local culture. However, this involvement must ensure that it does not lead to exploitation. Local governments have a responsibility to ensure the legal protection of children involved in buying and selling transactions, both through direct supervision and by educating the community on children's rights. In addition, agencies such as the Social Service and Child Protection Agency need to actively provide assistance and protection to children who are victims of violations.³⁸

From a legal analysis perspective, children's involvement in unsupervised buying and selling can create a loophole for exploitation, especially if the counterparty takes advantage of the child's ignorance of his or her rights.³⁹ Therefore, it is important to empower children through education about their rights while strengthening the legal system that protects them from harmful actions.⁴⁰ The legal protection of minors is not only the responsibility of the government, but also of the community at large to create a safe and

³⁶ . Indonesia. (2002). *Law of the Republic of Indonesia No. 23 of 2002 on Child Protection* (amended by Law No. 35 of 2014). Jakarta: Ministry of State Secretariat

³⁷ Indonesia. (1848). *Kitab Undang-Undang Hukum Perdata (Civil Code)*.

³⁸ Banda Aceh City Government. (2020). *Banda Aceh Municipal Regulation on Child Protection*. Banda Aceh: City Government of Banda Aceh.

³⁹ Fahmi, 'The Impact of Regulation on Islamic Financial Institutions Towards the Monopolistic Practices in the Banking Industry in Aceh, Indonesia'.

⁴⁰ Nugroho, R. (2015). *Legal Protection of Children in Indonesia: Social and Legal Perspectives*. Jakarta: Gramedia Pustaka Utama.

supportive environment for the growth and development of children in Banda Aceh.

CONCLUSIONS

The phenomenon of child labour involved in buying and selling transactions in Banda Aceh City is influenced by various factors, such as poverty, low levels of parental education, social and cultural norms, and weak law enforcement. In the perspective of Islamic law, transactions conducted by children require the supervision of a guardian to ensure fairness and avoid exploitation. Meanwhile, Law No. 13 Year 2003 on Labour prohibits the involvement of children in heavy work, although it allows light work under certain conditions. The Banda Aceh Municipal Government has a great responsibility in protecting children through public education, supervision of economic activities involving children, and law enforcement.

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