



## Implementation of the Application of Khiyar in Buying and Selling Transactions in Traditional Markets and Buying and Selling Online

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### ABSTRACT

Basically, when conducting a sale and purchase transaction, the party concerned has the right to continue or cancel the contract. This is a solution for Islam in order to create convenience for consumers to make buying and selling transactions, namely with the existence of khiyar rights. Khiyar is needed in a sale and purchase transaction so that the parties concerned can maintain the interests of their needs and create willingness on both sides so that they cannot cause losses. The purpose of this writing is to explain how important it is to apply khiyar in buying and selling so as not to cause losses. The method used in this writing is by interviewing the parties who have canceled the sale and purchase contract. The result of this writing is that it can be seen how many parties feel a loss in a transaction because many sellers are dishonest or do not know about the damage to the goods they sell. This happens a lot in traditional markets which causes buyers to feel at a loss when they buy it. Besides that, there are several traditional markets that can apply khiyar rights to consumers, but very few do this, because the sellers are afraid of feeling a loss if consumers return goods that have been damaged and then replace them with other goods.

**Keywords:** *Case, Khiyar, Traditional*

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## **INTRODUCTION**

Buying and selling is an activity that is often carried out by humans. In muamalah activities, it is not certain that all of them can do according to what has been prescribed by Islam (Renie, 2021; Widyastuti dkk., 2020). Along with the times with the sophistication that occurs in technology, it can make it easier for someone in transactions, especially online buying and selling transactions. However, many still carry out transactions in traditional markets. Buying and selling is allowed if all the conditions for buying and selling are clear and fulfilled. However, many buyers feel disadvantaged by online buying and selling transactions because transactions in cyberspace do not directly bring together the parties concerned. Even when buying and selling transactions in traditional markets, many buyers suffer losses, especially transactions made online (Barratt & Aldridge, 2020; Chase & Murtha, 2019; Zafar dkk., 2020). But, Not all of that is borne by the seller because as a buyer or as an economic actor, he has an obligation to protect his rights by being careful in making transactions. For this reason, it is necessary to apply khiyar or the right to choose whether to continue or cancel a sale and purchase transaction.

Studies related to the existence of khiyar rights in buying and selling transactions both directly in traditional markets and buying and selling online can be categorized in three forms, namely: The first explains how the application of the khiyar concept can be carried out so that no party feels disadvantaged (Fox dkk., 2019; Iyer dkk., 2020; Müller dkk., 2019). Second, (Awan dkk., 2018; Wu & Zhou, 2019; Yang dkk., 2019) khiyar has an influence on how a consumer or buyer can make a choice between continuing to buy or canceling a sale and purchase. Third, Traditional markets are places where sellers and buyers meet and are marked by direct seller-buyer transactions and usually there is a bargaining process (Ahearne dkk., 2022; Braverman dkk., 2018; Horton, 2019). In addition, traditional markets also apply the practice of mudarabah where the object of sale is stated honestly, both capital and profit by the seller, which is then agreed upon by both parties.

## **RESEARCH METHODOLOGY**

The research method used in this writing is the interview method which is conducted directly in the field to which parties have experienced or canceled a sale and purchase (Bedin dkk., 2019; Opiniano, 2021; Sand dkk., 2022). With khiyar in a sale and purchase transaction, the buyer has the right to determine whether he wants to continue or cancel the sale and purchase, so that there is a willingness that occurs in the sale and purchase transaction.

## **RESULT AND DISCUSSION**

### **Meaning of Khiyar**

Khiyar in language is an option. According to Wahbah Az-Zuhailly, khiyar is the right for a person to choose between two parties or one of the parties making a

transaction (Yazid dkk., 2023). According to Sayyid Sabiq, khiyar is a way that is carried out between two parties in order to find goodness so that it can create benefits between the two parties (Harun, 2020). According to the Compilation of Islamic Law, khiyar is an option for the parties involved in the transaction to continue or cancel the contract (Issoufou & Abdullah, 2019).

### **Basic Law of Khiyar**

يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ أُحِلَّتْ لَكُمْ بَهِيمَةُ الْأَنْعَامِ إِلَّا مَا يُتْلَى عَلَيْكُمْ غَيْرَ مُجْلَى الصَّيْدِ وَأَنْتُمْ حُرْمٌ إِنَّ اللَّهَ يَحْكُمُ مَا يُرِيدُ

*"O you who believe! Fulfill promises. Cattle are lawful for you, except for what will be mentioned to you, by not making it lawful for hunting while you are in ihram (hajj or umrah). Indeed, Allah determines the law according to what He wills."*(QS Al-Maidah verse 1)

Regarding the permissibility of khiyar, Rasulullah SAW. said: Meaning: "You are entitled to khiyar in every item you buy for three nights, if you like it then take it and if you don't like it then return it to the owner." (Narrated by Ibn Majah)

### **Kinds of Khiyar**

#### **Khiyar Majlis**

Khiyar majlis is known as the voting right of the party making the contract to cancel as long as it is still at the location (contract majlis) and has not physically separated. This khiyar only applies to transactions that are binding in nature for both parties who carry out exchange transactions, such as buying and selling and leasing (Dalimunthe, 2019; Dinda Yuanita & Wijaya, 2022). The legal basis for khiyar majlis is the hadith of the Prophet narrated by Bukhari, in this hadith the Prophet said that two people who are buying and selling may do khiyar as long as they have not separated, and if both are correct and clear then they will be blessed in the sale and purchase.

#### **Eligibility of Terms**

Khiyar conditions are the rights of each party that organizes the contract to continue or cancel the contract within a certain period of time. For example, in a sale and purchase transaction, a buyer says to the seller: I bought this item from you on condition that I am given khiyar for a day or three days. Khiyar conditions are needed because the buyer needs time to properly consider the purchase (R. P. Hasanah dkk., 2021; Lorien dkk., 2022). He also needs to be given the opportunity to find someone who is more expert to ask for an explanation of the object of the contract he will buy, so as to avoid losses and fraud. Khiyar conditions are the same as khiyar majlis only applies to contracts that only in general, namely the type of contract that can be canceled by the willingness of the party who organizes it such as a sale and purchase contract, ijarah (which is binding on both parties).

Some scholars differ in opinion regarding the time limit in khiyar this condition. However, in general they agree that the deadline must be determined explicitly and clearly, because otherwise the contract is threatened with facade (according to Hanafi) and void (according to Shafi'i and Hambali). As for the grace period of khiyar, the

conditions apply after the contract is mutually agreed upon (2020, ميرزاخانی & الهام). The length of the grace period can be grouped into three types, namely: first; The Hanafiyah and Syafi'iyah schools argue that it should not last more than three days. This is based on the hadith of the Prophet Muhammad which came from Ibn Umar. second; the Hanabillah school of thought is of the opinion that the grace period for majlis khiyar depends on the agreement of each.

Parties though can be more than three days. This is because khiyar conditions are set by syara' to facilitate transactions and deliberations. Sometimes three days is not enough to make a wise decision, even though the hadith says three days. third; while for the Malikiyah School, the conditions for khiyar depend on conditions in the field (Fauziah & Fathimah, 2020). For example, for perishable goods such as fruit, the grace period is one day, for clothes the grace period is three days, but for example land and houses, the grace period may exceed three days. Thus the grace period for khiyar according to this school of terms depends on the object of the goods being traded.

#### Khiyar Disgrace

Khiyar disgrace is the right that exists on the party making the contract to cancel or continue the contract if disgrace is found on the goods exchanged, while the seller does not know that there will be a disgrace to the item at the time the contract takes place (D. Hasanah dkk., 2019; Jamilah & Firmansyah, 2019). In every transaction, actually the parties involved want the goods to be free from defects, in order to achieve satisfaction for both parties. However, sometimes after the contract and the goods are brought, a hidden disgrace is suddenly found and to avoid a decrease in the level of satisfaction and willingness from consumers, this khiyar is necessary.

According to Wahbah Zuhaily, the defect that causes the appearance of the right of khiyar disgrace is every transaction that is damaged from its natural origin so that it reduces its value according to the prevailing custom, such as expired, damaged, or discolored. 17 In other words, all defects that cause a reduction in the value of the goods or the loss of the desired elements of the goods (Indriyani dkk., 2021). To fasakkah contract after defects are detected, the scholars differed. Some argue that the return of goods may be done later and some argue that it must be returned immediately to avoid rejection from the seller.

When will this khiyar disgrace not apply? Namely, first, when there is a statement of willingness from the buyer to find defective goods. This can be expressed overtly or covertly; secondly, when the buyer himself says "I bought this item without using my gift rights". Thus he was punished willingly with the condition of the goods purchased; third, the goods are damaged as a result of the carelessness of the buyer, for example a cloth brought home and then he comes and the cloth has turned into clothes; fourth, changes in the condition of the goods being transacted, for example becoming larger or increasing, where the changes that occur do not originate from the natural nature of the goods but as a result of the actions of the buyer. In the current development,

#### Khiyar Ru'yah

Khiyar ru'yah is the buyer's right to continue the transaction or cancel it when seeing (ru'yah) the item to be transacted. This khiyar occurs when at the time the contract is made the item being transacted is not in place so the buyer does not see it. If he has seen it, his khiyar ru'yah will be forfeited and no longer valid. Khiyar, like other khiyars, also applies only to contracts that normally have the potential to be canceled, such as buying and selling and ijarah. Whereas a sale and purchase that is not ready and is only notified of its characteristics and nature is like a salan contract, then khiyar ru'yah is not valid. The jurists generally allow khiyar ru'yah in buying and selling transactions of goods that are ready or finished, but do not yet exist.

In place (al'ain al-ghâibah). His ability is based on the hadith of the Prophet Muhammad from Abu Hurairah. The conditions for the validity of this khiyar are: first, no/not yet visible goods to be purchased during the contract or before the contract; secondly, the goods to be contracted must be in the form of concrete goods such as land, vehicles and houses; third, the type of contract must be from contracts that are commonly subject to cancellation, such as buying and selling and ijarah and this khiyar does not apply to contracts that do not normally accept cancellation, such as marriage and khulu.

#### Khiyar Ta'yin

Khiyar ta'yin is the right owned by the person holding the contract (especially the buyer) to make a choice between the three characteristics of the goods being transacted. Usually the goods sold are distinguished by three qualities, namely ordinary, medium and special. Buyers are given the right to vote (ta'yin) to get the best goods according to their own judgment without getting pressure from any party. This khiyar also applies only to contracts that contain exchanges such as buying and selling. Levels of both quality and type as well as the period of this khiyar must be specified and explained. If the buyer has made his choice on one of the types of goods offered, then the contract has occurred and ownership has changed hands.

Cancellation of sale and purchase is an event carried out by the parties involved in the sale and purchase transaction. In general, it has been done by people who are involved in buying and selling transactions, both in traditional markets and buying and selling online. This is usually done by the buyer as the perpetrator of the transaction. With various reasons given, the sale and purchase cancellation occurred. The cancellation of this sale and purchase is not only carried out by the party who becomes the buyer, but also by the seller in the transaction. However, sometimes we rarely find it in everyday life. So from this explanation it can be seen that indeed this sale and purchase cancellation has been and has been carried out by many people who are transacting.

There are often cases of cancellation of sales and purchases due to negligence or sometimes it occurs because the seller is not careful with the goods being traded. The cancellation of the sale and purchase is done because there are several items that are defective and cannot be used if the sale and purchase transaction continues, it will harm one of the parties. Defects that occur in goods, for example, are clothes that have

damage to the seams, for example, they are not neat or the seams are open. This happens more when buying and selling transactions online. Because the buyer cannot see directly the goods he bought. Another reason for canceling a sale and purchase is because the price and goods purchased are not in accordance with what is needed.

When canceling a sale and purchase it is done by agreement between the parties involved with a certain contract that was carried out at the beginning of the transaction, so that if the cancellation is done it does not cause losses and disputes to both parties. However. There are also cancellations that do it after buying and selling is done as in online purchases. Usually when the goods arrive, if the goods are defective, then that's when the buyer has the right to continue or to cancel the sale and purchase. The sale and purchase cancellation agreement when there is a record on the goods may be returned with a note that the money returned is half of the initial price the buyer made the transaction. However, there are also cases where a cancellation is made, the defective item can be replaced with the same item but of better quality.

Cancellation of trades can be done directly or through the application. If you make a sale and purchase transaction at a traditional market, you can directly see the goods and can immediately cancel the sale and purchase. And if buying and selling is done online, cancellation can be made through the application if it is not pleasing to the goods purchased. This sale and purchase cancellation usually occurs a lot among teenagers because many teenagers cancel sales and purchases. So that from the event of canceling the sale and purchase, it can apply its khiyar rights to choose in making transactions. Then if the person doing the cancellation is the seller, then it's not a problem. The reason for the seller's cancellation is because the buyer does not have good faith in the transaction or at the wish of the buyer himself. So that the seller has the right to cancel the sale and purchase so that there is no loss to him.

The scope of the sale and purchase cancellation	Information
Sale and purchase cancellation contract	This contract is usually carried out at the beginning of the transaction as a form of agreement between the two parties
The type of goods used as the object of the transaction	Shoes, laptops, clothing and types of tuber-type plants such as cassava/yams.
Agreement	Based on the agreement, if there is a cancellation, there will be a price cut

Someone named Risda Hutabarat, a student at UIN Mahmud Yunus Batusangkar majoring in Sharia Economic Law, once canceled a sale and purchase at her house, which is located at Sibolga, North Sumatra. The cancellation of the sale and purchase made by Risda was in the form of direct cancellation of the sale and purchase where it took the form of goods such as shoes and clothes because there were defects in the goods and the shoe size did not match the size of the foot. So it is returned to the seller of the item.



In accordance with the agreement made by Risdathat if you cancel a sale and purchase transaction, you may return it on condition that the price will be deducted from the previous price, where the shoe price was initially Rp. 150,000 then the price becomes IDR 130,000 and the initial clothing price is IDR 250,000 reduced to IDR 235,000. So. The cancellation of the sale and purchase made by Risda resulted in a price discount as a result of canceling the sale and purchase. In the second person interviewedhis name is Ridatul Arifa, he is also a student at UIN Mahmud Yunus Batusangkar majoring in Sharia Economic Law, he has also canceled a sale and purchase.

The cancellation made by Ridatul was in the form of a type of plant such as cassava/yam. The agreement made with the sale and purchase initially cost 3 Kg, which is 10,000, but when paying for the sweet potato was 20,000, then it was returned to the owner and the money was returned 5000. Because the sweet potato cannot be bought as much as 3 Kg. Therefore, there was a cancellation of the sale and purchase. This student named Ridatul Arifa, besideshe cancels the sale and purchase directly, he also cancels the sale and purchase of online transactions. The type of goods he bought were clothes. The reason for canceling the sale and purchase was because the item was damaged and did not arrive within the allotted time, therefore, he also canceled the sale and purchase of transactions made online. The cancellation of the sale and purchase made by Ridatul Arifa has often occurred among teenagers, because teenagers at this time always look at current trends without thinking about whether the items they bought can be used.or can be used. So that it causes losses if the buyer continues to buy and sell and losses to the seller if the sale and purchase is cancelled.

Someone named Dian Oktania Fitri is also a student at UIN Mahmud Yunus Batusangkar majoring in Sharia Economic Law. Dian once canceled a sale and purchase transaction on the grounds that the item she bought had damage to the seams that were not neat. Dian once felt wrong about the cancellation of the sale and purchase that she did, because the item did not have a defect or something else, but because the things he bought were things he didn't really need.

The cancellation of other sales and purchases was also made by a student from UIN Mahmud Yunus Batusnagkar majoring in Sharia Economic Law named Waginah. The cancellation made by Waginah is the cancellation of buying and selling transactions online. According to Waginah, between direct and online it is easier to cancel this sale and purchase in a direct way because you can meet face to face with the seller. In contrast to buying and selling online, cancellations must be made through an application, for example, the Shopee, Lazada and Tokopedia applications. These three applications are the most popular applications among teenagers at the moment. So, if you don't buy something, then cancel it through each application according to what application you are using.

A student named Aisyah Zulkaisih comes from UIN Mahmud Yunus Batusangkar majoring in Sharia Economic Lawhe canceled the sale and purchase directly with the type of item that was canceled when he bought a laptop. Aisyah

canceled the sale and purchase of this laptop because the laptop she bought was not what she wanted. So there was a cancellation of the sale and purchase of transactions carried out by Aisyah. When canceling a sale and purchase. This is done between the two parties agreeing that if a sale and purchase cancellation is made then the refund will be deducted from the initial price of the item. Namely the initial price of three hundred million rupiah, then reduced by Rp. 300,000 then the money that Aisyah got back was Rp. 3,000,000. So Ayesha agreed to that. So that the cancellation of the sale and purchase made does not harm any party.

A seller named Yeni who sells clothes in the market, once canceled a sale and purchase, because the cancellation of a sale and purchase was not only from the buyer, but also from the seller. Yeni's reason for canceling the sale and purchase was based on damage to the goods being sold, namely there were open seams which caused the clothes to be untidy and the buyer did not want that, so Yeni made the decision to cancel the sale and purchase so that the buyer would not feel a loss. Yeni's solution to the buyer is to return the goods and cut the price of the goods if the buyer's money returns. In this way, neither party will be harmed. Yeni's response to this incident would be better if it was resolved in a peaceful way so it doesn't trigger disputes and fights, and Yeni thinks that she will be more careful in the future so that this doesn't happen again.

Nelfi Anggraini and Nur Afni are also students of UIN Mahmud Yunus Batusangkar with the same major as some of the interviewees who were interviewed above, namely the Department of Sharia Economic Law. Both of them had reasons to cancel the sale and purchase because the goods purchased were not as desired. Apart from the two of them canceling the sale and purchase, one of the two also exists if the person canceling the sale and purchase is one of the families between the two.

One of his family is Yessi, he reasoned that canceling the sale and purchase was wrong when ordering the goods and then adding the selling price which did not match the quality of the goods. Transactions that Yessi does are buying and selling houses. So Yessi canceled the sale and purchase. Yessi's decision to cancel the sale and purchase is known by all of his family and Yessi's family supports this. So that there are no difficulties in the future if the transaction continues.

The response from all of the family regarding Yessi's decision was considered good. And his family suggested looking for another house, at an affordable price and the house is suitable for habitation. So that what happens in the future can be resolved easily. Yessi has a principle, that something he does must be with the blessing of all his family. And for Yessi, the opinion of his family really helped him in making a decision to continue or cancel the transaction. Then his family advised Yessi to be more careful in ordering or transacting things. To avoid carelessness to the detriment of oneself.

## **CONCLUSION**

Cancellation of sale and purchase or often known as cancellation of sale and purchase is an activity carried out by the parties involved in a transaction where one



party or both have the option to cancel or continue the transaction. Khiyar has a contract made at the beginning of the transaction so that the buyer and seller make an agreement if unwanted things happen so that neither of them suffers a loss. Especially in online buying and selling transactions, this khiyar right is very concerned so that the transaction actors find and can create benefits between the two.

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