

ANALYSIS OF THE EXISTENCE OF ELEMENTS OF *GHARAR* AND *TADLIS* IN CUTTING THE WEIGHT OF THE SCALES

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Abstract

This research aims to find out how the mechanism of cutting scales in buying and selling chili peppers, and how to analyze the existence of elements of *gharar* and *tadlis* in the practice of cutting scales in buying and selling chili peppers. This research uses normative-empirical legal research with descriptive analysis. The data comes from primary data obtained from the field and secondary data obtained from literature research. The results showed that the implementation mechanism for cutting the weight of the scales in the sale and purchase of chili peppers that took place was practiced according to the customs prevailing in the community of Gampong Abo Teubeng. This sale and purchase is carried out with the application of mandatory deductions at the time after weighing. Weighing pieces in this transaction range from 0.5-2kg depending on the size of the sack used by the farmer. If blue line sacks are used, the weight cut ranges from 1-2kg and fertilizer sacks with weight cuts range from 0.5-1kg. The weight cut is also influenced by market prices, if the market price is expensive then the cut will be small, if the price is cheap the cut will be large. Second, according to the review of muamalah fiqh, the existence of elements of *gharar* and *tadlis* in the transaction of cutting the weight of the scales in the sale and purchase of chili in Gampong Abo Teubeng shows that there is an element of *gharar* in the transaction, but the element of *gharar* is forgiven because it is included in mild *gharar*. Because the risk of heavy shrinkage is something that cannot be separated from the transaction. The existence of the element of *tadlis* in the transaction is visibly absent because of the willingness of both parties. However, invisibly it may not be because it is up to the buyer's intention. If they intend to gain more profit from the cut in the scales then it falls into *tadlis*. And if he does not intend to gain more profit then it is not included because it is in the pleasure of both parties when dealing.

Keywords: Islamic Law, Discounted Scales, Sale and Purchase

Abstrak

Penelitian ini bertujuan untuk mengetahui bagaimana mekanisme pemotongan timbangan dalam jual beli cabai, dan bagaimana analisis adanya unsur *gharar* dan *tadlis* dalam praktik pemotongan timbangan dalam jual beli cabai. Penelitian ini menggunakan jenis penelitian hukum normatif-empiris dengan sifat penelitian deskriptif analisis. Data berasal dari data primer yang diperoleh dari lapangan dan data sekunder yang diperoleh dari penelitian kepustakaan. Hasil penelitian menunjukkan bahwa mekanisme pelaksanaan pemotongan berat timbangan dalam jual beli cabai yang terjadi dipraktekkan sesuai dengan kebiasaan yang berlaku di masyarakat Gampong Abo Teubeng. Jual beli ini dilakukan dengan penerapan potongan wajib pada saat setelah penimbangan. Potongan timbangan dalam transaksi ini berkisar antara 0,5-2kg tergantung dari ukuran karung yang digunakan petani. Jika menggunakan karung garis biru, potongan berat berkisar antara 1-2kg dan karung pupuk dengan potongan berat berkisar antara 0,5-1kg. Potongan berat juga dipengaruhi oleh harga pasar, jika harga pasar mahal maka potongan akan kecil, jika harga murah potongan akan besar. Kedua, menurut *tinjauan* fikih muamalah, adanya unsur *gharar* dan *tadlis* dalam transaksi pemotongan berat timbangan pada jual beli cabai di Gampong Abo Teubeng menunjukkan adanya unsur *gharar* dalam transaksi tersebut, akan tetapi unsur *gharar* tersebut dimaafkan karena termasuk kedalam *gharar* yang ringan. Karena risiko penyusutan berat merupakan hal yang tidak bisa dipisahkan dari transaksi tersebut. Adanya unsur *tadlis* dalam transaksi tersebut secara kasat mata tidak ada karena adanya kerelaan dari kedua belah pihak. Namun, secara kasat mata bisa jadi tidak karena tergantung niat pembeli. Jika ia berniat untuk mendapatkan keuntungan lebih dari pemotongan timbangan tersebut, maka ia termasuk dalam kategori *tadlis*. Dan jika tidak berniat untuk mendapatkan keuntungan lebih, maka tidak termasuk *tadlis* karena hal itu merupakan kerelaan kedua belah pihak yang bertransaksi.

Kata Kunci: Hukum Islam, Potongan Timbangan, Tadlis: Hukum Islam, Potongan Timbangan, Jual Beli

INTRODUCTION

Weight cutting in the Gampong Abo Teubeng community has been carried out as is customary in the community. In the sale and purchase transaction, the agents (buyers) come directly to the farmers in the fields to

buy crops or farmers who will come to the agents in the markets or at the agents' homes.

In the process of buying and selling chili peppers that usually occurs in the community of Gampong Abo Teubeng, there is a system that can harm farmers, namely the system of cutting the weight of relatively large bags. In this system, the weight of the scales is divided into two types based on the size of the sack. *First*, blue line sacks or commonly known in the community as umpang *silop* can be filled with chili peppers around 40-50 kg depending on the quality and shape of the chili peppers. The deduction for this sack is 1-2 kg per sack depending on the price in the market. *Second*, using sacks used as fertilizer or commonly known in the community as umpang *baja* which can be filled with around 30-40 kg depending on the quality of the chili. The cutting for this sack ranges from 0.5 kg - 1 kg depending on the price of chili in the market. This cutting is still done even though the contents of the chili in the sack are not full and the cut is still full.¹

The implementation of this cutting has become a habit that has been attached to the chili buying and selling transaction in Gampong Abo Teubeng. This habit has been going on since a long time ago and has become a common thing in the community and has been considered as something that must be done when selling chili harvests to agents. However, from the results of the author's interviews with chili farmers, many of the farmers were not willing to accept the cut and they were forced to sell their crops to agents because no one accommodated the crops in large quantities. In the cutting transaction, the farmers feel very disadvantaged.²

The practice of cutting the weight of relatively large scales has become a habit of the community, which is included in the act of taking other people's rights by force and is included in the act of zalim. In fact, this practice is strictly prohibited in Islam and the legal basis is very clear in the Al-Quran, namely in QS. An-Nisa 29

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا (النساء : ٢٩)

¹Interview with Ariandy, chili farmer, on January 3, 2021 in Gampong Abo Teubeng.

²Interview with Muhammad Nasir, chili farmer, on January 3, 2021 in Gampong Abo Teubeng.

Meaning: "O you who believe, do not eat of your brother's wealth by unlawful means, except by way of trade between you, and do not kill yourselves. Verily, Allah is Most Merciful to you." (QS. An-Nisa [4]: 29).³

In the above verse, Allah Swt has clearly forbidden humans to eat the wealth of others by false means. what is meant by false means, according to Shara' is: taking the property of another person or party in a way that is not approved by the owner, or spending (using) property not in its place. Included in the wrongful means are: cheating, deceiving, usury, corruption, being wasteful (using assets inefficiently, inflating or *marking up* project funds), and spending *harata* in haram ways.⁴

Bai'ul gharar or *gharar* trade is any trade that involves ignorance or gambling.⁵ In Islamic law, this trade is forbidden. With the legal basis in the hadith narrated by Abu Hurairah ra. The Messenger of Allah saw. said:

حدثنا أبو كريب، أنبأنا أبو أسامة، عن عبيد الله حدّسن بن عمر، عن أبي الزناد، عن لأعرج، عن أبي هريرة قال: نهى رسول الله عليه وسلم عن بيع الغر وبيع الحصاة (رواه الترمذي).⁶

Meaning: Abu Kuraib narrated to us, Abu salamah narrated to us, from Ubaidillah bin Umar, from Abu Zinad, from A'raj, from Abu Hurairah ra, he said: "The Messenger of Allah has prevented (us) from buying and selling goods on the basis of *uncertainty*. (HR. At-Tirmidhi)

Islam prohibits buying and selling *gharar* because in it there is an element of eating other people's property unlawfully. In the verse that the author has mentioned above, it is very clearly stated that in Islam it is strictly forbidden to eat other people's property by false means or in a way that is not mutually agreeable, such as buying and selling transactions that can harm one party or buying and selling that contains elements of *gharar* (uncertainty) and *tadlis* (fraud), causing the wronged party.

³Ministry of Religious Affairs of the Republic of Indonesia, the *Quran and its Translations*, (Jakarta: Foundation for the Translation of the Quran, 1984), pp. 83.

⁴Teungku Muhammad Hasbi Ash-Shiddieqy, *TAFSIR AL-QUR'ANUL MAJID AN-NUUR*, (Semarang: Pustaka Rizki Putra, 2000), jld. 1, pp. 835.

⁵Sayyid Sabiq, *Fiqh Sunnah*, (Jakarta: Pena Pundi Aksara, 2013), 5th edition, pp. 59

⁶Muhammad bin Isa Attirmidzi, *Sunan Attirmidzi*, (Egypt: Syirkah Maktabah Wa Matba'ah Mustofa Albayi), jld. 3, pp. 524.

Tadlis means fraud, *tadlis* in buying and selling is prohibited in Islamic law. Because *tadlis* is a fraud committed in a sale and purchase transaction by the seller of the goods / objects he sells to the buyer or vice versa. *Tadlis* in buying and selling transactions is actually classified as *gharar* buying and selling. Where *gharar* sale and purchase is a sale and purchase that contains elements of fraud and betrayal, either because of the uncertainty in the object of this kind of sale and purchase or uncertainty in the way it is implemented. So that the law of this kind of buying and selling is prohibited in Islam (haram).⁷

Violation of ethics in buying and selling transactions does not cause direct harm or can be seen by the party that harms it, but it causes a lot of harm to others, and Islam recommends upholding ethics in life, especially in the world of trade.⁸

RESEARCH METHODS

The approach in this research is a qualitative approach. A qualitative approach is research that intends to understand the phenomenon of what is experienced by the research subject, for example: behavior, perceptions, motivations, actions and others holistically. This type of research when viewed in terms of its object is *field* research, which is a research whose object is about symptoms or events that occur in society.⁹ So this research can be called case study research using qualitative descriptive research methods. Descriptive research is research that aims to make a description or description of the facts and relationships between the phenomena being investigated.¹⁰ Meanwhile, qualitative research aims to produce descriptive data, in the form of spoken words or the behavior of those observed.¹¹ The data that the author collects as research material comes from residents of Gampong Abo Teubeng, Pidie District, Pidie Regency who work as chili

⁷Amir Syarifuddin, *Outlines of Jurisprudence*, (Jakarta: Kencana, 2003), cet.2, p.201.

⁸Muhammad Nejjatullah Sidiqi, *Economic Activity in Islam*, (Jakarta: Bumi Aksara, 1996), p.59.

⁹Sukandarrumidi, *Research Methods*, (Yogyakarta: Gadjah Mada University Press, 2006), p.104.

¹⁰Moh. Nasir, *Research Methods*, (Jakarta: Ghalia Indoesia, 1999), p.63.

¹¹Lexy J Moloeng, *Qualitative research methods*, (Bandung: CV Remaja Rosdakarya, 2000), pp. 3.

farmers and collectors by means of descriptions in the form of words and language in a special natural context by utilizing various natural methods.¹²

RESULT AND DISCUSSIONS

The community of Gampong Abo Teubeng is a community with potential in the agricultural sector, especially in the fields of plantations and rice fields. Chili and rice are two types of plants that are often planted by farmers on their land, there are also some people who plant their land with other types of plants, such as corn, peanuts, green beans, and others. Because almost all areas in Gampong Abo Teubeng are rice fields and gardens, many of the people make agriculture their main livelihood.

The implementation of chili buying and selling transactions that have taken place in the Gampong Abo Teubeng community has been carried out as is customary in the community. In the sale and purchase transaction, the agents (buyers) come directly to the farmers in the fields to buy crops or farmers who will come to the agents in the markets or at the agents' homes.

Mechanism of Weight Cutting System in Chili Sale and Purchase Transaction

The process of buying and selling chili peppers that usually occurs in the community of Gampong Abo Teubeng, there is a system that can harm farmers, namely the system of cutting the weight of relatively large sacks. In this system, the weight of the scales is divided into two types based on the size of the sack. First, blue line sacks or commonly known in the community as *umpang silop* can be filled with chili peppers around 60-70 kg depending on the quality and shape of the chili peppers. The deduction for this sack is 1-2 kg per sack depending on the market price. The second uses used fertilizer sacks or commonly known in the community as *umpang baja* which can be filled with around 30-40 kg depending on the quality of the chili. The deduction for this sack ranges from 0.5-1kg depending on the price of chili in the market.¹³

¹²Eri Barlian, *Qualitative and Quantitative Research Methodology*, (Padang: Sukabina Press, 2016) pp. 59.

¹³Interview with Mujtahid, collecting agent, July 10 at the market in Ulee Ceu Teubeng Village.

The implementation of this cutting has become a habit that has been attached to the chili buying and selling transaction in Gampong Abo Teubeng. This habit has been going on since a long time ago and has become a common thing in the community and has been considered as something that must be done when selling chili harvests to agents. However, from the results of the author's interviews with chili farmers, many of the farmers were not willing to accept the cut and they were forced to sell their crops to agents because no one accommodated the crops in large quantities. In the transaction, the farmers feel very disadvantaged.

This transaction is very contrary to the definition of buying and selling stipulated in Islam. A sale and purchase transaction in Islam should be an honest transaction without being followed by cheating, it should be done with mutual consent or mutual consent. As mentioned in the hadith narrated by Al-Baihaqi:

حَدَّثَنَا الْعَبَّاسُ بْنُ الْوَلِيدِ الدِّمَشْقِيُّ حَدَّثَنَا مَرْوَانُ بْنُ مُحَمَّدٍ حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ عَنْ دَاوُدَ بْنِ صَالِحٍ الْمَدِينِيِّ عَنْ أَبِيهِ قَالَ سَمِعْتُ أَبَا سَعِيدٍ الْخُدْرِيَّ يَقُولُ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِنَّمَا الْبَيْعُ عَنْ تَرَاضٍ (رواه البيهقي).

Meaning: Abbas bin Walid Addimasyqi has told us, Marwan bin Muhammad has told us Abdul Aziz bin Muhammad, from Dawud bin Shalih Almadini, from his father I have heard Abu Said Alkhudri say: The Messenger of Allah saw. said "buying and selling is based on mutual consent". (H.R. Baihaqi)

Mechanism for Deducting Scale Weight According to the Agent

From the results of the author's interview with the agent / collector, the reason for cutting the weight of the scales carried out by the agent is to anticipate losses caused by shrinkage of goods and the risk of rotten chilies that will occur in the future. The cutting method is done after the agent sees the quality of the chili and determines how much the cut will be applied.¹⁴ In an interview with Mr. Ikbali Rusli, sometimes the agents already have a subscription to resell the chili or he already knows when the chili will be

¹⁴Interview with Bakri, collecting agent, July 4, 2022 at the Gampong Meucat market.

sold out, and he has estimated how much it will shrink.¹⁵ so in this transaction there are indications of elements of *gharar* and *tadlis* or fraud. In this case the agent knows or can predict how much shrinkage will be received which is not known by the farmer but, sometimes there are also agents who do not have regular subscriptions or stalls that accommodate so that the agent cannot know when the chili can be spent and he cannot know the heavy shrinkage he will experience.

In interviews with agents regarding the distribution of goods the agents only hold the chilies in their homes for a maximum of one day. Usually, they will sell the chili directly to Medan or other cities, and retailers / street vendors. when the collecting agents sell the chili to Medan or other cities they are also applied again the weight cut¹⁶. However, many of them sell it to street vendors or retailers without applying the weight cut and some sell it themselves. So it can be concluded that the distribution channels for goods are usually agents buying from farmers and then bringing them to sellers or sending them to Medan and other cities. This is where there is an indication of the element of *tadlis* in the practice of buying and selling chilies in the hope of getting more profit from the results of weight cuts when agents buy chilies from farmers.

The practice of cutting the weight of the scales that has become a habit of the community is included in the act of taking other people's rights by force and is included in the act of *zalim*. In fact, this practice is strictly prohibited in Islam. Allah SWT. Says in Surah An-Nisa:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ بِجَارَةٍ عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا
أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا (النساء : ٢٩)

Meaning: "O you who believe, do not eat of your brother's wealth by unlawful means, except by way of trade between you, and do not kill yourselves. Verily, Allah is Most Merciful to you." QS. An-Nisa 29.¹⁷

¹⁵Interview with Ikbal Rusli, collecting agent, July 4, 2022 in the field of Gampong Abo Teubeng.

¹⁶Interview with Ikbal Rusli, collecting agent, July 4, 2022 in the field of Gampong Abo Teubeng.

¹⁷Ministry of Religious Affairs of the Republic of Indonesia, the *Quran and its Translations*, (Jakarta: Foundation for the Translation of the Quran, 1984), pp. 83.

It is clear in the verse above that Allah SWT. Forbids his servants to obtain something by false means. The prohibition of eating property which is a means of human life by false means implies a prohibition of improper transactions and leads humans on a path that is not in accordance with Islamic law. Even on the contrary, it leads humans to the wrath of Allah SWT. By violating his orders. Such as usury practices, gambling, buying and selling that contains *gharar* and so on. And it is also clear that Allah SWT. Ordered to obtain something by way of commerce or buying and selling based on mutual consent and mutual benefit.¹⁸

Mechanism for Cutting Weighing Scales According to Farmers

From the results of the author's interviews with farmers, many of them complained about the weight cutting system in the chili buying and selling transaction. But there are also some farmers who understand the cut because it has become a custom and know the shrinkage of weight in the future.

In an interview with Mr. Muhammad Nasir, the cut is indeed very burdensome for farmers especially if the price of fertilizer is expensive, but they still have to sell because there is no other choice.¹⁹ sometimes there are also those who directly sell their own crops in the market as retailers on the street to get around the weight cut and to get greater profits.²⁰ But sometimes there are also farmers who are happier with the weight cut than the price cut because the price of chili is cheap.²¹

Analysis of the Existence of the Elements of *Gharar* and *Tadlis* in Cutting Weighing Scales

The review of Islamic law allows for a one-sided and subjective interpretation and is very likely to clash with existing conditions in society. Because talking about Islamic law is of course an absolute provision and there is no bargaining.

Based on the description in the previous discussion, it is clear that there is a problem in buying and selling, namely the practice of cutting the scales

¹⁸M. Quraish Shihab, *Tafsir Al-Misbah*, (Jakarta: Lentera Hati, 2002), pp. 499.

¹⁹Interview with Muhammad Nasir, chili farmer, July 2, 2022 at the farm.

²⁰Interview with farmer Ilyas, July 20, 2022 at Pante Tengoh market.

²¹Interview with Ariandy, farmer, April 5, 2022 at the farm.

in every weighing carried out by the buyer. Buying and selling is a permissible act, but in buying and selling there are rules and rules that must be obeyed so that no party feels their rights are harmed and feels wronged, so that in buying and selling the element of *tadlis* (fraud) is strictly prohibited.

Analysis of the Existence of *Tadlis* Elements in the System of Cutting Weighing Scales.

The practice of cutting the scales that has been implemented by the people of Gampong Abo Teubeng, is indicated to contain practices that harm the community by reducing the rights that will be received by them. This is not in line with the basic provisions in bermua'malah as found in the Qur'an, namely.

QS. As-Syu'ara verse: 183

وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تَعْثَوْا فِي الْأَرْضِ مُفْسِدِينَ²²

Meaning: And do not harm people in their rights and do not run rampant on the earth causing destruction.

The transactions that have been carried out in the community indicate an element of *gharar* in the application of cutting the chili scales. In this transaction the sellers cut the weight of the scales so that there is no loss if the weight of the chili shrinks because they cannot know when the chili will be sold out, this is a situation that cannot be ascertained. Because this transaction has an uncertain risk, it can be said to be a *gharar* transaction. According to the author, the shrinkage that will be experienced by the seller is a risk that must be faced alone, it cannot be burdened on the farmers because in this transaction it is not permissible to oppress others.

In the law of buying and selling, the ignorance of the goods to be purchased about the depreciation is not included in the sale and purchase of *gharar*, because in the process of the contract, the weight of the goods and the quality have been seen clearly by the parties to the transaction. So the transaction is valid and permissible according to shara' law because it fulfills the pillars and conditions of buying and selling.

Cutting the weight of the scales is not included in the terms and conditions of a valid sale and purchase. If you pay attention to the problem

²²Ministry of Religious Affairs of the Republic of Indonesia, the *Quran and its Translation*, (Jakarta: Foundation for the Translation of the Quran, 1984), p. 374. 374.

of buying and selling, this sale and purchase has fulfilled the elements of buying and selling, namely the seller and the buyer, which in this case are collectors (buyers) and farmers (sellers) as parties to the transaction. Meanwhile, the object of the sale and purchase is chili. The sale and purchase takes place after the two parties enter into a contract in the sale and purchase, then at that time there is a contract that the buyer must hand over the money and the seller must hand over the goods that are the object of the sale and purchase. The handover between the two parties must be considered between the pillars and conditions because this is what determines whether or not a sale and purchase contract is permissible and halal or haram.

The chili sale and purchase transaction that has been carried out by the Teubeng Abo community according to hereditary custom has fulfilled the pillars and conditions of sale and purchase. So it can be concluded that the transaction is valid and justified based on Islamic law.

As for the risk of depreciation inherent in these goods is a natural thing because it cannot be separated and is not prohibited in buying and selling, because every trade must have a risk, *gharar* in anticipating the loss is a permissible *gharar* or a mild type of *gharar*. This opinion is supported by the words of Imam Nawawi in the book *Almajmu Syarh AlMuhazzab* as follows:

أنه إذا دعت الحاجة إلى ارتكاب الغرر ولا يمكن الاحتراز عنه إلا بمشقة أو كان الغرر حقيرا جاز البيع²³

This means: "If the *gharar* is a necessity, and it is not possible to separate it except by causing hardship, then it is a mild *gharar*, and it is permissible to trade with it."

Gharar in the face of the risk of future loss is a permissible *gharar* in Islam. Many traditions confirm this. Among them:

Hadith narrated from Aisha r.a.

أحدثنا أبو سلمة يحيى بن خلف، قال: أخبرنا عسر بن علي المقدمي، عن هشام بن عروة، عن أبيه، عن عائشة؛ "أن النبي صلى الله عليه و سلم قضى أن الخراج، بالضمان. هذا حديث حسن غريب من حديث هشام بن عروة²⁴ .

It means: Abu Salamah Yahya bin Khalaf told us: Hisham bin Urwah told us from his father that Aisha said: "The Prophet said: "The benefit of

²³Yahya ibn Sharaf An-nawawi, *Almajmu Sharh AlMuhazzab*, (Beirut: Darul Fikr), Juz 9, p.258.

²⁴Muhammad bin Isa Attirmidzi, *Sunan Attirmidzi*, (Egypt: Syirkah Maktabah Wa Matba'ah Mustofa Albayi), Juz. 2, pp. 661

an object is a substitute for its loss. Said: The benefit of an object is a substitute for loss". Hadith hasan gharib from the Hadith of Hisham ibn Urwah.

The original meaning of *al-kharaj* is something that is issued either the benefits of objects or work, such as trees removing fruit or animals removing milk. Whereas *al-dhaman* is compensation

الغرم بالغنم

The risks come with the benefits²⁵

What this means is that someone who wants to benefit from something has to take risks.²⁶

Therefore, this transaction is not included in the *gharar* transaction because the risk faced by the agent is something that is already understood and known by himself. So it can be concluded that there is *gharar* in this transaction, but the element of *gharar* is forgiven because it is included in the mild *gharar*. Because the risk of heavy depreciation is something that cannot be separated from the transaction.

a. Analysis of the Existence of *Tadlis* Elements in the System of Cutting Weighing Scales.

The practice of cutting the scales that has become a habit in the community of Gampong Abo Teubeng, an indication of the element of *tadlis* is in the intention to gain more profit from the practice of cutting the scales. If the agents who act as buyers and cut the scales intentionally to gain more profit from the sale of these pieces, it can be said that this transaction contains elements of *tadlis*. However, if the agent cuts the weight of the scales not to gain more profit and is based on the element of willingness of the seller (in this transaction the farmers) then it cannot be called *tadlis*.

The transaction of cutting the scales can be said to be *tadlis* if several elements are fulfilled, such as deliberate intent to gain more profit from the transaction. but if it is just something hereditary custom²⁷ then this is included in the transaction that is permitted based on the rules of '*urf*' (local community habits) and as long as it does not conflict with shara's law.

²⁵A. Djazuli, *Rules of Jurisprudence*, (Jakarta: KENCANA, 2014), p. 133.

²⁶*Ibid.*

²⁷Interview with Ikbali Rusli, collecting agent, July 4, 2022 in the field of Gampong Abo Teubeng.

This means: Custom can be used as a legal standard.

Another rule also states that,

العرف في الشارع له اعتبارا عرف شريعة محكمة

This means: 'urf according to Shara' has a value (worthy of proof) and the rule of 'urf is the basis of the ruling that has been confirmed.²⁹

The law that must not be violated in this transaction is the willingness of both parties and there is no element of injustice. but to get around the depreciation, it is better to reduce the purchase price. As mentioned in the hadith narrated by Abu Sa'id Alkhudri ra. namely,

حَدَّثَنَا الْعَبَّاسُ بْنُ الْوَلِيدِ الدِّمَشْقِيُّ حَدَّثَنَا مَرْوَانُ بْنُ مُحَمَّدٍ حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ عَنْ دَاوُدَ بْنِ صَالِحٍ الْمَدِينِيِّ عَنْ أَبِيهِ قَالَ سَمِعْتُ أَبَا سَعِيدٍ الْخُدْرِيَّ يَقُولُ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِنَّمَا الْبَيْعُ عَنْ تَرَاضٍ (رواه ابن ماجه).³⁰

Meaning: Abbas bin Walid Addimasyqi has told us, Marwan bin Muhammad has told us Abdul Aziz bin Muhammad, from Dawud bin Shalih Almadini, from his father I have heard Abu Said Alkhudri say: The Messenger of Allah saw. said "buying and selling is based on mutual consent". (H.R. Baihaqi)

In the chili buying and selling transactions that have been commonly carried out by the people of Gampong Abo Teubeng always prioritize the pleasure of both parties. This can be proven by the negotiation in cutting the weight and price in the chili buying and selling transaction.³¹ As has been seen, the transaction does not contain *tadlis* in the transaction. But it is different if the purpose of the traders cutting the scales with the aim of

²⁸Fitra Rizal Journal, "The Application of 'Urf as a Method and Source of Islamic Economic Law", Al -Manhaj Journal of Islamic Law and Social Pranata, Vol.1, No. 2, 2019, p.161.

²⁹*Ibid.*

³⁰Abdullah Muhammad *ibn* Yazid, *Sunnan Ibn Majah*, (Beirut: Darul Risalah Al-Alamiyah, 2009), Juz 3, pp. 305.

³¹Interview with Ikbali Rusli, collecting agent, on July 4, 2022 in the field of Gampong Abo Teubeng.

getting more profit then this is an act of *tadlis* which is strictly prohibited in religion (looking for ways to gain profit by deception).

Cutting the scales only with the aim of minimizing the risk of loss and the agents can sell without any depreciation of the goods, the law is permissible, because the agent does not intend to deceive the sellers as long as the sellers are sincere or there is pleasure from both parties. So it can be concluded that the existence of the element of *tadlis* in the transaction researchers visibly there is no element of *tadlis* because the transaction is based on the pleasure of both parties. But invisibly not necessarily because it is returned to the buyer's intention. If they intend to gain more profit from the weighing piece then it falls into *tadlis*. And if he does not intend to gain more profit then it is not included because it is in the pleasure of both parties when transacting.

CONCLUSIONS

The mechanism of cutting the weight of the scales in the sale and purchase of chili peppers in the community of Gampong Abo Teubeng, Pidie District has been practiced according to the customs prevailing in the area. This sale and purchase is carried out with the application of mandatory deductions at the time after weighing, where the weight of the scale varies depending on the type of sack used. The weight cut in this transaction ranges from 0.5-2kg depending on the size of the sack used by the farmer. Usually farmers use blue line sacks with a weight cut ranging from 1-2kg and sacks used for fertilizer with a weight cut ranging from 0.5-1kg. The amount of weight cut is also influenced by the price of chili in the market, if the market price is expensive then the cut will be small or reduced, otherwise if the price is cheap then the cut will be even greater.

According to the review of muamalah fiqh, the existence of elements of *gharar* and *tadlis* in the transaction of cutting the weight of the scales in the sale and purchase of chili in Gampong Abo Teubeng shows that there is an element of *gharar* in the transaction, but the element of *gharar* is forgiven because it is included in mild *gharar*. Because the risk of heavy shrinkage is something that cannot be separated from the transaction. The existence of the element of *tadlis* in the transaction of cutting the weight of the scales in Gampong Abo Teubeng according to the results of the research visibly there is no element of *tadlis* because the transaction is based on the willingness of both parties. But invisibly not necessarily because it is returned to the

buyer's intention. If they intend to gain more profit from the weighing piece then it falls into *tadlis*. And if he does not intend to gain more profit then it is not included because it is in the pleasure of both parties when transacting.

Bibliography

Al-Qur'an and its Translation

Ash-Shiddieqy, Teungku Muhammad Hasbi, 2000, *TAFSIR AL-QUR'ANUL MAJID AN-NUUR*, Semarang: Rizki Putra Library.

Sabiq, Sayyid, 2013, *Fiqh Sunnah*, Jakarta: Pena Pundi Aksara

Syarifuddin, Amir, 2003, *Outlines of Jurisprudence*, Jakarta: Kencana

Sidiqi, Muhammad Nejjatullah. 1996. *Economic Activity in Islam*. Jakarta: Bumi Aksara.

Sukandarrumidi, 2006, *Research Methods*, Yogyakarta: Gadjah Mada University Press

An-nawawi, Abi Zakaria. 1956. *Riaydhus Shalihin*. Cairo: Masyad Al-husaini.

Nasir, Moh, 1999, *Research Methods*, Jakarta: Ghalia Indonesia

Moloeng, Lexy J, 2000, *Qualitative Research Methods*, Bandung: CV Remaja Rosdakarya

Shihab, M. Quraish. 2002. *Tafsir Al-Misbah*. Jakarta: Lentera Hati ¹

Attirmidzi, Muhammad ibn Isa. tt. *Sunan Attirmidzi*, Egypt: Syirkah Maktabah Wa Matba'ah Mustofa Albayi.

Djazuli, A., 2006, *Rules of Jurisprudence: Rules of Islamic Law in Resolving Practical Problems*, Jakarta: Kencana.