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Jurnal **ADABIYAH**
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Muhammad Yusuf, Baharuddin, Mardan

*The Quranic Hermeneutics Approach to Gender Equality in
Amina Wadud Muhsin's View*

A. Zamakhsyari Baharuddin

التظاهر بالشعارات القومية في شعيرة الحج والعمرة

Andi Muhammad Ridwan, Baso Pallawagau

*Falsafah Al-Wujudiyah Al-Sufiyyah: Asluha Al-Dini wa
Mauqif Al-Ulama Minha*

**Muhammad Widus Sempo, Norita Binti Md Norwawi,
Hasyim Haddade, Yousuf Mahbubul Islam,
Noorhayati Binti Hasyim**

*Unbelievers' Mental Model and Behavioural Disorders Based
on Their Queries in The Al-Baqarah Chapter*

Sri Sunantri, Achmad Abubakar,

Kamaluddin Abu Nawas, Firdaus

Methodology of Interpretation of Muhammad Amin Al-Syinqiti

Amirullah, Andi Achruh AB. Pasinringi,

Rahmawansyah Sahib

*The Transformation of The Muamalah Fiqh Akad at Saga
Abepura-Papua Mall During The Covid 19 Pandemic*

Irwan Misbach

*Siri' Na Pacce Culture in Retailer Based on Islamic
Perspective Business Ethics*

Abd. Rahman R

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Parent and Child Interaction Behavior in The District of
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Table of Contents

Muhammad Yusuf, Baharuddin, Mardan	214-237
<i>The Quranic Hermeneutics Approach to Gender Equality in Amina Wadud Muhsin's View</i>	
A. Zamakhsyari Baharuddin.....	238-260
<i>التظاهر بالشعارات القومية في شعيرة الحج والعمرة</i>	
Andi Muhammad Ridwan, Baso Pallawagau	261-285
<i>Falsafah Al-Wujudiyah Al-Sufiyyah: Asluha Al-Dini wa Mauqif Al-Ulama Minha</i>	
Muhammad Widus Sempo, Norita Binti Md Norwawi, Hasyim Haddade, Yousuf Mahbubul Islam, Noorhayati Binti Hasyim	286-299
<i>Unbelievers' Mental Model and Behavioural Disorders Based on Their Queries in The Al-Baqarah Chapter</i>	
Sri Sunantri, Achmad Abubakar, Kamaluddin Abu Nawas, Firdaus.....	300-319
<i>Methodology of Interpretation of Muhammad Amin Al-Syinqiti</i>	
Amirullah, Andi Achruh AB. Pasinringi, Rahmawansyah Sahib.....	320-336
<i>The Transformation of The Muamalah Fiqh Akad at Saga Abepura-Papua Mall During The Covid 19 Pandemic</i>	
Irwan Misbach	337-350
<i>Siri' Na Pacce Culture in Retailer Based on Islamic Perspective Business Ethics</i>	
Abd Rahman R	351-370
<i>Family Resilience in Islamic Perspective (A Case Study of Parent and Child Interaction Behavior in The District of Somba Opu Gowa)</i>	

THE TRANSFORMATION OF THE MUAMALAH FIQH AKAD AT SAGA ABEPURA-PAPUA MALL DURING THE COVID 19 PANDEMIC

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Abstract

This article comes with a new perspective to understand the community transactions dynamics at the Saga Abepura Mall, Papua (MSA). The Covid-19 period challenges MSA managers in carrying out contract transformation. This article takes a close look at the changes in the *muamalah* fiqh agreement from offline to online, significantly transforming contract transactions at MSA during the Covid-19 pandemic. Two points are studied. First, *muamalah* fiqh transactions concerning contract transformation. Second, an analysis of contract changes. The focus of this article is on changing the old contract to the new contract. This article considers that a new contract is allowed in *muamalah* jurisprudence as long as there is no opposition with the Al-Qur'an and Al-Hadith. This article seeks answers to questions using observational data and interviews. The interview involved seven informants. They are four MSA employees and three customers. Transactions in a new contract do not mean replacing the old contract law. Creating a *muamalah* contract transformation does not have to eliminate other covenants. The existence of transforming an online buying and selling contract gave birth to a new form of contract at MSA, namely the order contract. First, the *salam* contract is the contract when the goods are paid for in advance, while the *isthisnah* contract was the contract when the order is paid when the good is in hand. Thus, all agents, MSA managers, customers, and employees should pay attention to contract transformation.

Keywords: Transformation; Akad; Muamalah; The Saga Abepura-Papua Mall

الملخص

تأتي هذه المقالة مع منظور جديد لفهم ديناميكيات المجتمع في الصفقة في مول (MSA) Saga Abepura-Papua، تمثل فترة كوفيد-19 تحديات لمديري المول في تنفيذ تغيير العقد. تنظر هذه المقالة نظرة فاحصة على التغيير في عقد فقه المعاملة من العقد المباشر وغير المباشر عبر الإنترنت في المول فترة كوفيد-19. هناك شيان مهمان يتم دراستهما الأول صفقة فقه المعاملة المتعلقة بتغيير العقد والثاني تحليل تغيير العقد. التركيز في هذه المقالة هو تغيير العقد القديم إلى العقد الجديد. تعتبر هذه المقالة أن العقد الجديد مسموح به في فقه المعاملة بشرط عدم وجود دليل في القرآن الكريم والسنة النبوية على تحريمه. تسعى هذه المقالة للحصول على إجابات للأسئلة باستخدام بيانات المراقبة والمقابلات. تشمل المقابلة سبعة مخبرين، أربعة موظفي المول وثلاثة عملاء، الصفقة في العقد الجديد لا تعني محو حكم العقد القديم، التغيير في فقه المعاملة لا يلزم إلغاء العقود الأخرى، وقوع التغيير في عقد المعاملة عبر الإنترنت يؤدي إلى ظهور شكل جديد من العقود في المول وهو عقد الطلب. الأول عقد السلم هو دفع قيمة البضائع المطلوبة مقدمًا، وأما عقد الاستصناع هو دفع ثمن البضائع المطلوبة في النهاية عند استلام الطلب. وهكذا كل الأطراف من مديري المول والعملاء والموظفون يهتمون بتغيير العقد.

الكلمات الدالة: التغيير، عقد فقه المعاملة، مول Saga Abepura-Papua (MSA)

Abstrak

Artikel ini hadir dengan perspektif baru untuk memahami dinamika masyarakat dalam bertransaksi di Mall Saga Abepura-Papua (MSA). Masa Covid-19 memberikan tantangan terhadap pengelola MSA dalam melakukan transformasi akad. Artikel ini melihat dari dekat kaitan perubahan akad fikih *muamalah* dari offline ke online khususnya bagaimana transformasi akad bertransaksi di MSA pada masa pandemi covid-19. Ada dua hal penting yang dikaji. Pertama, transaksi fikih *muamalah* tentang transformasi akad. Kedua, analisis perubahan akad.

Fokus dalam artikel ini adalah perubahan akad lama kepada akad baru. Artikel ini memandang bahwa akad baru dibolehkan dalam fikih *muamalah* asalkan tidak ada dalil Alqur'an dan Alhadis yang melarangnya. Artikel ini mencari jawaban atas pertanyaan-pertanyaan dengan menggunakan data observasi dan wawancara. Wawancara melibatkan tujuh informan. Empat orang karyawan MSA dan tiga orang konsumen. Transaksi dalam akad baru bukan berarti menghapus hukum akad yang telah lama. Menciptakan transformasi akad *muamalah* tidak harus menghilangkan akad-akad yang lainnya. Adanya transformasi akad jual beli online melahirkan bentuk akad baru di MSA, yakni akad pesanan. Pertama akad *salam* adalah pembayaran barang pesanan yang di bayar diawal, sedangkan akad *isthisnah* adalah pembayaran barang pesanan yang dilakukan diakhir yakni ketika pesanan sudah di tangan. Dengan demikian semua pihak, pengelola MSA, pelanggan dan karyawan memperhatikan transformasi akad.

Kata kunci: Transformasi; Akad; Fikih muamalah; Mall Saga Abepura-Papua.

A. Introduction

Papua is one of Indonesia's provinces with the highest incidence of transmission of the coronavirus disease (Covid-19) in Indonesia.¹ The transmission of the disease harms local economic growth. Furthermore, the local government tried to manage the situation with the Governor of Papua's regulation, Number: 440/5168/SET, concerning the prevention, control, and handling of coronavirus disease (Covid-19). This regulation has brought implications and worsens the economical situations because people have to limit their activities.

Covid-19 forces people to remain silent, "stay at home." It can be understood that offline economical transactions are decreasing. Business activities such as street vendors, shops, restaurants, café, hotels, supermarkets, and malls, especially in Jayapura experience a significant visitor shortage. However, there is something different from Mall Saga Abepura (MSA) Papua, which shows a fortune during the pandemic situation. It can be seen from Ibl's statement that MSA has no employees being laid off, and the economic growth increases significantly. It is inversely proportional to the Ramayana Mall and the Jayapura Mall in the city of Jayapura, which have decreased the number of employees.²

The Saga Abepura Mall experiences a blessing during the covid-19 period, marked by stable incomes and laid-off employees' absence. The blessing begins with a change in the "transformation" of the contract. The contract's changing is the manager and customers' request, especially "loyal customers," as mentioned by Ibl.³ It

¹See the official data in <https://covid19.go.id/peta-sebaran>, November 2020.

²Ita (Perempuan, 31 Tahun, Karyawan Mall Saga Abepura), *wawancara*, Abepura-Papua, 26 Mei 2020.

³Ibl (Pria, 35 Tahun, Karyawan Mall Saga Abepura). "Wawancara, Abepura-Papua,"

can be seen from the MSA management that there is an emotional relationship between managers and consumers. The transformation of the contract is from offline to online, especially for micro consumers. As Mrs. Ita admits that shopping offline is more challenging to maintain during the Covid-19 pandemic. Both customers and sellers are fear of being exposed to Covid-19 and government regulation. Thus, an online transaction is preferable.

Online transactions in the business world are not new. Several online shops, such as Lazada, Shopee, Tokopedia, already exist in Indonesia before the coming of Covid-19. However, these online shops only provide service, and they are not the owner of the product. So, online shopping in MSA is new something. Because it was different from the other online shop, it was the product owner and provided service. Absolutely, the innovation of MSA beneficial, especially for micro consumers. The application of online transactions in MSA makes customers more comfortable to access the desired products. The MSA promotes its products through Whatsapp and Facebook applications. Both applications are the preferable applications for MSA managers because it is the most accessible to consumers. As shown in the Papua Central Statistics Agency data, Papua's economy in the second quarter of 2020 increases by 4.52%.

The main concern of this article is to understand the Muslim consumers. The BPS data shows that the number of Muslims in the District of Abepura and Heram is 55%, while 45% is non-Muslims. Thus it is understood that Muslims have a religious understanding in a transaction. In the view of Umar ibnu Khatab states that:

لَا يَبِيعُ فِي سُوْقِنَا إِلَّا مَنْ قَدْ تَفَقَّهَ فِي الدِّينِ

The meaning:

“Do not sell in this market traders who do not understand dien (muamalat)”⁴

Apart from the arguments above, another narration comes from Imam Malik. He ordered the rulers to gather all traders and market people to test them one by one about the halal and *haram* law on buying and selling. He forbade people to enter the market and told them to study *muamalat fiqh*. A person who understands the *muamalat fiqh* was allowed to enter the market, Tanbih Al Ghafilin. Then it is also narrated by AbuLaits, who said:

لَا يَحِلُّ لِلرَّجُلِ أَنْ يَشْتَرِيَ بِالْبَيْعِ وَالشِّرَاءِ مَا لَمْ يَحْفَظْ كِتَابَ الْبُيُوعِ

The meaning:

“An illegitimate man makes a sale and purchase contract while he has not mastered the *fiqh* chapter of buying and selling.”

The opinions above illustrate that it is essential to understand the *muamalat fiqh*, especially about the economical transaction.⁵

2020.

⁴See <https://republika.co.id/berita/qc4ub430/umar-bin-khattab-usir-pedagang-yang-tak-paham-fiqih-muamalat>

It is also understood that the study on the mass of Covid-19 tends to talk about several aspects related to education, health, culture, politics, and economy. Previous studies show that the pandemic era causes difficulties in finding a job and affording daily life (Silpa Hanoatubun: 1).⁶ Furthermore, Indra Rhmtullah explains that health insurance for workers is a necessity that must be fulfilled by entrepreneurs because it is part of Human Rights (HAM)⁷. Meanwhile, Agus Purwanto et.al states from the educational aspect, that Covid-19 has brought a significant impact to the teaching and learning process.⁸ Bank Indonesia (BI) also notes the increase of digital transactions and decreased cash transactions during the coronavirus pandemic. Furthermore, Minister of Trade Agus Supamanto said that Covid-19 had had a significant impact on small units, including traders who experience a decrease of 39% on average.

This study aims to complement the existing literature on the relation between the Covid-19 pandemic and economic transaction, particularly in Mall Saga Abepura-Papua. This study was based on the argument that the Covid-19 in the Abepura district transform its transactions due to the Covid-19 pandemic.

B. Literature Review

1. Previous Studies

Since the Covid-19 period, businesses have transformed their transactions to avoid customers. This case is illustrated in various studies. The previous article tends to examine the "offline" aspects of the digital business. This article tries to understand the transformation of the contract from the perspective of *muamalah* fiqh. It differs from previous studies. As it is shown in the literature review. First, online platform-based business in Jakarta during the covid-19 period by Agus Purwanto et al.⁹ Second, Silpa Hanoatubun sees an economic aspect that aims to determine the impact of Covid-19 on the economy.¹⁰ Third, according to Larasati Dhinarti and Firda Amalia, information technology development has a real impact on business

⁵See <https://republika.co.id/berita/qcqc4ub430>

⁶See <https://ummaspul.e-journal.id/EduPsycouns/article/view/423>

⁷Indra Rahmatullah, "Jaminan Hak Kesehatan Pekerja work From Office selama masa PSBB Covid-19" *Andalah: Buletin Hukum & Keadilan* 4, no 1 (2020), p. 57.

⁸Agus Purwanto dkk, "Studi Eksploratif Dampak Pandemi Covid-19 terhadap proses Pembelajaran Online di sekolah dasar", *EduPsycouns Jurnal Kajian Education, Psychologi and Consuling* 2 no. 2 (2020), p. 1.

⁹Eka Avianti Ayuningtyas, "Dampak Pandemi Covid-19 Terhadap Bisnis Dan Eksistensi Platform Online", *Pengembangan Wiraswasta* 22, no 1 (April 2020), p. 23.

¹⁰Silpa Hanoatubun, "Dampak Covid-19 Terhadap Perekonomian Indonesia", *EduPsycouns*. no 1 (2020), p. 45.

innovation.¹¹ Fourth, an article written by Nurhayati discusses online shopping among students.¹² Fifth, Dedy Ansari Harahap tests online shopping behavior in Indonesia.¹³

The various studies above tend to look at platform-based business transactions, business behavior, business innovation, online shopping, and dominant factors in online buying and selling during the Covid-19 period. Meanwhile, this article looks at the changing of the transactions. First, Abdul Aziz's research on *Mura'bah Ah* financing in banks.¹⁴ Second, Asep Rozali's research looks at the Sharia banking product's characteristics to form regulation on *Hukum Perikatan Nasional*.¹⁵ Third, Ismail Nawawi states that the transformation of the *muamalah* contract in Islamic banking is based on Sharia principles.¹⁶

Meanwhile, other literature sees the theory of transformation in a different sense. According to Anthony Antoniades, giving the meaning of transformation is a process of gradual change so that it reaches the ultimate stage. Changing is made to respond to the external and internal elements through the process of duplicating or multiplying.¹⁷ It describes architectural transformation strategies. Some are external, and some are internal. Indicators can measure those internal concepts through the need for self-identity, changes in lifestyle, and the influence of technology.¹⁸

Whereas Habraken said that there are several reasons for transformations. Namely, first, the need for self-recognition. Second, the changing of lifestyle, structural formation in society, the influence of other cultures, and the emergence of discoveries. Third, the influence of new technology creates a sense of fashion, in

¹¹Larasati Dhinarti, dan Firda Amalia, "E-commerce dalam perspektif fiqh muamalat", *CIMAE*, 2, no. 3 (2019), p. 162.

¹²Nurhayati, "Belanja Online Sebagai Cara Belanja di Kalangan Mahasiswa (Studi Kajian Budaya di Universitas Malikussaleh, Lhokseumawe, Aceh)", *Anthropological*, 1. no 2 (April 2017).

¹³Dedy Ansari Harahap, "Perilaku Belanja Online di Indonesia: Studi Kasus", *JRMSI*, 9. no. 2, (2018), p. 34.

¹⁴Jamal Abdul Aziz, "Transformasi Akad Bay' al-Murabah dari Konsep Fikih ke Produk Bank (Analisis Kritis Perspektif Fikih Muamalah)", *Al-Manahij: Jurnal Kajian Hukum Islam*, IAIN Purwokerto, Vol. 8 No. 2, 2014, p. 1.

¹⁵Asep Rozali, "Transformasi Akad Perbankan Syariah dalam Pembentukan Hukum Perikatan Nasional", *Wawasan Yuridika*, 4. no. 1, (Desember 2019), p. 31.

¹⁶Ismail Nawawi, *Fikih Muamalah Klasik dan Kontemporer; Hukum Perjanjian, Ekonomi, Bisnis dan Sosial* (Ghalia Indonesia: Bogor, 2012), p.143.

¹⁷Anthony C. Antoniades, *Poetics of Architecture* (New York: Van Nostrand Reinhold, 2019), p. 23.

¹⁸Stephanie Jill Najooan, "Transformasi Sebagai Strategi Desain", *Media Matrasain*, 8. no. 2. (Agustus 2011), p. 119-120.

which parts that can still be used technically (not yet reaching technological age) are forced to be replaced to follow the model.¹⁹

2. Buying and Selling in Online Transaction

Fiqh scholars have different views on buying and selling, but they have a similar substance. Sayyid Sabiq believes that buying and selling is the exchange of property for property, which is carried out based on willingness (*ridla*) or transferring property rights by obtaining other objects in exchange for the way ordered by *syara*.²⁰ Furthermore, Hasbi al-Shiddieqy said that buying and selling is the ownership of something by receiving the price based on the seller's willingness and the buyer.²¹ Thus, buying and selling is transfer of ownership using a traditional medium of exchange. Etymologically, in fiqh terms buying and selling is called *al-ba'i* which means selling or replacing. Wahbah al-Zuhaily defines it as exchanging something for something else. The word *al-ba'i* in Arabic is the opposite of *al-Syira* (to buy). Thus, the word *al-ba'i* means selling, but it also means buying.²² Imam Hanafiyah's opinion states that buying and selling are exchanging property with other assets through a unique way that is *ijab qabul* (Ijab consent).²³

Another researcher, Muhammad Daud Ali, gives a comprehensive understanding of buying and selling, namely, the existence of *muamalah* fiqh principles.²⁴ Meanwhile, Hendi sees that the sale and purchase contract is at the level of the *gharar* concept (ambiguity). According to him, firstly the concept of *gharar* is based on the subject, and secondly the concept of *ghararis* based on the object.²⁵ The transformation of the contract carried out at MSA is based on the concept of buying and selling that is mutually agreeable and has *muamalah* principles and does not contain elements of obscurity in buying and selling, so this is not allowed. So, offline and online transaction pays attention to the principles of *gharar*.

The concept of buying and selling online or e-commerce is one of the internet products which is based on a computer network connection.²⁶ E-commerce is a set of

¹⁹Habraken, N. J. *Transformation of the Site* (A Water Press: Cambridge, 1983), p. 21.

²⁰Sayyid Sabiq, *Fiqh al-Sunnah*, (Qahirah: Dar al-Fath Lali'lami al-Arabi, 1990), p. 761.

²¹Hasbi al-Shiddiqy, *Hukun-hukum fiqh Islam*, (Semarang: Pustaka Rizki Putera, 1997), p. 336.

²²Al-Zuhaily Wahbah, *Al-Fiqh al-Islami wa Adillatuh* (Damaskus: t.tp. 2005), p. 23.

²³Al-Zuhaily Wahbah, *Al-Fiqh al-Islami wa Adillatuh*, p. 21.

²⁴Muhammad Daud Ali, *Hukum Islam* (Jakarta: Raja Grafindo Persada, 2004), p. 132-138.

²⁵Hendi Suhendi, *Fiqh Muamalah* (Jakarta: PT. Raja Grafindo Persada, 1997), p. 26.

²⁶Imam Mustofa, *Fiqh Muamallah Kontemporer* (Jakarta: PT. Grafendo Persada, 2016). p. 30.

technologies, applications, and business processes.²⁷It can be grouped, namely, business to business e-commerce and business to consumer e-commerce.²⁸The challenges that arise in e-commerce activities are the object of transaction that are traded and the transferring mechanism²⁹

The basic law of online buying and selling is the same as the buying and selling contract and the Salam contract. Those cases are allowed in Islam. However, there are several reasons declared as haram if the system is haram and if the goods or services that are prohibited. Moreover it is also declared as haram if the transactions violate the agreement or contain elements of fraud.³⁰Transactions could be done simultaneously although the two parties do not meet because it is via cell phones. However the consent and qabul are immediately as if they are in one place.³¹After the consent and qabul take place, the seller asks the buyer to transfer money to the seller's bank account. After the money is received, the seller sends the goods to the buyer. Because the physical goods being traded cannot be witnessed directly, only through photo or image, and information about the goods is also through online communication, this selling process and purchase can be ended with *ba'i al ghaibala ash shifat* (buying and selling of goods that are not presented at the contract assembly or not witnessed in person even though they are present in the assembly, such as buying goods in boxes/boxes, the specifications are only explained through words). Owners of shopping sites on the internet vary, some do sell items that they already own, and some don't have items displayed on their sites. They are only brokers.³²

A contract in an online buying and selling transaction is different from a direct contract. Electronic transactions usually use a written contract. Selling and buying via electronic media is carried out via modern technology, whose validity depends on the conditions that apply in the sale and purchase.³³Ulama implies an assembly in a transaction, except in grants, wills, and *wakalah*. However, it also implies the continuity of consent and *qabul* by referring to customs that apply in certain societies. It is just that the ulama of *jumhur* and the *Shafi'iyah* circles is not indicated by the direct word of the qabul, the bidder. If the consent or offer is made or stated in writing or a letter, the *qabul* must be made or said in the place between the consent and the qabul and there is no indication of denial between the two.³⁴Generally, electronic

²⁷Onno Purbo dan Anang Arief Wahyudi, *Mengenal e-Commerce* (Jakarta: Alex Mediacomputendo, 2000). p. 13.

²⁸AzharMuttaqin, *Transaksi e-commerce dalam Tinjauan Hukumi Islam* (Malang: Lembaga Penelitian Universitas Muhammadiyah, 2009), p. 2.

²⁹AzharMuttaqin, *Transaksi e-commerce dalam Tinjauan Hukumi Islam*, p.4.

³⁰M. Abdul Ghoffar E.M, *Tafsir Ibnu Katsir Jilid 2* (Bogor: Pustaka Imam Asy-Syafi'i, 2004), p. 280.

³¹ErwandiTarmizi, *Harta Haram Muamalat Kontemporer*(Bogor: PT Berkas Mulia Insani, 2017),p. 264.

³²ErwandiTarmizi, *Harta Haram Muamalat Kontemporer*, p. 265.

³³Imam Mustofa, *FiqhMuamallah Kontemporer*, p. 33.

³⁴Imam Mustofa, *FiqhMuamallah Kontemporer*, p. 30.

transactions are carried out in writing. Goods are displayed on internet pages labelled with prices. Consumers or buyers who want to buy transfer money according to the price stated and add shipping costs.³⁵

C. Research Method

This study is about the muamalah fiqh contract at the Saga Abepura Mall during the Covid-19 period. This study uses qualitative research based on data from the informant. The data were selected randomly based on the article's theme that fulfilled the research focus criteria, namely obstacles in the process of offline transactions during the Covid-19 period and constraints of consumers in obtaining goods and the MSA managers in distributing products.

This study was conducted in Jayapura City, Papua, in 2020. This location was chosen based on several reasons. First, MSA has so far recommended various activities or transaction activities. Second, MSA is very strategic position of the shopping centre. Third, the quantity of Muslims surrounding the MSA is numerous. The material object of this research is MSA as a forum to meet the needs of the Abepura-Papua people. This study uses two types of data, namely primary data and secondary data. Primary data is based on direct interviews from informants who have been determined. They are the MSA Manager, costumers of MSA, and employees of MSA.

Table 1
The List of Data Sources

No.	Participants	Position
1.	Rky	Manager of Mall Saga Abepura-Papua
2.	Ibl	The employee of Mall Saga Abepura-Papua
3	Rsk	The employee of Mall Saga Abepura-Papua
2.	Rhm	Costumer of Mall Saga Abepura-Papua
3.	It	Costumer of Mall Saga Abepura-Papua
4.	Ynt	The employee of Mall Saga Abepura-Papua
5.	Ard	The employee of Mall Saga Abepura-Papua

D. Data Analysis

The data were collected using normative content analysis techniques. From a technical point of view, content analysis is used to capture normative norms about contract transformation in MSA. In data analysis, researchers use the *muamalah* fiqh contract approach to see the transactional processes in MSA.

³⁵Imam Mustofa, *Fiqih Muamallah Kontemporer*, p. 14.

E. Findings and Discussions

1. Akad Transformation in Transaction at MSA

In the concept of contract transformation, transacting in the view of *muamalah* fiqh is permissible as long as no argument prohibits or is prohibited. It is stated in the rule of Fiqh.³⁶

الأصل في الشُرُوطِ فِي الْمُعَامَلَاتِ الْجِلُّ وَالْإِبَاحَةُ إِلَّا بِدَلِيلٍ

The meaning:

“The original law stipulates the conditions in *mu'âmalah* are lawful and allowed unless there is evidence (which prohibits it)”³⁷

الأصل في المعاملة الإباحة إلا ان يدل دليل على تحريمها

The meaning:

“The three rules of *ushul fiqh* have been responded by *firman Allah SWT*.”

Surah An-Nisa', 29:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالِكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجْرَةً
عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

Translation:

“O you who have believed, do not consume one another's wealth unjustly but only (in lawful) business by mutual consent. Furthermore, do not kill yourselves (or one another). Indeed, Allah is to you ever Merciful.”³⁸

The arguments (*dalil*) above illustrate that making transactions requires renewal, creation, and innovation, as long as it is not against the Sharia law. Whereas Shara law regulates the application of reform laws, including the sale and purchase agreement and changes in contracts due to the presence of the coronavirus outbreak.

Since the outbreak of the coronavirus in the Abepura-Papua district, the "Mayor of Jayapura" government implemented regulation on social distancing or "stay at home." The President of the Republic of Indonesia, Mr. Joko Widodo, also appealed to school children, civil servants, private employees of shopping centres, and others to temporarily stay at home. As one of Jayapura's three malls, the Mall Saga Abepura continues to experience difficulties in selling its goods. So a strategy is

³⁶Nawawi, Ismail. *Fikih Muamalah Klasik dan Kontemporer; Hukum Perjanjian, Ekonomi, Bisnis dan Sosial* (Ghalia Indonesia, Bogor, 2012), p. 143.

³⁷See <https://almanhaj.or.id/4319>

³⁸Departemen Agama RI, *Al-Qur'an dan Terjemahnya* (Jakarta: PT.Kumudasmoro Grafindo Semarang 1994), p. 122.

needed in marketing management, namely transforming the *muamalah* contract in the form of online buying and selling.

The changing of selling method from offline to online aims to make easier for customers. An online transaction is the preferable method during the Covid-19 period. This option implements a health protocol. It is also a way to keep consumers loyal to MSA, not moving to another place. As Mr. Ibl said, MSA carried out this modelling maintaining MSA's financial stability so that "in July 2020" MSA's finances were stable. This case was proven by the MSA employees who were laid off.

Changing the *muamalah* contract to the online method must have *muamalah* principles. Dewi said that the change is fast and spectacular and will be assimilated with others, namely the emergence of technology in people's lives.³⁹ According to Anthony Antoniadès (1990), transformation is changing gradually so that it reaches the ultimate stage.⁴⁰

To trigger the transformation of online commerce at MSA are external and internal factors. MSA's internal factors are conventional commerce, infrastructure, "goods and services" products and employees at MSA. The MSA manager stated, "The outbreak of the coronavirus (covid-19) gives a tremendous impact on Jayapura's city, in particular, the Abepura district. The Saga Abepura Mall has also reduced consumers so that the income decreased up to 50%."⁴¹

Therefore, MSA's offline commerce is less supportive because consumers fear leaving the house over the covid-19 outbreak. Social distancing regulation and time restrictions on shopping and infrastructure cause it. "The location (dept. store and supermarket) of MSA has not changed before and after Covid-19. This case harms our services. Consumers undergo health protocol checks, namely checking body temperature, masks, and washing hands (Rky; 30 years).⁴² Limited space and the implementation of health protocols create long queues. Thus, improvement of employee resources (SDK) must be done. Rsk said, "As an employee in the supermarket section, I have an additional task: promoting products using social media. They use Facebook and Whatsapp."⁴³

The data above are external factors in the transformation of an offline contract to online contracts at MSA. The spread of Covid-19 in the city of Jayapura-Abepura began on March 20, 2020 was followed by various health protocols. Due to the decrease of the customers, MSA made various innovations in transactions during the Covid-19. The further innovation is "delivery services". Delivery services help

³⁹Ernita Dewi, "Transformasi Sosial dan Nilai Agama", *Substantia*, 14. no. 1. (April 2012), p. 115.

⁴⁰Anthony C. Antoniadès, *Poetics of Architecture* (New York: Van Nostrand Reinhold, 1990), p. 34.

⁴¹Rky (Pria, 37 Tahun, Manager Mall Saga Abepura), *wawancara*, Abepura-Papua, 26 Juli 2020

⁴²Rky (Pria, 37 Tahun, Manager Mall Saga Abepura), *wawancara*, Abepura-Papua, 26 Juli 2020

⁴³Riska (Perempuan, 39 Tahun, Karyawan Mall Saga Abepura), *wawancara*, Abepura-Papua, 26 Juli 2020

consumers and save the costs. Mostly they use Facebook and Whatsapp applications. However they also face difficulties, mainly when the network is not stable and data packets run out. It, a customer mentioned that she does not use payment online via MSA account but pay it castly (Rhm: 35 years).⁴⁴

According to Rky (MSA manager), each employee is appointed directly by the manager to sell via Facebook and Whatsapp. Then the employee displays the products. Then they offer "delivery" services. If the customer prefers to have a delivery service, there is an additional "cost". The additional costs vary. It is around Rp. 10.000 inside the Abepura district, and Rp. 15,000.00 to Heram district. The product payment process can be paid on the spot according to the "shopping receipt," or through an MSA account by showing proof of transfer.⁴⁵

In the application of *muamalah fiqh*, contract transparency is required, either in the form of the oral or written agreement. The delivery is carried out twice a day. The conditions are as follows:

- a. Online buying and selling services using Facebook and WhatsApp applications.
- b. Damaged goods can be returned or exchanged for other products that have similar value.
- c. The time limit for complaints is only two days with evidence.
- d. The price of "goods" products can be paid through a "from delivery" account or in cash on the spot. And additional delivery fees (delivery services).

Changing the contract in *muamalah* is allowed by looking at the benefit and the principles of benefit. As Ynt mentions, "I am an MSA employee and I get additional assignments as delivery. I feel happy. My pleasure is getting additional income. One day I can deliver ten times. Then I can get an additional Rp. 120,000 per day. In a month sometimes I get Rp. 1,500,000-. The results are uncertain, depending on the order. Not only me, other friends also become a delivery."⁴⁶ Budi said a different statement that as a delivery service, sometimes the payment is not appropriate. It should be Rp. 15,000, but some customers give Rp. 10,000. But I accept it.⁴⁷

2. The Online Commerce Produces a New Akad "Order" at MSA

The buying and selling concept is called offline buying and selling because it does not use media intermediaries. This buying and selling concept is also applied in MSA for micro and macro consumers. Meanwhile, online buying and selling transactions are mediated by the media. Buying and selling online is called e-

⁴⁴Rahma (Perempuan, 35 Tahun, pelanggan Mall Saga Abepura), *wawancara*, Abepura-Papua, 28 Juli 2020

⁴⁵Rky (Pria, 37 Tahun, Manager Mall Saga Abepura), *wawancara*, Abepura-Papua, 26 Juli 2020

⁴⁶Yanto (Pria, 40 Tahun, Karyawan Mall Saga Abepura), *wawancara*, Abepura-Papua, 26 Juli 2020

⁴⁷Ardi(Pria, 38 Tahun, Karyawan Mall Saga Abepura), *wawancara*, Abepura-Papua, 26 Juli 2020

commerce.⁴⁸ According to Onno W Purbo and Anang Arief Wahyudi, buying and selling online is called e-commerce.⁴⁹ Jony Wong said e-commerce is the purchase, sale, and problems of goods and services through an electronic system. E-commerce includes an electronic transfer of funds, exchange, and data collection. All are managed in automatic inventory management.⁵⁰

It can be concluded that buying and selling online is buying and selling using electronic media. Azhar Muttaqin adds that e-commerce is divided into two segments: business to business e-commerce (trading between business actors) and business to consumer e-commerce (trading between business actors and consumers).⁵¹

The transaction process at MSA is business to business e-commerce. As happened in MSA, products or goods that have been handed over "received by consumers" cannot be returned unless goods or products are damaged or do not fit with the order. The time limit to complain is only two days. Disagreements with the product or ordered items can be submitted via Facebook or WhatsApp.

Even though e-commerce goods have been explained in detail, there is a risk of incompatibility. Therefore, in this transaction, the buyer has a right to return the goods and receive payment or exchange. In this case, the concept of return and exchange rights is in line with the concept of *khiyar* in Islam.

The practise of buying and selling online has advantages. First, buyers do not need to come to MSA to get goods. They just need to be connected to the internet, select goods, and the goods will be delivered. Second, it saves time and transportation costs because all groceries can be ordered through the internet. Third, the product choices are very, so that consumers can compare all products and prices offered in other malls. As explained by Andi, via the internet, buyers can buy goods at any time. Furthermore, the prices offered are competitive. Thus, the advantages of buying and selling online can increase income in MSA.⁵²

a. Buying and Selling of *Salam*

Buying and selling with an order system is known as *salam* or *salaf*, namely, payment in advance, while goods are delivered later. There are three pillars about *salam*. First, the existence of *sighah* "consent and kabul". Second, the parties who have contracted. Third, goods and money in exchange for money in goods. Meanwhile, the *salam* sale and purchase terms are as follows: First, the type of the goods must be clear. Second, the nature of the goods must be clear. Third, the level or size of the goods must be clear. Fourth, the time period for ordering the goods must be clear. Fifth, the assumed capital issued must be known by each party.⁵³ Thus, the sale

⁴⁸Imam Mustofa, *Fiqih Muamallah Kontemporer*, p. 32.

⁴⁹Onno W Purbo dan Anang Arief Wahyudi. *Mengenal e-Commerce* (Jakarta: Alex Media computendo, 2000), p. 13.

⁵⁰Wong Jony, *Internet Marketing for the Beginer* (Jakarta: Kompas Gramedia, 2010), p. 23.

⁵¹Azhar Muttaqin, *Transaksi e-commerce dalam Tinjauan Hukumi Islam*, p.2.

⁵²Andi Sunarto, *Seluk Beluk E-Commerce* (Yogyakarta: Gaya Ilmu, 2009), p. 34.

⁵³Imam Mustofa, 2016. p. 88.

and purchase contract description present a new contract, namely the *salam* contract. As for the *salam* contract, the sale and purchase are carried out between the seller and the buyer through the order and the payment is made at the beginning. The pillars and terms of the *salam* buying and selling contract have been carried out by employees, managers, and consumers when consumers order goods from employees. They have met the principles and conditions.

b. Buying and Selling of *Istisna*

Etymologically, *istisna* comes from the word *shana'a* which means to make something from essential ingredients. The word *shana'a-yashna'u* gets the suffix hamzah and *ta'* to become the word *istisna'-yastisna'*. *Istisna'* means asking or begging for things to be made. The terminology of *istisna'* means asking someone to make sure goods with individual specifications. *Istisna'* is also defined as a contract to buy goods that will be made by someone. This *Istisna'* can occur with consent from the customer and an agreement from the order recipient.⁵⁴

There is also a legal basis for *istisna'*. According to the *Hanafiyah* ulamah, *qiyas* and general principles do not allow *istisna'*. According to him *istisna'* is the sale and purchase of goods that do not yet exist (*bay'ul ma'dum*). So it is prohibited by the Prophet. Meanwhile, Imam Malik, Syafi 'I, and Ahmad argued that *istisna'* was allowed because the Prophet had ordered a ring and a pulpit.

There are several things that need to be considered in the *istisna'* contract. First, the ownership of the "object". Second, before the goods ordered are finished, the *istisna'* contract is not binding. Third, the party receiving the order comes with an item to the customer. Then the recipient of the order does not have the right of *khiyar* because he automatically gives the goods to the customer.⁵⁵

Meanwhile, Imam Hanafiyah requires three things so that the *istisna'* is valid. First, the goods that becomes the object of *istisna'* must be clear, whether in type, kind, content, and nature. Second, the goods ordered are commonly used for purposes and are commonly used, such as clothes, home furnishings, furniture, and so on. Third, it is not allowed to determine and ensure a certain time to deliver the ordered goods. If the time for submission has been determined, it is categorized as a *salam* contract. At MSA, the *istisna* contract has been effected since the existence of Covid-19. Thus the *istisna* contract practice has fulfilled the pillars and conditions.

F. Conclusion

It turns out that the Covid-19 pandemic, which has been considered to bring disaster to the continuity of businesses, does not happen in the Saga Abepura Mall. This study's findings show that the changing from offline to online commerce at MSA brings fortunes with the presence of a new contract, namely, the "order" contract (*salam* contract and *istisnah* contract).

⁵⁴Imam Mustofa. *Fiqh Muamalah Kontemporer*. (Jakarta, RajaGrafindoPersada, 2012), p. 94.

⁵⁵Imam Mustofa. *Fiqh Muamalah Konteporer*, p. 95.

The changing gives benefits: 1. MSA does not experience financial problems and employee reductions. 2. employees get additional income through delivery services. 3. MSA customers can easily access MSA products through the WhatsApp and Facebook applications. Moreover, the changing of contract from the perspective of *muamalah fiqh* in MSA is allowed. Changing the contract can be justified as long as it does not contradict to the al-Qur'an and al-Hadith and benefits people. As stated earlier, *muamalah fiqh*'s origin is permissible to "change" as long as there is no argument against it. It is different from "*makdah*" worship as long as forbidden worship: *haram*.

This study is limited to the perspective of contract transformation, namely, order contracts. It does not integrate with other agreements such as borrowing contracts, leasing, accounts payable, and cooperation agreements. These agreements are also very central to business development at MSA. Integrating other contractual perspectives with the contract order perspective allows a comprehensive discussion to be obtained. This method allows further study of new laws in *muamalah fiqh* during a pandemic. In line with that, further research is needed involving the perspectives of other covenants at MSA.

This article recommends developing the experiences and problems faced by consumers and MSA managers in transacting during the Covid-19 pandemic. In this way, a comprehensive solution is possible. Moreover, the stakeholders in the city of Jayapura-Papua, such as the Papua Province Indonesian Ulema Council (MUI), the trade service government, and businessmen, should be more aware of the transformation of contracts in transactions in Jayapura city and especially Abepura-Papua.

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Example in footnotes:

¹Mircea Eliade (ed.), *The Encyclopedia of Religion*, vol. 8 (New York: Simon and Schuster, 1995), h. 18.

²Norman Daniel, *Islam and the West* (Oxford: One World Publications, 1991), h. 190.

³Syeikh Ja’far Subhānī, *Mafāhim Al-Qur’ān* (Beirut: Mu’assasah Al-Tarīkh Al-’Arabī, 2010), Juz 5, h. 231.

⁴Syeikh Ja'far Subhānī, *Maḥāhim Al-Qur'ān*, h. 8-9.

Example in bibliography:

Subhānī, Syeikh Ja'far. *Maḥāhim Al-Qur'ān*. Beirut: Mu'assasah Al-Tarīkh Al-'Arabī, 2010.

Eliade, Mircea (ed.). *The Encyclopedia of Religion*, vol. 8. New York: Simon and Schuster, 1995.

Daniel, Norman. *Islam and the West*. Oxford: One World Publications, 1991.

Shihab, Muhammad Quraish. *Sunnah-Syiah Bergandengan Tangan: Mungkinkah? Kajian Atas Konsep Ajaran Dan Pemikiran*. Cet. III. Jakarta: Lentera Hati, 2007.

Detail informations of the footnotes:

1. Holy book

Al-Qur'ān, Al-Baqarah/2: 185.

Perjanjian Baru, Mrk. 2: 18.

2. Qur'anic translation

¹Departemen Agama RI, *al-Qur'an dan Terjemahannya* (Jakarta: Darus Sunnah, 2005), h. 55.

3. Book

¹Muḥammad 'Ajjaj al-Khaṭīb, *Uṣl al-Ḥadīth: 'Ulumuh wa Muṣṭalahuh* (Beirut: Dār al-Fikr, 1989), h. 57.

4. Translation Books

¹Toshihiko Izutsu, *Relasi Tuhan dan Manusia: Pendekatan Semantik terhadap al-Qur'an*, terj. Agus Fahri Husein dkk (Yogyakarta: Tiara Wacana, 2003), h. 14.

5. Voluminous book

¹Muḥammad al-Ṭāhīr b. 'Ashur, *al-Taḥrīr wa al-Tanwīr*, Vol. 25 (Tunisia: Dār al-Suḥūn, 2009), h. 76.

¹Muḥammad b. Ismā'īl al-Bukharī, *al-Jam' al-Ṣaḥīḥ*, Vol. 2 (Beirut: Dar al-Kutub al-'Ilmiyah, 1999), h. 77.

6. Article in book

¹Sahiron Syamsuddin, "Metode Intratekstualitas Muhammad Shahrur dalam Penafsiran al-Qur'an" dalam Abdul Mustaqim dan Sahiron Syamsuddin (eds.), *Studi al-Qur'an Kontemporer: Wacana Baru Berbagai Metodologi Tafsir* (Yogyakarta: Tiara Wacana, 2002), h. 139.

7. Article in encyclopaedia

¹M. Th. Houtsma, "Kufr" dalam A. J. Wensinck, at al. (ed.), *First Encyclopaedia of Islam*, Vol. 6 (Leiden: E.J. Brill, 1987), h. 244.

8. Article in journal

¹Muhammad Adlin Sila, "The Festivity of *Maulid Nabi* in Cikoang, South Sulawesi: Between Remembering and Exaggerating the Spirit of Prophet", *Studia Islamika* 8, no. 3 (2001): h. 9.

9. Article in mass media

¹Masdar F. Mas'udi, "Hubungan Agama dan Negara", *Kompas*, 7 Agustus 2002.

10. Article in Internet

¹Muhammad Shaḥrūr, “Reading the Religious Teks: a New Approach” dalam <http://www.shahrou.org/25> Februari 2010/diakses 5 Juni 2010.

11. Thesis or dissertation

¹Syahrudin Usman, “*Kinerja* Guru Pendidikan Agama Islam pada SMAN dan SMKN Kota Makassar”, *Disertasi* (Makassar: PPs UIN Alauddin, 2010), h. 200.

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