

# Trading With Minors: A Qualitative Study of Business Ethics in the Islamic Perspective

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**Abstract-** Most research has been studying sell alcohol, drugs or cigarettes to minors and/or advertising involving children, But none of them are talking about selling products to minors as general. US Law definition, a minor is a person who does not have the legal rights of an adult. The question of whether 'selling any products directly to minor is ethical' were never been studied. This research is intended to clarify in dealing, trading or selling merchandise to minors directly is ethical or unethical especially from the Islamic perspective.

The research uses qualitative methods with a grounded theory approach. the tools used are a digital Recorded for recording in-depth face to face interviews with the participants, research observations and interview was noted to point out the important event or conditions of field or setting and the gestures or body language revealed by interviewees at interview times. The camera used to get the pictures is from a smartphone.

The finding is that minors aren't capable of trading, trading with minors is considered illegally binding, those who do business with minors are violating ethics. Base on the findings, the researcher concluded that trading with minors without the presence of an adult consider unethical. This study affirms the people and scholars of the ethical issues of trading with minors, the research contributes to the Business ethics' discipline area from the Islamic perspectives. The findings is adding to the list of the behaviors that trading with minors is unethical.

**Keywords—** adult, mature, mentally ill, minors, selling activities, Trading, unethical

## I. INTRODUCTION

Nowadays trading occurs every time, everywhere, and by everybody including minors. Because it's already become common and routine activities, some or even most rules and/or norms on trading ignored and even break. Most research has been studying on selling alcohol or drugs or cigarettes to minors. Selling alcohol to a minor is a misdemeanor offense, but it can have serious consequences on your life [1]. The US State laws impose civil or criminal penalties upon retailers and other businesses that sell cigarettes to minors. The US State law defines the age 18 and below which is an individual is a "minor." [2]. in the Republic of Indonesia, there also a story about selling tobaccos and alcohol [3]. Some of them studied advertising using children as targets and/or also as influencers [4], [5].

But none of them are talking about selling products to minors as general. The question of whether selling any merchandise or products directly to the minors is ethical? are never been asked or studied, especially from the Islamic perspective. This is important since most Indonesian are Muslim, Islamic religious believers.

Minors

According to US Law definition, a minor is a person who does not have the legal rights of an adult. A minor is usually defined as someone who has not yet reached the age of majority. In most states, a person reaches majority and acquires all of the rights and responsibilities of an adult when he or she turns 18 [6].

Merriam-Webster dictionary defines Minors (noun) is a person who is not yet old enough to have the rights of an adult [7].

In Indonesia, Minors translated as an underage youngster. On October 13th, 1976 the Supreme Court of Indonesia has issued Jurisprudence No. 477 that started the adult age of 18 years old or married. This also supported by Marriage Act No. 1/1974 that started in chapter 50 paragraphs 1. Opinion about the adult age limit is also followed and translated in article 1 (1) of LAW No. 23 Year 2002 on Child Protection. It is also explained that a child is someone who has not reach the age of 18 years, include those who are still in the fetus (unborn child) [8].

The term minors include Two categories of people, namely those who have not adults yet and those who are not mentally healthy even if they are already over 18 or 21 years old. These people cannot evaluate or choose or judge the right from wrongdoing, therefor obviously they are not able to defend themselves from the action of other parties that adversely now or in the future.

The Two said categories of people can't use their consciousness like a normal healthy adult. The mentally ill people include those under the influence of alcohol or drugs. The children who are not mature yet categorized into minors because they still cannot defend or guard themselves from evil tactics of criminals or deceiver who will harm their life. They can be influenced to do negative things because they cannot think longer about the bad consequences of the activity they follow and does. Because of the lack of understanding of a cunning ploy of evil people, a minor often becomes a target of criminal and the fitful of evil people as do drug dealers sell drugs to students in school so they become a drug addict. When this happens the National security is endangered. The future of the next generations will be destroyed.

In Islamic teaching, people who have reached an adult age are called Aqil and Baligh. Aqil means can think or use his or her brain to think and recognize something, in other words, intelligence. Baligh means has arrived in the time of imposition of the law, in other words, mature [9]. Mature in age and mature in physics/body and have legal rights, they can separate good from evil or bad and can choose between them.

Trading

Cambridge dictionary stated that Trading definition is the activity of buying and selling goods and/ or services

(Cambridge-Dictionary, 2019), and dictionary.com define trading as the activities or process of buying, selling, or exchanging commodity, at either wholesale or retail, within a country or between countries [10].

Base on the above definitions, trading defines as the activity of selling, buying, and exchanging goods, services and/or commodities between people and/or organizations individually or in groups.

There are two components that are needed for business transactions in Islam [11]. The pillars of buying and selling (sale and purchase) in Islam are as follows (without one of these then the selling-buying transaction is canceled, null, and void):

1. Some parties transact (seller and buyer).
2. There are items to be transacted (item or service).
3. Agreement on price and value of said goods.
4. I jab and Kabul / the statement of selling from the seller and statement of purchase from the buyer, this is a said agreement between two parties and is said at the time of transaction or deal [12].

Terms of sale and purchase in Islam (without these, the transaction is not legitimate or not valid):

1. The parties must be Aqil-Baligh - capable / grown-up/ adult/mature - or mumayyiz, for trading the child necessities.
2. The transaction must be done voluntarily – no compulsion.
3. Each party must know the object of trading.
4. The trading object must in good condition and halal (consumable/usable according to the law of syar' i).
5. The object must useful (to avoid things that superfluous or useless/meaningless).
6. The seller must be the owner of the object or have the right to sell the object).
7. Objects can be delivered to the buyer.
8. 'Ijab – Kabul' must be related.
9. 'Ijab – Kabul' statement or the statement of trading must be clear and understood by each party.

Trading is a legal activity or legal action of humans. Therefore in social relationships among people happens the activity such as buying, selling, lending, etc. Then the laws and norms have to be the main reference in daily life. These norms include ethical matters.

## II. RESEARCH METHOD

This study is about social science, so the research method accepted to the research topic should be the qualitative research method with the grounded theory approach. Using grounded theory allowed exploring the ideas and views of the participants [13]. The grounded theory approach is suitable because of limited previous research on the topic, so the researcher can jump directly into the field, observe, meet people, and conducting interviews to collect data for research.

### A. Researcher

In qualitative research, the existence of the researcher is the main instrument [14]. The researcher is a lecturer in the Post Graduate Program of the economics school of higher education in Jakarta. The researcher never had any contact

with the problem of selling and buying goods with children, this eliminates the bias of the researcher.

### B. Setting

Qualitative research takes place in a natural setting; a researcher often goes to the site several times before or during research. This enables the researcher to develop a level of detail about the individual or place [14]. Setting is in the West Java Province of the Republic of Indonesia which consists of approximately 49 million people who reside in the area; most of them are Muslim (Islamic religious believers).

### C. Informants

Candidates' informants were gathered with proportional sampling [15]. Furthermore, Informants were chosen from 20 (Twenty) candidates. The chosen informants are 1 (One) from community leaders, 2 (Two) from Islamic scholars, and 2(Two) from micro-scale business owners. The criteria of suitable informants are (1) Mature and have knowledge of the issue related to the studied topic, (2) Well known by their society, (3) voluntarily willing to share their experiences and perspective in the research. Informants are informed about the study and the interview. They were explained their right to participate freely and can terminate their participation anytime they want. Their identity also secured. The participants were asked to give the researcher the right to use interviews for the research in writing.

In qualitative research, the number of participants is not specifically regulated, any number could do as long as it is sufficient enough for the researcher to collect data and supporting information for the research. [16]. Table. 1 shows the general demographic information of informants.

Tabel.1 Demography of Informants

No.	Informant	Gender	Age	Occupation	Education
1	I-1	M	40	Islamic Scholar (IS)	College Graduate
2	I-2	F	30	Teacher Islamic Scholar (IS)	College Graduate
3	I-3	M	60	Community Leader	College Graduate
4	I-4	M	30	MS Business Owner	College Graduate
5	I-5	M	25	MS Business Owners	High School Graduate

### D. Data Collections

Patton (1990) defines qualitative data as a detailed description of situations, events, people, interactions, observed behaviors, direct quotations, from the people about their experiences, attitudes, beliefs, and thoughts [17].

The qualitative data collections are based on open-ended observations, interviews, and documents [14]. Researcher revisits setting Three times at different times and different conditions to collect complete and detailed information about the topic situation. The research field notes used to take memos of settings situation, conditions, and valuable information. Unstructured in-depth face to face interviews were done 3 times for each informant and recorded using a SONY Digital IC Recording device with 16 GB memory card. Interviews were conducted in participants' places where

they feel relax and can tell their experiences and understandings freely and comfortably and it was done Three times for each participant, this is intended to get further and deeper information from the interviewees [16]. The first interview was about the general issue of trading and the informants' background, the second interview was about informant perceptions and experiences of the topics, the last covered the shortage of information needed and completed the first and second interview. While interviewing, the researcher takes memos of body language, gestures, and situations of informants on the interview notes. The interview recording immediately transcribed. Transcription was done by other parties differ from peer debriefing to maintain the truth value of interviews and research.

Triangulation and peer debriefing with colleagues was conducted to maintain the validity and legitimation of research. Legitimation of qualitative research calls for ways to claim that the research has a truth value is trustworthy [17].

**E. Data Analysis**

Qualitative research is emergent rather than tightly prefigured. Several Aspects emerged during a qualitative study [14]. In Qualitative Research data analysis are done along the way through research.

Qualitative research is fundamentally interpretive. This means that the researcher interprets the data [14]. The recorded Interviews listened carefully several times and the transcribed interviews were read thoroughly at least twice to catch and identify the significant sentences. The transcribed interviews also presented to the interviewees to get approval or correct intention of what interviewees intended to point out. The content analysis procedure was used to categorize the significant sentences from transcribed interviews for getting the themes. Content analysis is a method to code open-ended questions in surveys or studies to make valid inferences from text to identify the intention and other characteristics and to determine the psychological state of the person [14]. Themes matched the code then drawn to be the findings. Table.2 gives an illustration of how the significant sentences processed into themes and subsequently into the main theme.

No.	Significant sentences	Themes	Main theme
1	<p>I-1. Kurangnya informasi tentang aturan dagang dengan orang yang belum dewasa membuat banyak yang melanggar aturan dan ceroboh.</p> <p>lack of information concerning the trading regulation with immature people makes many people break those rules.</p> <p>Sayangnya banyak yang belum tahu peraturan-peraturan ini, karena pada malas belajar dan gak mau bertanya.</p> <p>Unfortunately, many people do not aware of these rules, because they are lazy to learn and do not want to ask.</p> <p>I-2. Perlu diadakan penerangan yang lebih luas tentang peraturan yang</p>	<p>Lack of knowledge.</p> <p>Need more intensive information concerning the topic</p>	<p>Lack of knowledge of Laws and Ethics concerning trading with minors</p>

	<p>melibatkan anak dibawah umur dan terbelakang secara mental.</p> <p>The need to hold a broader explanation about trade regulations involving minors and the mentally ill.</p> <p>I-3. Banyak orang yang tidak tahu kaidah hukum dan aturan kepantasannya tentang menjual barang kepada anak kecil atau dibawah umur.</p> <p>Many people do not know the law and regulations about selling things to children or underage people.</p> <p>I-4. perasaan memang gak enak, tapi kan kita gak tahu hukum dan aturannya.</p> <p>the feeling is not good but we don't know the laws and regulations.</p> <p>I-5. kalau aturannya jelas, pasti banyak yang mentaatinya.</p> <p>If the regulations are clear, people must obey.</p>		
2	<p>I-1. menurut aturan Agama Islam bedagang itu harus dengan orang yang seimbang, jika tidak transaksinya tidak sah. Apabila tetap dilakukan maka itu sudah melanggar hukum, aturan dan juga norma etika.</p> <p>according to Islamic regulations, trading must be done by parties at the same level.</p> <p>I-2. orang yang menjual ke anak-anak tanpa ada orangtuanya itu licik dan tidak wajar.</p> <p>those who sell to children without their parents are cunning and not reasonable.</p> <p>... ketika norma hukum dan norma agama dilanggar, maka ditakutkan akan merugikan anak-anak atau mereka yang belum akil baligh.</p> <p>... when legal norms and religious norms are violated then it is feared will harm children and those who have not yet akil baligh (conscious and mature)...</p> <p>I-5. Yaa jelas gak pantas... gak etis kalau dia tetap Jual ke Anak-anak barang yang harganya besar.. yaaa definitely not appropriate... not ethical if they still sell the thing to minors with that big money...</p> <p>I-3. tidak pantas bertransaksi dengan minors, minors itu gak ngerti apa-apa.</p> <p>It isn't appropriate to transact to minors, minors do</p>	<p>Unethical</p> <p>Not fair</p>	<p>Trading with minors is not legally binding and unethical</p> <p>Against the norms</p>

	<p>not understand a thing. Hanya orang yang egois dan mau untung sendiri yang jualan ke anak kecil atau orang cacat mental. Dan ini menentang norma-norma yang berlaku dalam masyarakat. Only those who selfish and greedy who sell things to underage and mentally ill. This against norms that apply in communities. I-4. saya tidak tahu aturan hukumnya, memang sih banyak teman-teman yang memanfaatkan dengan menjadikan anak-anak sebagai sasaran objek penjualannya. Dan menurut saya itu sangat tidak pantas dan sangat tidak etis. I don't know the law or regulation, Indeed many friends, traders, utilize to make the children a target of its sales, and in my opinion, it's not appropriate and very not ethical. I-5. sudah pastilah melanggar kepantasan dan etik. surely violated decency and ethics. jualan sama orang 'agak kurang' jelas gak pantas melawan norma ... sell things to the 'minus people' (mentally ill) its obvious against the propriety against norms.</p>		
3	<p>I-1. Norma dan hukum Islam dalam Al-Qur'an menyatakan bahwa anak-anak dan orang yang belum dewasa tidak dihitung dalam perbuatan hokum dan apa yang dilakukan dianggap tidak mamaruhi syarat hokum islam. Islamic Laws and norms in Al-Qur'an stated that children and not adults yet people not to be counted in lawful action, what they do are considered not qualified in Islamic laws. perasaan berdosa akan timbul jika berdagang dengan anak kecil tanpa ditemani orang tua. a feeling of guilt that would arise if trade with minors unaccompanied by parents. anak kecil kan masih belum dapat menimbang dan berfikir panjang, maka gak etis laah... young children are not able to choose wisely. So it is not ethical I-3. Jika mereka orang baik dan mengerti, maka akan timbul dalam hatinya perasaan tidak nyaman dan</p>	<p>Feeling guilty  Feeling inappropriate.  Feel discomfort.</p>	<p>Minors are not capable of trading.</p>

	<p>tidak pantas. if they are good people and understand, then they will arise in his heart a feeling of discomfort and inappropriate. I-4. emang sih ada perasaan gak enak, tapi.. sure there is a feeling not good, but... I-5. saya merasa seperti sedang memperdayai anak itu. Makanya juika gak ada orang tua atau didampingi orang dewasa seperti pembantu atau baby sittersnya, tidak saya layani untuk transaksi sampai ada orangtuanya. I feel like bullying the kid, so if there is no parent or adult such as a guardian or baby sitter, I do not serve for transactions until their parents or adult relatives.</p>		

### III. FINDINGS

The research found four findings from the interviews and setting observations. These findings are as follows,

1) *Minors are not capable of trading (sell and buy).*

In the Holy Al-Qur'an Allah, The Almighty said in Chapter 4 (Surah An-Nisa) verse 6:

“And try the orphans (as regards their intelligence) until they reach the age of marriage; if then you found sound judgment in them (capable of nourishing treasures), release their property to them. And you do not eat (the orphan treasury) more than the acceptable limit and (do not) rush ((to give) before they become adult. ... then, when you release their property to them, take witnesses in their presence; And Allah is All-Sufficient in taking account.” [18]

This verse of the Holy Qur'an stated that Islamic teaching is very firm for underage children should not be given the responsibility to nourish their wealth alone, they should have an adult guardian.

They need to be accompanied by an adult relative or someone to be appointed as their guardian. Children or minors consider cannot be taken responsible for their trading actions, they are not yet capable of responsibility. The following interview clearly shows this.

It isn't appropriate to transact to minors, minors do not understand a thing. (I-3).

Islamic Laws and norms in Al-Qur'an stated that children and not adults yet people not to be counted in lawful action, what they do are considered not qualified in Islamic laws. (I-1) ... Young children are not able to choose wisely. (I-2)

I feel like bullying the kid, so if there is no parent or adult such as a guardian or baby sitter, I do not serve for transactions until their parents or adult relatives.



## 2) *Lack of knowledge of the laws and religious norms that apply in the trade with minors.*

Most people, especially the traders or merchandizer, do not know for sure the laws and religious norms that apply in the trade with minors, specifically concerning the requirement of fairness and equality of parties involved in trading according to Islamic laws of syar-i, and the regulation of 'ones should be mature' before the laws to conduct lawful activities. Trading is a lawful activity, so the parties involved have to obey the laws and rules.

Because of this unawareness of the laws and religious norms of trading activities with minors, they ignore the ethics in dealing with people not yet adults or minors and treats this as a common transaction. This would be inappropriate because there will be a violation of minors' rights. Either in the laws or ethics, as revealed from the interview results.

... When legal norms and religious norms are violated then it is feared will harm children and those who have not yet akil Baligh (conscious and mature)... (I-2).

This is very obvious violated ethics.

Trading with minors is considered not legally binding and unethical.

The law pointed this very clear and also the people's feelings and consciousness reveal this.

Many people do not know the law and regulations about selling things to children or underage people. (I-3).

I don't know the law or regulation. Indeed many friends, traders, utilize to make the children a target of its sales, and in my opinion, it is not appropriate and very not ethical. (I-4)

according to Islamic regulations, trading must be done by parties at the same level. (I-2).

I feel like bullying the kid, so if there is no parent or adult such as a guardian or baby sitter, I do not serve for transactions until their parents or adult relatives. (I-5).

## 3) *Those who do business with minors are cheating and violating ethics.*

These people are selfish and only concerned with themselves.

Only those who selfish and greedy who sell things to underage and mentally ill. This against norms that apply in communities. (I-3)

those who sell to children without their parents are cunning and not reasonable. (I-2).

## IV. DISCUSSION

Even though sometimes laws or regulations approve trading with minors (particularly for the things that necessary for minors), but ethically, minors must be accompanied by his/her adult relatives when making the trade. This is following the opinion of (Suchecky, 2019) who stated that in a binding sales agreement contracts the parties must fully understand the agreement and what is involved. There is a legal presumption that minors under the age of 18 and mentally ill people cannot enter into an agreement. At one time in the United States, slaves, married women, and convicts were considered incapable of entering into legal agreements. Today a binding purchase agreement has to be entered into by capable adults. If a minor is part of the agreement, an adult co-signer has to assume responsibility for the agreement to make the contracts enforceable (Suchecky, 2019). inline with Islamic teaching. In the Islamic

guidance of business ethics, there is the concept of "unity" or cooperation, this means equality is the basic requirement of trading activities. Islam also requires that trading must be conducted by grown-up people / baligh, sensible /Akil, on their own will, and have the right for selling and/or buying, if not then selling-buying / trading is not legal (Mohammad, 2001; pl.214) in (Firdaus A., 2013)

## V. CONCLUSIONS

From the research findings can be concluded that Trading or dealing with minors or not grown-up children unaccompanied by an adult is not ethical and unacceptable. This includes trading with mentally ill people. dealing or selling to minors is unethical. It considers cheating and against the religious principles, and people's norms.

Trading with minors is acceptable and ethical when accompanied by an adult. When trading to the minors without the presence or accompanied by their adult companion, then the trading un-ethical.

This concludes that trading directly to minors is violating ethics, or in other words, unethical. Islam allows small transactions (small amount of money and small things or goods) to the minors who are mumayyiz or who understand and/or can distinguish things, for example, amount of money, rotten food, clean or dirty.

## VI. FUTURE RESEARCH

The research's purpose is to uncover whether trading with minors is ethical or not. Because of limited settings and informants, the research can be further developed for broader perspectives. Future research should seek to find a broader answer to every aspect of businesses using minors as a target. It is also would be great advantages when the topic studied in different settings and more informants with colors / many backgrounds. The research findings that could be used as a tool to make children/minors life safer than before, especially from the business predators or those who do not care about ethics and laws.

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