Price Control in Islamic Economics

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Abstract

In economics, we often hear the word price and its scope. In this case, the relation is how the value that becomes the transaction between the seller and the buyer is the replacement of the goods or services exchanged. The economy is one of the teachers in the country's life. The strength and weakness of a country's economic system are determined by pricing so that price stability occurs. But it is not easy to create an economy at a stable price because sometimes the demand level is higher than the supply and vice versa.

Keywords: *Price, Price Control, Islamic Economics, Market Mechanism*

JEL Classification: A10, A11, B10, E6, E64

A. Preliminary

The economy is one of the teachers of state life. A solid state economy will be able to guarantee the welfare and capability of the people. One of the supporting factors of the country's economy is the health of the market, both the goods-services market, the money market, and the labor-labor market. Market health is very dependent on a market mechanism that is able to create a balanced price level, namely the price level generated by the interaction between the demand and supply forces based on custom ('urf), without any other influences such as monopoly and the like or lack of influence of state power. If this condition is normal and normal without any violation, the price will be stable, but if unfair competition occurs, the price balance will be disrupted and which ultimately disrupts people's rights in general. The Islamic government, since the Prophet Muhammad. in Madinah, we are concerned about the problem of price balance, especially on how the state plays a role in realizing price stability and how to overcome price volatility problems. Broadly speaking, the ulama agreed that the law of originating prices (tas'ir) was haram, although, in the end, differences were found regarding whether or not the state would set prices under certain conditions. Each of these ulama groups has its own legal basis and interpretation.

This paper examines pricing by the state in the corridor of fiqh (classical) by considering economic reality.

B. Definition

What is meant by the fixing of prices (or Islamic in Arabic and price fixing in English) which is the topic of this paper is the determination of a price by the government or the authorities over the community and the government forces them to sell and buy at that price?[1] In another definition mentioned, tas'ir / price fixing is an order of the ruler (government) or its representatives or anyone who regulates the affairs of Muslims to market players so that they do not sell their merchandise except at a certain price and there is no additional or subtraction from the price is due to benefit.[2] From these two definitions, it was concluded that tas'ir contained three elements; first, the ruler as the party issuing the policy. Second, market players as a party that becomes the target of the policy. Third, certain pricing of certain commodities as the substance of policy.

C. Fuqoha's Law and View Provisions Regarding Price Control

Basically, there is an agreement from the four madzhab which states that the price control of a commodity is prohibited. price control is only permitted under certain conditions with strict conditions.[3]

The agreement was driven by several arguments, both from the Quran, Hadith, reason/logic. Al-Kasani (d. 587 H.) recounted several naqli propositions relating to this matter.[4] From the Qur'an :

"يَاأَيُّهَا الَّذِينَ ءَامَنُوا لاَ تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلاَّ أَنْ تَكُونَ تِ .

"O ye who believe, do not eat each other's treasures with a vanity, except by the way of commerce that applies with mutual pleasure between you." (Surat an-Nisa: 29).

This paragraph requires that the form is mutually satisfactory in the transaction and that these conditions cannot be fulfilled when the government sets a certain price by using its power by force.

The meaning of the verse above is the hadith of the Prophet Muhammad SAW. which reads:

"لَا يَحِلُّ مَالُ امْرِئٍ مُسْلِمٍ إِلَّا بِطِيبٍ مِنْ نَفْسِهِ."[5]

"It is not lawful for a Muslim's property unless it is obtained by pleasure from him."

And there is also a hadith narrated by Anas bin Malik who said that at the time of the Prophet Muhammad. prices have ever happened soar The companions then said to the Apostle, " O Rasulullah. Set the price for us." Rasulullah SAW. answer:

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[1] Al-Anshori, Z.. (n.d.). *Asna Al-Matholib fi Syarh Raudl Ath-Tholib.* Ttp: Dar Al-Kitab Al-Islami. P. 38.
[2] Asy-Syaukani, M. (1993). *Nail Al-Author.* Mesir: Dar Al-Hadis. P. 260.
[3] Al-Awqof , W. & Al-Islamiyah, A. (1983). *Al-Mausu'ah Al-Fiqhiyah.* Kuwait: Dzatu As-Salasil. P. 302.
[4] Al-Kasani, A. B. (1986). *Bada'i' Ash-Shona'i.* Ttp: Dar Al-Kutub Al-Ilmiah. P. 129.
[5] HR. Imam Ahmad dengan no. 5/72.

"إِنَّ اللهَ هُوَ الْمُسَعِّرُ الْقَابِضُ الْبَاسِطُ الرَّزَّاقُ وَإِنِّي َلأَرْجُوْ أَنْ أَلْقَى اللهَ وَلَيْسَ أَحَدٌ يَطْلُ ".

Verily Allah is the One who sets the price, who holds back, who makes it easy, and the one who grants sustenance. Really, I wish I could meet God without anyone claiming me for the tyranny I did in blood matters and not in matters of wealth.[6]

In referring to this last hadith, Ibn Qudamah (d. 620 H.) said: "Istidlal with the hadith can be from two sides; the first is that the Prophet Muhammad. do not want to fix the price even though the friends have asked for it. As if fixing the price is the thing that is permissible by Allah, surely the Prophet Muhammad. have done it. The second, Rasulullah SAW. reasoning that tas'ir includes acts of dzalim and tyranny is haram.[7]

While the aqli / logic arguments they use are:

1. Ash-Syaukani (d. 1250 H.) said that the government is obliged to maintain the benefit of buyers and sellers, and it is not a government policy to set low prices so that the buyer is wiser and fairer than his policy in allowing sellers to determine their own favorable prices they.[8]

2. Ali Al-Marghinani (d. 593 H.) states that the full price is the right of the transaction agent, so the determination must also be given to him without interference from others.[9] In addition, everyone has the rights and freedoms for the property he owns, and tas'ir is a bond to that freedom.[10]

3. Ibn Qudamah argued that tas'ir caused the price to soar and to make people obsolete. This is because importers and distributors will not distribute production goods to the market with low benchmark prices. They will prefer to hoard their items first. As a result, there is a scarcity of goods in the market which can cause prices to rise and consumers find it difficult to obtain the items they need.[11]

D. Conditions and Conditions Allow Price Controls

As stated, the original law of price control is unlawful. But Fuquha still excludes a number of conditions in which the government may even sometimes are obliged, to intervene in the economic activities of market participants by setting or fixing prices.

Ibn Taymiyah (d. 728 H.) states that pricing is of two kinds: first, dzalim and prohibited pricing. Second, pricing is fair and permissible. prohibited pricing is pricing that contains elements of tyranny and coercion to market players to sell goods at prices they do not approve. This includes the prohibition of something that is permissible by Allah, therefore it is forbidden. For example, when market participants have carried out market activities honestly and fairly without fraud, but the price of goods continues to soar. Soaring prices are not a result of this fraudulent practice, but because of natural factors such as the explosion of population growth or the existing stock is only a little so there is a scarcity that causes a price surge. In this case, tasbir or pricing is a tyranny.

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[6] HR. Abu Dawud dengan no. 3/731.
[7] Al-Maqdisi, I. Q. (1968). *Al-Mughni.* Cairo: Maktabah Al-Qohiroh. P. 164.
[8] Asy-Syaukani, M. (1993). *Nail Al-Author.* Mesir: Dar Al-Hadis. P. 260.
[9] Al-Marghinani, A. (n.d.). *Al-Hidayah fi Syarh Al-Bidayah.* Beirut: Dar Ihya' At-Turost Al-Arobi. P. 377.
[10] Asy-Syaukani, M. (1993). *Nail Al-Author.* Mesir: Dar Al-Hadis. P. 260.
[11] Al-Maqdisi, I. Q. (1968). *Al-Mughni.* Cairo: Maktabah Al-Qohiroh. P. 164.

While this fraudulent practice, but because of natural factors such as the explosion of population growth or the existing stock is only a little so that there is scarcity that causes a price surge. In this case, tasbir or pricing is a tyranny.[12]

While the permissible is tas'ir which contains elements of justice for all parties.[13] Namely, tas'ir is applied as a solution to stop fraudulent practices and unfair competition between entrepreneurs, such as tas'ir which are determined in the following conditions:

1. When food entrepreneurs are overreaching in determining prices.

In this case, the Hanafi Fuqoha allowed government intervention in fixing prices. This is done if the government cannot handle the delinquency of entrepreneurs and protect consumers except with tas'ir. The meaning of overreaching in determining prices here is selling goods with multiples of the price/value of goods.

2. Urgent consumer needs for manufactured goods.

In this case, the Hanafi, Maliki and Syafi'i schools allow the government to set prices if it aims to eliminate poverty and realize the benefit of the general public. Ibnu Taimiyyah said that when there is a scarcity of goods that are very much needed by the community, while there are some entrepreneurs who have their stock but they reject what is allowed is tas'ir which contains elements of justice for all parties. Namely, tas'ir is applied as a solution to stop fraudulent practices and unfair competition between entrepreneurs, such as tas'ir which are determined in the following conditions:

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b. Urgent consumer needs for manufactured goods.

In this case, the Hanafi, Maliki and Syafi'i schools allow the government to set prices if it aims to eliminate poverty and realize the benefit of the general public.[15] Ibn Taymiyah said that when there is a scarcity of goods that are very much needed by the people, while there are some entrepreneurs who have their stock but they refuse to sell it except at a high price, the authorities have the right to force the businessman to sell the inventory of goods at a standard market price / general price (qimah al-mitsl).[16]

3. Price increases caused by hoarding of goods (*ihtikar*).

According to Ibnu Taimiyah, when there are parties who commit fraud in business, namely by hoarding goods that aim to cause scarcity of goods in the market so that prices soar, so that he can take maximum advantage of the conditions created, the government is obliged to

[12] Taimiyah, I. (n.d.). *Al-Hisbah fi Al-Islam.* Beirut: Dar Al-Kutub Al-Ilmiyah. P. 22.
[13] Taimiyah, I. (n.d.). *Al-Hisbah fi Al-Islam.* Beirut: Dar Al-Kutub Al-Ilmiyah. P. 22.
[14] Abidin, I. (1992). *Rodd Al-Muhtar 'ala Ad-Durr Al-Mukhtar.* Beirut: Dar Al-Fikr. P. 6.
[15] Al-Awqof , W. & Al-Islamiyah, A. (1983). *Al-Mausu'ah Al-Fiqhiyah.* Kuwait: Dzatu As-Salasil. P. 304.
[16] Taimiyah, I. (n.d.). *Al-Hisbah fi Al-Islam.* Beirut: Dar Al-Kutub Al-Ilmiyah. PP. 21- 22.

stop the stockpiling practice with forcing hoarders to sell their stockpiles at a fair price (tas'ir) and if necessary the government sanctions the perpetrators of the stockpiling.[17]

This ban on ihtikar in Islam is in accordance with the positive law imposed by Indonesia as outlined in law number 5, 1999 which prohibits cartels. Article 11 of the law reads: "Business actors are prohibited from making agreements, with competing for business actors, which intend to influence prices by regulating the production and or marketing of goods and or services, which can lead to monopolistic practices and or unfair business competition.[18]

4. Price volatility due to monopolistic practices.

When there is a monopolistic practice carried out by people who commit not to sell certain materials except to certain groups, then they sell them in a monopoly manner, namely, they prohibiting the existence of other sellers, then in this condition, Ibn Taymiyyah argued that the tas'ir must be applied to them. That is, they may not sell these items except at a general price (not too expensive) and they may not buy things except at a general price (not the cheapest price). Enforcement of Bali is mandatory if other people are prohibited from selling this type or buying it. If they were allowed to sell as they pleased, then, in that case, there would be tyranny from two sides:

a. Injustice to the sellers from whom the monopolist gets the goods.
b. Injustice towards buyers who buy goods from monopoly actors.[19]

Regarding the practice of this monopoly, Indonesia has enacted law number 5, 1999 concerning the prohibition of monopolistic practices and unfair business competition which reads:

1) Business actors are prohibited from exercising control over the production and or marketing of goods and or services which may result in monopolistic practices and or unfair business competition.
2) Business actors should be suspected or considered to have mastered the production and or marketing of goods and or services as referred to in paragraph (1) if:
   a. the relevant goods and or services have not been substituted; or
   b. resulting in other business actors not being able to enter into the same business competition for goods and or services; or
   c. one business actor or one group of business actors controls more than 50% (fifty percent) of the market share of a particular type of goods or services.[20]

5. Agreement of sellers or buyers to damage prices.

Ibn Qoyyim (d. 751 H.) said when sellers conspire with each other not to sell certain items except at high prices, or vice versa, if buyers conspire with each other not to buy certain items except at low prices, then in cases like this, tas'ir must be enforced.[21]

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[17] Taimiyah, I. (n.d.). *Al-Hisbah fi Al-Islam.* Beirut: Dar Al-Kutub Al-Ilmiyah. PP. 21- 22

[18] Undang-Undang Republik Indonesia Nomor 5 Tahun 1999 tentang *Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat*, Pasal 11. Dan lihat Puspaningrum, G. (2013). *Hukum Persaingan Usaha.* Yogyakarta: Aswaja Pressindo. P. 38.

[19] Taimiyah, I. (n.d.). *Al-Hisbah fi Al-Islam.* Beirut: Dar Al-Kutub Al-Ilmiyah. PP. 22- 23

[20] Undang-Undang Republik Indonesia Nomor 5 Tahun 1999 tentang *Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat*, Pasal 17, ayat 1 dan 2.

This kind of conspiracy, besides being banned in Islam, is also prohibited in the positive law of the Indonesian state. In law number 5 1999, it is stated that: "Business actors are prohibited from making agreements with competing business actors to determine the price of goods and or services that must be paid by consumers or customers in the same relevant market.[22]

6. Urgent community needs for service providers.

This is a set of wages/salaries for providers of public services and services, such as building services, clothes sewing services, or agricultural services and others. For example, when a community needs the services of a construction worker to build a house, here the government must exercise control and determine a reasonable wage/salary for them. So that workers do not conspire not to do their jobs unless they are paid at a very high price. Likewise, community service users, not conspiring to not employ them, except by providing small wages.[23]

From the observation of the conditions that legalize the above, it can be concluded that:

a. The application of tas'ir should aim to create maslahah and eliminate the harm of both parties; producer/seller and consumer/buyer.
b. The law of origin is haram and is only permissible if the government or the authorities have not found another way to stabilize prices and normalize the conditions of the market economy except by imposing tas'ir.

These two conclusions indicate that the conditions for permissibility of tas'ir are not only limited to the six conditions above but in every condition where fair prices cannot be realized and fraudulent practices cannot be overcome except by price fixing, the government is obliged to apply the bag.[24]

E. Procedure for implementing tas'ir

In the jurisprudence literature, the scholars who allow the tasir mentioned the rules for fixing prices. That is, in the price, the government or the authorities invited and gathered economists and experts on the items to be pegged. Then the experts discuss in determining a fair price, namely by setting reasonable profits for producers/sellers so as not to burden consumers and both parties feel benefited.[25] Estimating profit can be done by estimating the process of activities that occur in a product, the amount of use of costs, services and all activities related to production. Therefore the estimated profit is made by first determining the selling price can

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[21] Al-Jauziyyah, I. Q. (n.d.). *Ath-Thuruq Al-Hukmiyah.* Ttp: Maktabah Dar Al-Bayan. P.208.

[22] Undang-Undang Republik Indonesia Nomor 5 Tahun 1999 tentang *Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat*, Pasal 5, Angka 1. Dan lihat Burhanuddin, S. (2011). *Hukum Bisnis Syariah.* Yogyakarta: UII Press. P. 236.

[23] Al-Jauziyyah, I. Q. (n.d.). *Ath-Thuruq Al-Hukmiyah.* Ttp: Maktabah Dar Al-Bayan. P. 24.

[24] Al-Awqof , W. & Al-Islamiyah, A. (1983). *Al-Mausu'ah Al-Fiqhiyah.* Kuwait: Dzatu As-Salasil. P. 307.

[25] Al-Awqof , W. & Al-Islamiyah, A. (1983). *Al-Mausu'ah Al-Fiqhiyah.* Kuwait: Dzatu As-Salasil. P. 307.

exceed the production capital and with it does not bring harm to the buyer or the buyer can feel that the acquisition of said goods is in accordance with the value of money released.[26]

What needs to be considered in the implementation of tas'ir is the realization of the value of justice for all parties. None of the ulama agreed on the tas'ir which harmed one party. Such as arbitrariness in setting prices that make the sellers can not get the slightest profit in carrying out their business activities.[27]

F. Some Parties Not Affected by the Rule of Rules

When tas'ir is imposed by the government, the legal force covers all market players in general so that prices can be immediately stabilized and justice can be felt by both producers and consumers. However, in the enactment, there are several parties mentioned in the fiqh literature that cannot be bound by the rules of tas'ir, so that they are still free to determine the price of their merchandise in each condition. Some of the parties in question are:

1. Importers or people who bring goods from outside the city or from abroad into the city.

According to the Hanafi school of thought, Hambali, the majority of Maliki scholars and qouls / opinions in the Shafi'i schools, they are free to bring goods from outside the city and then sell them to market players in the city at the prices they want. By reason, if they are also exposed to the rules of regulation, it is feared they will not want to bring in or supply more goods from outside, so there will be a scarcity of goods in a city that does not get supplies. This scarcity can lead to soaring prices which will ultimately make the people miserable.[28]

2. Hoarding goods.

The perpetrators of stockpiling (ihtikar), according to the Hanafi school of thought, are also not bound by the rules of tas'ir which are applied to market participants. There is separate handling from the government or the authorities for these Ihikik perpetrators. That is, the authority issues an order or forces the ihtikar offender to stop the stockpiling activity and to immediately distribute the goods to the market for sale at the price they set themselves.[29] Of course, as stated earlier, Ibn Taymiyah differed in his opinion. He stated that ihtikar actors are more deserving of the rules of fixing prices than other market players.[30]

3. Some fuqoha 'argue that tas'ir does not apply to sellers who do not market their goods in general, but they only offer merchandise to certain people only and do not sell their goods on the market or in shops.[31]

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[26] Nazaruddin, *Penetapan Kadar Keuntungan dalam Ekonomi Islam,* http://nazaruddinaw.com/?p=337, diakses pada 01/07/2019 pada Pukul 09.38 WIB.

[27] Al-Jauziyyah, I. Q. (n.d.). *Ath-Thuruq Al-Hukmiyah.* Ttp: Maktabah Dar Al-Bayan. P. 214.

[28] Al-Awqof , W. & Al-Islamiyah, A. (1983). *Al-Mausu'ah Al-Fiqhiyah.* Kuwait: Dzatu As-Salasil. P. 309

[29] Usman. (1313). *Tabyin Al-Haqoiq.* Cairo: Matba'ah Al-Kubro Al-Amiriyah. P. 28.

[30] Taimiyah, I. (n.d.). *Al-Hisbah fi Al-Islam.* Beirut: Dar Al-Kutub Al-Ilmiyah. P. 22-23.

[31] Al-Awqof , W. & Al-Islamiyah, A. (1983). *Al-Mausu'ah Al-Fiqhiyah.* Kuwait: Dzatu As-Salasil. P. 309

G. Violation of price control rules

The law of buying and selling transactions carried out by sellers who do not comply with government rules in fixing prices, such as if he insists on selling his goods at a price higher than the government standard, is legal.[32] In fact, the Hanafi school of thought stressed that what is illegal is if the seller uses the government price standard forcefully, for example, because he is afraid of government sanctions if he violates the price standard. The invalidity of the buy-sell transaction is due to the loss of mutual elements between the seller and the buyer.[33] Therefore, government regulation regarding tas'ir must be adhered to in a timely manner. And for anyone who violates it, sanctions / ta'zir will be imposed because they have been blatantly opposed to the government. The sanctions given may vary depending on government policies and conditions. Ibnu Qoyyim reminded that sanctions/punishments are carried out gradually according to needs, namely from the lightest in the form of reprimand and warning until, prison, fines/compensation, punches / whips, exile and revocation of business licenses according to benefit and must be done according to the level of error and the level of harm caused.[34]

During the revision process of this paper, the author has not found a reference that discusses sanctions imposed by positive law on violations of the set price set by the government. In fact, the law of the Republic of Indonesia no. 5, 1999, concerning the prohibition of monopolistic practices and business competition unhealthy, provides other definitions and descriptions of what is called price setting. In the law, price fixing is explained in article 5 which reads: "Business actors are prohibited from making agreements with competing business actors to determine the price of goods and or services that must be paid by consumers or customers in the same relevant market.[35]

Then in articles 47, 48 and 49 of the law, the sanctions imposed on price-fixing actors include administrative, principal and additional criminal sanctions.[36] The administrative actions summarized in article 47 read:

1. Orders to business actors to stop activities that are proven to cause monopolistic practices and or cause unfair business competition and or harm the community; and or
2. Determination of compensation payments; and or
3. Imposing a fine as low as Rp 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 25,000,000,000.00 (twenty-five billion rupiahs).[37]

And sanctions in the form of principal crimes contained in article 48 read:

1. Violation of the provisions of Article 5 (concerning pricing, pen.) Up to Article 8, Article 15, Article 20 to Article 24, and Article 26, This law is threatened with criminal penalties

[32] Yahya. (1991). *Raudloh Ath-Tholibin.* Beirut: Al-Maktab Al-Islami. P. 413.

[33] Abidin, I. (1992). *Rodd Al-Muhtar 'ala Ad-Durr Al-Mukhtar.* Beirut: Dar Al-Fikr. P. 400.

[34] Al-Jauziyyah, I. Q. (n.d.). *Ath-Thuruq Al-Hukmiyah.* Ttp: Maktabah Dar Al-Bayan. P. 223.

[35] Undang-Undang Republik Indonesia Nomor 5 Tahun 1999 tentang *Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat*, Pasal 5, Angka 1.

[36] Djakfar, M. (2009). *Hukum Bisnis.* Malang: UIN Malang Press. P. 345.

[37] Undang-Undang Republik Indonesia Nomor 5 Tahun 1999 tentang *Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat*, pasal 47, huruf c, f, dan g.

as low as Rp. 25,000,000,000.00 (twenty-five billion rupees), or imprisonment in lieu of a fine of no more than 5 (five) months.[38]

While sanctions in the form of additional criminal acts contained in article 49 read:

1. Revocation of business license; or
2. Prohibition to business actors who have been proven to have violated this law to occupy the position of directors or commissioners at least 2 (two) years and for a maximum of 5 (five) years; or
3. Termination of certain activities or actions that cause losses to other parties.[39]

H. Ideal Profit Limit

Indeed, there is no other argument in religion that explains the maximum limit in taking advantage of goods traded, which can be used as a general rule for all types of merchandise in each era and place, so that if exceeded this limit is considered unlawful. On the contrary, it is found a history of hadiths which stipulate that trade profits may double or even more under certain conditions.[40]

Al-Bukhari narrated in his Saheeh a hadith from Urwah that the Prophet Sallallahu 'Alayhi Wa Sallam had given him one dinar to buy a goat for him. Then Urwah used the money to buy two goats. One of the goats was sold at the price of one dinar, then he came to meet the Prophet with the goat with one dinar which was still intact. He told me what he was doing. So the Prophet prayed that the sale would be blessed by God. After that, if he wants to buy land, he can sell it by making a profit.

Also narrated by saheeh that Zubair ibn Al-Awwam once bought a forest land, namely a large plot of land in a high area in the city of Medina for a price of one hundred seventy thousand dinars. But then he sold it for one million dinars. That is selling it at a price many times more expensive.

Things that need to be observed here, that the events above do not contain elements of fraud, manipulation, monopoly, utilizing the innocence of the buyer, ignorance, conditions that are clogged or in need, then prices are raised. On the other hand, all of these events do not describe the general rule of measuring profits. It is precisely the attitude of giving ease, courtesy, and satisfaction with a small profit that is more in line with the instructions of the salaf scholars and the spirit of the Shari'ah life.[41]

Although Islam does not specify the maximum profit limit explicitly, taking profits unfairly is still considered less effective in conducting business. According to Ibn Khaldun (d. 808 H.), profits must be in accordance with the provisions of the basic price of an item, and the provision should be simple, because low prices lead to sustained profits, while high prices can

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[38] Undang-Undang Republik Indonesia Nomor 5 Tahun 1999 tentang *Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat*, pasal 48, angka 2.

[39] Undang-Undang Republik Indonesia Nomor 5 Tahun 1999 tentang *Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat*, pasal 49, huruf a, b, dan c.

[40] Muhamad. (2005). *Manajemen Pembiayaan Bank Syari'ah.* Yogyakarta: (UPP) AMP YKPN. PP. 131-141.

[41] Muhamad. (2005). *Manajemen Pembiayaan Bank Syari'ah.* Yogyakarta: (UPP) AMP YKPN. PP. 131-141.

reduce purchasing power and eventually will there is a delay in return of capital.[42] In addition, Imam Al-Qurtuby (d. 671 H.) argues that profit provisions can differ based on the stages of risk of an item or process that occurs in a product and the determination of profit needs to consider the habit factor (of uruf) that applies at a certain time and place, according to the stages of the problem at hand. The price determination should be within the appropriate limits so that capital returns are easily obtained.[43]

The fuqoha has classified the usual benefits of something in the community related to buying and selling the business which is called:

1. Al-Ribh al-family (excessive benefit) by the seller.
2. Al-Ribh al-yasir (simple profit or non-oppressive profit).

However, Muslim traders do not naturally take profits that exceed market prices, because it is a kind of act that is detrimental to their buyers. In this connection, Imam Al-Ghazali (d. 505 H.) in his book Ihya 'Ulumuddin said that the provision of profits should not exceed one third (1/3) of the acquisition price.

I. Conclusion

From the discussions described above, there are important points that need to be concluded at the end of this paper as follows:

1. Price/fixing is the determination of a price by the government or the authorities over the community and the government forces them to sell and buy at that price.
2. The law of origin is haram and is only permissible if the government or the authorities have not found another way to stabilize prices and normalize the conditions of the market economy except by imposing tas'ir.
3. Under conditions that are permissible, tas'ir must aim to create problems and eliminate harm from both parties; the producer/seller and the consumer/buyer, namely by determining a price that is fair to both parties.
4. The logical reasons held by the fuqoha 'in banning the enactment of tas'ir are: 1) The government is obliged to maintain the benefit of buyers and sellers, and it is not a government policy to set low prices so that the buyer is wiser and fairer than allowing the seller to determine their own prices that benefit them. 2) The full price is the right of the transaction agent, so the determination must also be given to him without the intervention of other parties. In addition, everyone has the rights and freedoms for the property he owns, and tas'ir is a bond to that freedom. 3) Tas'ir causes the price to soar and to make the people obsolete. This is because the importers and distributors will not distribute production goods to the market at a low benchmark price. They will prefer to hoard their items first. As a result, there is a scarcity of goods in the market which can cause prices to rise and consumers find it difficult to obtain the items they need.
5. Some examples of conditions permitted by Tas'ir: 1) when entrepreneurs go beyond limits in determining prices, 2) urgent consumer needs for production goods, 3) price increases caused

[42] Nazaruddin, *Penetapan Kadar Keuntungan dalam Ekonomi Islam,* http://nazaruddinaw.com/?p=337, diakses pada 01/07/2019 pada Pukul 09.38 WIB.

[43] Al-Qurthuby. (1989). *Al-Jami' li Ahkam al-Qur'an*. Beirut: Dar al-Ihya al-Thurat al-Araby. P. 149.

by ihtikar practices, 4) price instability due to monopolistic practices, 5) agreement of sellers or buyers to damage prices, and 6) urgent community needs for service providers.

6. Conformity between Islamic law which is discussed by classical fuqoha with positive laws imposed by the Indonesian state in many ways in solving the problem of unfair competition.
7. Although Islam does not specify explicitly the maximum limits in taking profits, some fuqoha 'suggest that they be fair in determining prices/benefits so that the business can run effectively. The fairness is not taking profits in excess of one-third of the acquisition price.

Reference

Abidin, I. (1992). *Rodd Al-Muhtar 'ala Ad-Durr Al-Mukhtar.* Beirut: Dar Al-Fikr.

Al-Anshori, Z.. (n.d.). *As Al-Matholib fi Syarh Raudl Ath-Tholib.* Tip: Dar Al-Kitab Al-Islami.

Al-Awqof , W. & Al-Islamiyah, A. (1983). *Al-Mausu'ah Al-Fiqhiyah.* Kuwait: Dzatu As-Salasil.

Al-Jauziyyah, I. Q. (n.d.). *Ath-Thuruq Al-Hukmiyah.* Ttp: Maktabah Dar Al-Bayan.

Al-Kasani, A. B. (1986). *Bada'i' Ash-Shona'i.* Ttp: Dar Al-Kutub Al-Ilmiah.

Al-Maqdisi, I. Q. (1968). *Al-Mughni.* Cairo: Maktabah Al-Qohiroh.

Al-Marghinani, A. (n.d.). *Al-Hidayah fi Syarh Al-Bidayah.* Beirut: Dar Ihya' At-Turost Al-Arobi.

Al-Qurthuby. (1989). *Al-Jami' li Ahkam al-Qur'an*. Beirut: Dar al-Ihya al-Thurat al-Araby.

Asy-Syaukani, M. (1993). *Nail Al-Author.* Mesir: Dar Al-Hadis.

Djakfar, M. (2009). *Hukum Bisnis.* Malang: UIN Malang Press.

Muhamad. (2005). *Manajemen Pembiayaan Bank Syari'ah.* Yogyakarta: (UPP) AMP YKPN.

Nazaruddin, *Penetapan Kadar Keuntungan dalam Ekonomi Islam,* http://nazaruddinaw.com/?p=337, diakses pada 01/07/2019 pada Pukul 09.38 WIB.

Taimiyah, I. (n.d.). *Al-Hisbah fi Al-Islam.* Beirut: Dar Al-Kutub Al-Ilmiyah.

Undang-Undang Republik Indonesia Nomor 5 Tahun 1999 tentang *Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat*,

Usman. (1313). *Tabyin Al-Haqoiq.* Cairo: Matba'ah Al-Kubro Al-Amiriyah.

Yahya. (1991). *Raudloh Ath-Tholibin.* Beirut: Al-Maktab Al-Islami.