

Price Based on Islamic Law Perspective

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Abstract--Some factors that trigger for the price fluctuation can be grouped into two factors, namely external factors related to the producer and distribution of commodity trade goods in order to do business with fair play and avoid corruptive and manipulative behavior. While the internal factor is an opportunistic of consumer behavior in buying commodities trade goods so as not to obtain a competitive price. The addition of the sale price of sharia institutional financing services is permissible considering the payment pattern due to tempo and installment requires long time tenor service that requires operational cost and proportional profit. Trading activities essentially require a fairness in the field of price. The trade war and the dumping behavior of the international trading world are gaining a competitive price from its trade commodity. Fuqahā' which is a group of Islamic law thinkers makes methodological parameters and legal parameters related to the price and the dynamics of the problem as a reference to the Islamic economic attitudes of the Muslims in order not to get stuck on Ribawi transactions.

Keywords--price, fluctuations, Islamic law

I INTRODUCTION

The economic activity of the region, always related to the price stability of various trade commodities where the price determination of a commodity is based on several indicators and conditions. The economy is also an indicator of the strata of a society, strong and weak of the economic system of community nation is determined by the conditions of price stability in its trading traffic⁴.

Islamic Sharia gives signs about the price and its dynamics based on the indications of common good contained in the verses of the Qur'an and Sunnah on the level of concept, while fuqahā' drafting the methodology, making the rules both Ushuliyah and Fiqhiyyah, as well as create practical guidance for how Islam community should behave in determining the price of its trade commodity.

Price theory in the modern economy illustrates that the price balance comes from the interaction between supply and demand in perfect competition. In the perspective of Islam concept, the price is not much different from the modern economy. But in Islam always emphasized the role of ethics (moral values).⁵ The fluctuations in commodity prices of trade are inevitable dynamics and become the rhythm of the life of the world of trade throughout the ages. The things that trigger price fluctuations include a higher demand rate than the offer and vice versa. Interaction between the Government, producers, and consumers is indispensable to create a market equilibrium so as to produce a competitive price and avoid the Ribawi transaction.

There are several opinions regarding pricing in Islam. (1) Followers of Imam Syafii and Imam Ibnu Hanbali

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oppose the price control in the market. Price determination is one of the practices that is not permitted by Shari'ah Islam. Governments or those with economic power have no right and power to determine the fixed price of a commodity,⁶ and do not intervene if the price reflects a normal supply and demand condition.⁷ (2) Followers of Maliki and Hanafi argue that price control is legitimate. According to Imam Malik, there was an intervention of Caliph Umar in the market by stopping the seller from selling at a lower price.⁸

This Paper discusses in depth several problems related to the price termination in the perspective of Islamic Sharia, the evidence of both the Qur'an and the Sunnah that in the price problem, the justification of the principles of Ushuliyah and Fiqhiyah in the price problem, and what factors can affect the commodity price status of a trade.

II PRICE DEFINITIONS

The price in the fiqh study is known by two terms: *al-Tsaman* and *al-Si'r*.⁹ The term *al-Tsaman* is interpreted with a price benchmark on a particular item. While *al-Si'r* is understood by a price benchmark that is actually applicable to a market or community.¹⁰

Two of the meanings approach have two distinct dimensions, where *al-Tsaman* is the emphasis on the commodity of any merchandise traded by traders, while the emphasis on the meaning of *al-Si'r* is emphasizing the meaning of the price. Overall trading commodity traded on a market within a certain period of time.

The study of the theme of the price is very dynamic, fuqahā' divided *al-si'r* into two categories: first, the price is naturally valid, meaning that the price appears and becomes the fairness of the general public in trading without intervention by the government or those who have authority. This price typology gives the market participants the space to freely sell their commodities at reasonable prices and with a competitive profit margin. Secondly, the general pricing process on market participants has been established by the government by emphasizing the consideration of commodity capital of goods to be marketed, the profit, and consideration of real economic and purchasing power of society during certain times. This condition involves the government or trade authority for the interfering in pricing for a particular purpose in which the fiqh is known as *al-tas'ir al-jabbāri*.¹¹

Free market is a market mechanism that provides freedom to market participants to supply a variety of goods freely and buyers also enjoy the freedom to determine the choice of the type of goods to be bought with price options. Competitive. The equilibrium of this market does not happen forever, because sometimes it has an obstacle in the supply of certain scales of goods that affect the price increase in certain commodities as well. Addressing the reality above, two Islamic thoughts, namely Ibn Qudaad and Ibn Taymiyah, noted in determining the price of trade commodities prevailing in a market in general is also classified into two categories: first, the pricing of the Based on the principle of justice. The price that is considered as *Dzalim* is while the government also establishes a price benchmark that is considered inappropriate and irrational with the market mechanisms influenced by the limited supply of commodities or scarcity of goods. The determination

imposed by the Government is not considering the benefit aspect of the trader. Secondly, pricing is based on fairness principles. The principle of justice is an obligation to anticipate the surge in the price of an item that is significant. Government as a holder of the market authority should be able to hold the principle of justice in setting the price as a medium between traders and producers against consumers based on consideration of production costs, distribution and margin of profit.¹²

Ibn Taymiyah suggests that large amounts of price increases depend on the magnitude of the offer change and or demand. If all transactions are in accordance with the rules, the increase in the price is God's will.¹³ Subsequently, Ibnu Khaldun stated that when the goods are slightly available, the prices will rise, however, when the distance between cities is near and safe to travel, many goods are imported so that the availability of goods will be abundant, and Prices will go down.¹⁴

Price fluctuations in a market against a particular commodity or overall within a certain span of time do not rarely give birth to government policies to open imported faucets on certain commodity types within a certain timeframe in order Stabilizes the price for the affordability of public purchasing power.

III LEGAL BASIS OF PRICE

QS. Yusuf: 12: 20:

وَشَرَوْهُ بِثَمَنٍ بَخْسٍ دَرَاهِمَ مَعْدُودَةٍ وَكَانُوا فِيهِ مِنَ الزَّاهِدِينَ

Meaning: And they sold him (Yusuf) for a reduced price - a few

dirhams

- and they were, concerning him, of those content with

little.

The story is recorded in the Alqur'an which in general can be used as the basis of thinking about the price in the buy and sell transactions. Ibn ' Abbaas mentioned the brothers of Yusuf after three days of his throwing into the well, they obtained the information that Yusuf was sold by a traveler who is also a merchant with a price range of twenty-two dirhams¹⁵. Mujahid in this case agreed the number of prices as mentioned above.¹⁶

The other mufassir also gave his opinion on the text of the verse.¹⁷ " ثمن بخص " is a price that contains haram elements, as well as the opinion of al-Dahhak.¹⁸ While Qatadah defines it with the term " ظلم "

– " بخص – " is a dzalim. Meanwhile, Al-Sha'abi defines the existence of this in the absence of (very lacking) the blessing of the price, " نقصان البركة في الثمن " due to the purchase of transactions containing the dzalimelement that harm one party .¹⁹

QS. Al-Baqarah: 2: 41:

وَأَمِنُوا بِمَا أَنْزَلْتُ مُصَدِّقًا لِمَا مَعَكُمْ وَلَا تَكُونُوا أُولَٰئِكَ الَّذِينَ كَفَرُوا بِحَيْثُ لَا تَسْتُرُوا لِبِئْسَ مَا كَانُوا يَفْعَلُونَ

Meaning: And believe in what I have sent down (Al-Quran) confirming that which is [already] with you, and be not the first to disbelieve in it. And do not exchange My signs for a small price, and fear [only] Me.

In this verse the price referred to is a very low value. This can be seen from some of by's opinions as follows: Ibn Atiyah interprets the word “اشترؤا” in the verse with the meaning of "replacing", while the low price is any material affiliated to the world, despite the quantity The material is very much, then the humility while to change the verses of God with the interests of the world²⁰. Abu Ali in Al-Bahr argues that the price referred to in the verse (QS. Al-Baqarah: 2:20) is a person of authority over a price in the transaction, not the price itself.²¹

Hadith

عن أنس رضي الله عنه قال: غلا السعر في المدينة على عهد رسول الله صلى الله عليه وسلم، فقال الناس: يا رسول الله غلا السعر، فسعر لنا، فقال رسول الله صلى الله عليه وسلم: "إن الله هو المسعر القابض، الباسط، الرازق، وإني لأرجو أن ألقى الله وليس أحد منكم يظلمني بمظلمة في دم ولا مال (رواه أبو داود)

From Anas ibn Malik Ra, said; The price of merchandise (commodities) soared in Medina during the time of the Prophet SAW., then the people said: "O Messenger of Allah, the price of goods soared, then settle the price standard for us." Then Rasulullah SAW., said: Allah is al-Musa'ir (the most established price), al-Qabidh, al-Basith, and ar-Raziq. And I truly hope to meet God in the circumstances of none of you who claim to me with tyranny in the matter of blood and of wealth.

The hadith above literally suggests that the Prophet Rasulullah SAW., handed off with what was experienced by the city of Medina at this time, namely in the time of society facing the difficulties of life with the emergence of economic problems i.e. food scarcity so that food prices soar up, then the reality of society at that time tends to have difficulties in life and unreachable.²²

The legal content of Anas ibn Malik hadith above about the price is as follows: *First*, the hadith is the evidence that “المسعر” is one of the names of the names of Allah, and that the names of Allah are not limited to ninety nine names. There was narrated from the Prophet, that He prayed:

*It means: I beg You with all the name that You has to call Yourself, whether you have sent down in the book, or whom you taught for one of Your creatures, or which You hide it for Yourself in the supra natural in Your side.*²³

Secondly, it allows selling goods at a price lower than the market price. It is based on the history of Imam Malik, that he said: Should the judge (the leader/government) require that person (who sells at a price below the market price) to sell the goods in accordance with the market price. The law of Imam Malik's opinion is the incident between ' Umar and Ibn Abi Balta'ah Ra.

Thirdly, the hadith contains a warning from the Prophet SAW., to his people that they do not commit to the

unrighteousness (taking something from the owner without justified reasons), both in the Matter of Blood (life) and property. Therefore, the Prophet SAW, wanted to meet Allah SWT, on the day of Resurrection in the free circumstances of the matter.²⁴

Responding to the hadith above the majority Fuqahā' ²⁵ argues that the price stipulated by the Government's interference is forbidden²⁶, but in another history Imam Malik allowed with the government records the right to force the seller to sell the goods in accordance with the market price, either in the condition of goods abundant or small.

Ibn Taymiyah and IbnulQayyim mentored the problem above by giving his trial in detail by stating that the Tas'ir was forbidden with a purpose far from justice and prone to peace. The law becomes permissible, while in situations aimed at the purpose of justice. This opinion is generally approached to the truth "أرجح". The same opinion is expressed by some fuqahā' Hanafiyyah, which allows Tas'ir if the sellers of goods or the needs of the community raise the price beyond the ability of purchasing power of society, then to suppress the fluctuations of the price required government interference in regulating price stability.²⁷

Azid, et. al posited, there must be supervision and control directly at the price²⁸. The government as a regulator in the market mechanism always monitors the stock of minimal trading commodities for a quarterly period either through the availability of domestic reserves and with import policy on certain types of trade commodities, especially to face the feast of some religions in Indonesia whose consumptive tendency at that moment increases.

USHULIYAH AND FIQHIYAH RULES ON PRICE

The rules of the Ushuliyah²⁹ associated with the price are as follows:

١ . النهي يدل على فساد المنتهي عنه في العقود

Meaning: The prohibition of the fact shows that the destruction (cancelled) is prohibited in the agreement.

The application of this ushuliyah rule is as follows: *first*, the process of trading the animal child which is still in its parent womb. Such transactions are not valid, because the price dose is not based on the reality of the essential goods, or can be said to be assumed or estimated goods. Because one of the pillars of buying and selling is *al-mabi'* (trading object) cannot be rooted or seen directly so it contains *gharār*, while *gharār* is forbidden in Shari'ah Islam. *Second*, the prohibition on trading transactions that have been agreed on the price at the time of Friday. This prohibition is not always attached to trading transactions. The law of trade remain legitimate, but remain sinful because violate the prohibition. The trading transaction is valid and the buyer obtains the item he bought, while the seller earns the offered price which is then paid to him.

٢ . والأصل في العقود والمعاملات الصحة حتى يقوم دليل على البطلان والتحریم

Meaning: The original law of various agreements and Muamalat is valid until the evidence indicates its sleaze and forbidden.

The rule summarized from QS al-Baqarah: 2: 29:

هُوَ الَّذِي خَلَقَ لَكُمْ مَا فِي الْأَرْضِ جَمِيعًا ثُمَّ أَسْتَوَىٰ إِلَى السَّمَاءِ فَسَوَّاهُنَّ سَبْعَ سَمَاوَاتٍ وَهُوَ بِكُلِّ شَيْءٍ عَلِيمٌ

Meaning: It is He who created for you all of that which is on the earth. Then He directed Himself to the heaven, [His being above all creation], and made them seven heavens, and He is Knowing of all things.

This rule is applied in everyday life as one eats an animal that has absolutely no evidence to reveal it forbidden, and there is no correlation whatsoever that causes it to enter into the category of animals that are forbidden. The animal does not harm the health, not the animals that are forbidden to kill, not the savage and fanged beasts, not the annoying and frightening animals of humans. Therefore, the animal is still halal consumed although the animal is not very pleasant to look at.³⁰

٣. الْمُخَصَّصُ الْمُنْصَلِ لَا يَقُومُ بِنَفْسِهِ

Meaning: Mukhassis that related with something *nash 'ammcan'* t stand itself.³¹

The above rules in the operationalization requires *istitsnā'* or exceptions, so *istitsnā'* in legal studies is closely related to the procedure of issuing something from the scope of legal significance by using editors' customs *Istisnā'*

Istitsnā' example in QS. al-Baqarah 2: 282:

.....إِلَّا أَنْ تَكُونَ تِجَارَةً حَاضِرَةً تُدِيرُونَهَا بَيْنَكُمْ فَلَيْسَ عَلَيْكُمْ جُنَاحٌ أَنْ تَتَّخِبُواهَا..... الخ

Meaning:.....except when it is an immediate transaction which you conduct among yourselves. For [then] there is no blame upon you if you do not write it.....

The term *istitsnā'*³² in this verse is a cash trade, because at the beginning of the verse Allah SWT, ordered to record the sale of the debt. *Istitsnā'* of the negative sentence, the result is a positive sentence “الإستثناء” Application of this rule as the phrase there is no God, except God. No God is a negative sentence, so the exception set the presence of God, that is God (in the form of positive sentences). “الإستثناء من الإثبات نفى” *Istisna'* of positive sentences, result in a negative sentence. As the word of God, in QS al-'ashr. At first God redefines (establishes) that the human being is whole in a state of loss, then Allah is a partial (unlucky) people who are believers and also those who are charitable, with the understanding of the people This is not a loss, even they profit on the side of Allah SWT.

As for the Fiqhiyyah rule relating to the price, among others:

Meaning: Not allowed to create harm and danger (others).

This rule clearly explains that *dharar* (doing something that endangers others) is forbidden in Islamic law. Thus, the essence of this rule is a sign in the prohibition and protection for a person to do something that is out of the context of halal and that is harmful to himself or harm another person, whether in the form of word or deed, without the right reasons. The prohibition of *dharar's* behavior is tightened again when it is done to those who must be made in *ihsan*, such as relatives, wives, neighbors, and so on.

This Fiqhiyah rule is one of the five Asasiyah rules in the study of the rules of Islamic law sourced from Hadith Nabi SAW., as follows:

عَنْ أَبِي سَعِيدٍ سَعْدِ بْنِ سِنَانَ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: "لَا ضَرَرَ وَلَا ضِرَارًا"³³

Meaning: From Abu S'aid, Sa'd bin Sinan al-Khudri ra, that Rasulullah saw, said; May not (exist) danger and cause danger.

The meaning of the sentence “لا ضَرَرَ وَلَا ضِرَارًا” theFuqahā ' disputing the equation and the difference, the first group states that the second meaning is the same. Then the second group mentions that between the two there are differences and this opinion is strengthened by most theologian. It is said that the word ” الضَّرَر ” is an ism noun whereas the word “الضَّرَار” is a word of verb, meaning that there is something dangerous itself is not allowed in the Sharia, as well as inflict danger without rights.

Another opinion stated that the meaning of the word “ الضَّرَر ” is a danger to others where the danger is beneficial to the culprit, while the meaning of the word “ الضَّرَار ” is causing danger to others where danger It actually did not beneficial. Conclusion of the cross-opinion on the use of two pronunciation “الضرار و الضرار” are both prohibited in Sharia Islam.

The meaning contained in the hadith above the other: first, God never burden anyone with something that harm themselves or from them then harm others, whether the danger is present in food, Financial transactions or other beverages. As the Word of God in the QS al-An'am verse 145;

قُلْ لَا أَجِدُ فِي مَا أُوحِيَ إِلَيَّ مُحَرَّمًا عَلَى طَاعِمٍ يَطْعَمُهُ إِلَّا أَنْ يَكُونَ مَيْتَةً أَوْ دَمًا مَسْفُوحًا أَوْ لَحْمَ خنزيرٍ فَإِنَّهُ رِجْسٌ أَوْ فِسْقًا أُهْلًا لغيرِ اللَّهِ بِهِ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَإِنَّ رَبَّكَ غَفُورٌ رَحِيمٌ

Meaning: Say, "I do not find within that which was revealed to me [anything] forbidden to one who would eat it unless it be a dead animal or blood spilled out or the flesh of swine - for indeed, it is impure - or it be [that slaughtered in] disobedience, dedicated to other than Allah . But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], then indeed, your Lord is Forgiving and Merciful."

Secondly, among the forms of the “الضرار” is the detrimental attitude that endangers the people so Allah eliminate things that complicate and hard for this people. Namely as the Word of God in the QS al-Baqarah verse 286;

لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا وُسْعَهَا

Meaning: Allah does not charge a soul except [with that within] its capacity

Thirdly, among other forms of the abolition of “الضرار” is the lightened up of sharia laws for them when there are reasons such as illness, traveling, difficulties and others. The sick and the traveler may break fast during the day of Ramadan and hence they are not sinful. People who do not get water or people who use it will harm themselves can do tayammum, people who because there is a disgraceful in buying and selling are allowed to cancel, so on.

Fourth, things that contain danger in Shari'ah are rejected, as when the conditions in which the market price is peaking to cause danger to many elements of society, it should be rejected and aligned with the ability Community economy, and Allah SWT never burden His servants with the thing that endangers them, so God never prohibits them from something that contains useful (positive) for them. Thus, Shari'ah Islam always stands upright on the law and the interests of the servants of both the earthly and future days of the hereafter. It is as the word of God in the QS al-A'rafverse ;³⁴

فَلَمْ يَنْهَ اللَّهُ الَّذِينَ آمَنُوا فِي الْحَيَاةِ الدُّنْيَا
مَنْ حَرَّمَ زِينَةَ اللَّهِ الَّتِي أَخْرَجَ لِعِبَادِهِ وَالطَّيِّبَاتِ مِنَ الرِّزْقِ قُلْ هِيَ لِلَّذِينَ آمَنُوا فِي الْحَيَاةِ الدُّنْيَا
خَالِصَةٌ يَوْمَ الْقِيَامَةِ كَذَلِكَ نَفَصَلُ الْآيَاتِ لِقَوْمٍ يَعْلَمُونَ

Meaning: Say, "Who has forbidden the adornment of Allah which He has produced for His servants and the good [lawful] things of provision?" Say, "They are for those who believe during the worldly life [but] exclusively for them on the Day of Resurrection." Thus do We detail the verses for a people who know.

The application and usefulness of this Fiqhiyyah rule are: first, if there is a price agreement between two people, one buyer and the other there is a seller, in this case the transaction whose price has been agreed is an item or food that is durable, then suddenly the buyer who had agreed the predetermined price disappeared and did not come to time and the place to make a payment. In this case, the seller is allowed to cancel the previous price agreement, then sell the trade to another person or anyone who wants to buy it.³⁵

Secondly, the two people agreed to buy a plot of land that was being sold by the owner of fifty million Rupiah with a scheme sharing a fifty percent fee for each member, so until the tempo of the purchase agreement one of the two The buyer thwarts the deal or is in no circumstances present at the event, in which case one of the purchaser is obliged to meet any agreed price.³⁶

٢. الحاجة تنزل منزلة الضرورة عامة أو خاصة

Meaning: Intent and the need for urgent people is considered an emergency problem, both these needs are related to basic and special needs.

Before reviewing the scope of the Fiqhiyyah rules above, it is necessary to examine the position of the intent and the emergency in their respective levels. Intent is a need that is not to the degree of emergency, the intent can be interpreted still gaining tolerance and looseness. The emergency is a necessity that can not be replaced and is absolute to do and even a condition of force to do something that is generally forbidden by the Islamic sharia.

While the intent is a condition that demands the ease and eliminate the difficulties experienced by a person, even if it is not to the difficulties that resemble the emergencies. So the intent is different from the emergency on one side, because the nature of emergency law is temporary. The intent is considered to be the same status with the emergency on the other side, when establishing a law and the law corresponds to each of them. In general, what is allowed due to the proportion of intent, its variables are based on the Nash and there is no specific Nash against it.³⁷

Basic intent is a intent that does not apply specifically to a group of people, or certain areas. The penalty is absolute without knowing the deadline and place. Such a price must be paid when a person conducts lease-rent with a rental object in the form of a residence. Wherever it is and whenever someone who has hired something, then for him is obliged to pay the price that has been with the tenant. The payment is technically possible by cash or in installments. While the intent that is specific to a specific group of people or in a particular place is the habit of certain people in conducting the sale and purchase of domestic landslide transactions is to clearly list the price per unit, position, right Obtained when it has had it, and various explanations of the sale and purchase transactions that only apply to certain communities³⁸.

This Fiqhiyyah rule can be applied in daily life to the community including:

Firstly, the acquisition of an agent or broker hires with a certain price or commission agreement notwithstanding the evidence of qiyas decree, and such persons are entitled to a decent wage as a price agreement between the owner and the broker. However, agency services are allowed because the public has done a lot.

Secondly, it is permissible to provide the price to be paid by the consumer in the case of public toilet rental, even if the quantity in the toilet between each other is different. In general there is no minimum and maximum time for the toilet tenant, as well as the amount of water it uses.

Thirdly, the acquisition gives a certain price to carry out a duty as a mother to breastfeed another baby woman whose goal is to take advantage of the milk given to the infant in exchange for the agreed price.³⁹ It is based on QS al-Talaq: 65:6:

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مَنْ وُجِدَكُمْ وَلَا تُضَارُوهُنَّ لِنُضَيْفُوهُنَّ عَلَيْهِنَّ وَإِنْ كُنَّ أَوْلَاتٍ حَمَلٌ فَأَنْفِقُوا عَلَيْهِنَّ حَتَّىٰ يَضَعْنَ حَمْلَهُنَّ فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ وَأَتَمِرُوا بِبَيْتِكُمْ بِمَعْرُوفٍ وَإِنْ تَعَاَسَرْتُم فَسُدِّعْ لَهُ الْأَخْرَىٰ

Meaning: Lodge them [in a section] of where you dwell out of your means and do not harm them in order to oppress them. And if they should be pregnant, then spend on them until they give birth. And if they breastfeed for you, then give them their payment and confer among yourselves in the acceptable way; but if you are in discord, then there may breastfeed for the father another woman..

٣ . إذا بطل الأصل يصار إلى البديل

Meaning: If the main cancelled, shift to its substitute

In other words that something legal is mandatory and must be implemented. The implementation is to submit something, or goods that must be submitted, whether this implementation relates to God's rights as prayer

in time, and is sometimes related to the rights of fellow human beings such as returning goods Ghasab with the goods in its entirety or to control it with the price of its substitutes. And also give the right to obtain goods purchased by the buyer because it has paid off or made the payment at the agreed price. ⁴⁰

If a staple is canceled due to a certain point, then it is transferred to his successor. If the subject remains, it cannot be transferred to its successor. On the basis of this understanding, restoring the goods in the Ghasab if it still exists in the hands of the ghasab is obligate to return, because that is the origin from the good that ghasab and its return is obligate in original appearance or means. While submitting change is only a return in meaning. As for substitute replace the original or underlying. While the estimate is not taken unless the original is not achievable. On this basis, if returning the goods in the ghasab (original goods) is no longer possible for reasons of damage or destructible, then it should be returned in return either from the goods as they are or at a price that is worth the goods. ⁴¹

The rule is functioning and can be applied in parables, as the person who has been fined when the goods are discharged, as well as if damaged and lost intentionally or accidentally, then he must replace them. If this item is a category of “القميات” or the goods that are known in value, then the person who is Ghasab is obliged to return the price of the goods at the time he did Ghasab. And if this item is in the category of “المثليات” or goods that have a match, then he is obliged to return the price worth it. ⁴²

FACTORS INFLUENCING PRICE

The role of pricing will be very important especially in situations where competition gets tougher and the growth of demand is limited. In determining the price need to be considered factors that affect, either directly or indirectly. The factors that directly affect are: raw materials, production costs, marketing costs, and the presence of government regulations. Indirect factors are the price of competitors, substitute products, complementary products, discounts; Producer should pay attention to determination of pricing policy. ⁴³ There are two normative principles of pricing factors in Islam; Fairness and scarcity. ⁴⁴

Price stability is determined by a certain condition and stagnation a price following a certain condition anyway. As for some factors that play a big role in influencing the price of a trade commodity are as follows: ⁴⁵

1. The most common situation in the business, namely the condition describing the relationship between the availability of commodities to be traded according to the demand of the general public, or with the economic language is known as the term balance between supply (Distribution of goods) and Demand (Request for goods);
2. Circumstances have an not generalized attitude, in the sense that the seller feels respect and Ta'zim to his buyer.
3. The seller in a state of need cash funds;
4. The desire of local residents who are also prospective buyers have a high interest in a particular item, it is also as the case otherwise if an item is not attracted by prospective buyers; ⁴⁶

5. Prices will vary according to the quality of commodity buyers of the goods. If the buyer is a person who has a wealth or is trusted in paying his obligations, then it is likely that he will get a higher price level compared to a person who is not credible;⁴⁷

6. Negative behavior of entrepreneurs in stockpiling goods commodities.⁴⁸ The act of hoarding is an despicable deed, as the hadith derived from Said ibn al-Musayyab ra, "من احتكر فهو خاطئ",⁴⁹ meaning: Whosoever hoards he has sinned. H.R. Muslim.⁵⁰

Of the above six factors, which are very dominant in creating the instability price of commodity trading in a market is the first factor associated with supply and demand. The next factor of the fourth and fifth factors is very rare and if only happens to be casuistic and not broad-impact because it is individual. As for the sixth factor is part of the first factor, the behavior of a handful of entrepreneurs stockpiling certain commodity goods in a market will impact on the performance supply of goods and raise the price of certain goods.

Market Equilibrium is the ideal thing that all parties are expected to do, but it is not uncommon to be damaged by the following things:

1. Conspiracy made by manufacturers and distributors by means of collusion in setting the price (conspiratorial price fixing), accompanied by consumer ignorance, abuse of power and emotional manipulation or use of the psychological condition of people Who are mourning when buying certain commodities;
2. *Gharār*, a sale that is not in accordance with the agreement and is not trustworthy, in a state of danger, unknown price, the goods, its safety and the condition of the item-time acquired;
3. *GhabanFahisy*, is selling above the market price. Ghaban is the agreed price gap sellers and buyers with ignorance of buyers will market prices of a commodity trade.
4. *Tadlīs* is a fraud on the seller's party to the buyer by hiding the defects when transacting.⁵¹

The four factors above are a chronic disease of the world of trading which can be done by making equitable regulation and executed with transparency and supervised by all stakeholders associated with Trading activities in an area.

The last factor that affects the price is the tenor of payment, meaning that if a trade commodity is sold at a cash price of Rp. 1 million,-and the tempo and installment of Rp. 1.500.000,-, fuqahā ' in determining the law they can be classified To the two groups, as follows:

1. Fuqahā ' ⁵²who banned the difference in the price influenced by the term of payment, argued with the following evidence:

- A. QS. Al-Baqarah: 2:275: ⁵³The interpretation is that the addition of the price due to the payment of no cash including Riba that forbidden;

- B. QS. Al-Nisa: 4:29:⁵⁴ The interpretation is the addition of the price because no cash payments include consuming the property in a bathl;
- C. The history of Imam Abi Dawud and Imam Ahmad of Abi Hurayrah explained that the Prophet forbade the existence of two prices in one trade transaction because surely including Riba;
- D. Muhammad Abu Zahrah (one of the Fuqahā ' contemporary Egyptians) argues that the additional price because the payment of no cash assumes that the price (Tsaman) is the same additional debt that is not paid on time which belongs to Riba Ignorance.⁵⁵

This group, when viewed carefully in understanding the evidence in the form of verses of the Qur'an and Sunnah is with a literal and textual approach with a lack of prioritizing other aspects, such as accounting scholarship in the process of payment Long requires a lengthy and long time that the process requires a charge that should cover the operationalization of the financing.

2. The JumhurFuqahā'⁵⁶ which allows the difference in the price influenced by the term of payment, argued with the following evidence:⁵⁷

- A. Qs. Al-Baqarah: 2:275: Interpretation of this verse is that the law of profit in trading is possible, whether the profit is obtained in cash trading as well as in tough trading or installments (Taqsith);
- B. QS. Al-Nisa: 4:29: That the addition of the price due to a robust payment or installment including the allowable profit and excluding the consumption of property in a subduing purchase is not due to pressure or compulsion;
- C. QS. Al-Baqarah: 2:282: This verse instructs the record of the bookkeeping (noting debt and receivable); Profit due to the sale of the price of tough money including permissible due to the general debt meaning contained in this paragraph;
- D. AtsarSabahat The history of Ibn Abi Shaybah from Ibn Abbas Ra., saying that: "It is not permissible for someone to offer his merchandise with two prices, a cash price and a tough price or a installment, but it should be clear which one to choose So it is clear to each other;
- E. Fuqohā ' contemporary Shaykh Muhammad ibn Shalih al-Uthaymeen in responding to public questions about the additional prices due to tough payments or installments including the category of Riba? The answer is tough trading is permissible based on the Qur'an, Sunnah and Ijma ' Muslims. There is an additional price due to no cash payments excluding Riba or gharār;
- F. Fuqohā ' Other contemporary is Rafiq Yunus al-Mishri argues that an additional price due to a cash payment is a logical addition which is a billing.⁵⁸

The second group, in conclusion to the additional acquisition of prices on tough payments and installments is based on the need for the additional funds due to the tenor of long time so factual sellers at an agreed price is not Harmed. As for when imposed on a pattern of tough payments or installments without being accompanied by the addition of the price value, then the seller will be harmed at the price because the tenor of long time payment either because of the inflation factor and Inefficiencies in transaction time.

Similar opinion is also expressed by the economics expert al-Imrani by establishing its argumentation on the following three things:

1. The prohibition of trading transactions with two prices is due to the element *Gharār*, whose practice transaction is not clear from the price of which is chosen, so Rasulullah SAW., forbade it. As for the two prices in one trading transaction--cash or tempo and installment--made by the seller as an option and the buyer can choose one of them, then the indication *Gharār* gone so that this transaction is allowed;
2. Fiqhiyah rule: The parties are free to determine the price (including profit) in the transaction of sale of certain goods or assets. This rule is based on a hadith that explains the benefits obtained by Urwah⁵⁹ and Zubair ibn Awwam.⁶⁰
3. Additional price due to no cash payment is the result of the risk of failing to pay and the costs incurred due to the bookkeeping and billing of receivables within the tenor of a given time.

CONCLUSION

1. The price in the Fiqh study is differentiated into two terminology. First, the price concerned with the unit or type of goods as trade commodities is known by the term *Tsaman*. Secondly, the price is a measuring instrument of trade in the trading market in a specific time, known as *si'r*.
2. The Qur'an as the holy Book of Muslims and the source of sharia gives signs of human behavior during the life in the world including the problem of trade concerning the price. It can be seen in QS. Joseph: 12:20 and Al-Baqarah: 2:41. Related to the hadith is the history of Abu Dawood derived from his friend Anas ibn Malik Ra., which tells about the price increase in the city of Medina.
3. The rule of Ushuliyah is a legal methodological parameter for certain legal cases, while the Fiqhiyah rule is a legal parameter of majority. In regard to prices, some of the Ushuliyah and Fiqhiyah rules are shown as a common method and rule in the dynamics of changes of a price in a particular trade commodity or price change occurring in a particular region with Various background and justifying the validity of the price with the approach of *Istidlāl* well with the verses of the Qur'an, hadith even though experts of Islamic law, both related to the market equilibrium, as well as market distortion Especially with regard to price.
4. The simple factors that can affect the price of a trading commodity can be grouped into two: external and internal. First, external factors are factors that occur in the market laur such as things related to supply (supply or distribution of goods). In this section the producers and suppliers of trade commodities to the market must be regulated in a regulation that guides them to strive with competitive advantage, do not carry *outiktikar*, *Tadlis* and *Gharār* on its trade commodities products So that consumers gain justice from the price of goods he bought. Secondly, the internal factor, which is the consumer behavior itself in conducting buy transactions against the trading commodities needed. When his behavior is indicated that he desperately needs the goods and want to buy at any price that is pegged by the seller without comparing the price in other stores to the same type of goods, then such behavior will be Plunged consumers into the acquisition of goods at expensive prices, as well as other similar attitudes.

Sharia banking financing is also known for its additional price, on the sale of the payment with a tempo system and installments. It is based on the need for additional fees on such services and profit margins for the sharia financial institutions.

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67. The Ushuliyah rule is a composite of the words Qaidah and Ushuliyah, the rules in Arabic written with Qaidah, meaning the benchmark, guidelines and starting point. Some are defined as regulations. The plural form of Qa'idah (Mufrad) is Qawa'id. The Ushuliyah derives from the word al-ashl, meaning principal, basis, or evidence as the foundation. So, the rule ushuliyahadalah a guideline to dig the evidence Syara ', the starting point of the evidence or regulation is used as a method of excavation law, the rule of Ushuliyah is also known as the rule of Istinbathiyah or some mention as a rule Lughawiyah, the Ushuliyah rule is the basis for the use of sentences or words used in text or Nash that give the meaning of certain laws based on the observation of Arabic language and literature. See Beni Ahmad Saebani, IlmuUshulFiqh, (Bandung: library Setia, 2009), H. 193-194
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70. The terms of the rightful istitsnā ' There are three: 1) Mustatsna and mustatsnaminhu interconnected (ittishol). Like, everyone went to the mosque except Ahmad. Ahmad here removed from the state of the go. Not to say "everyone went to the mosque" then said after a moment "except Ahmad". Linguists agreed to reject it, because when disconnected was not an exception enhancer. If you intend to exclude at first, then can be seen his intention afterwards, do not pause. 2) The Mustatsna did not spend his mustatsnaminhu. If it spends, then istitsnā ' is deemed invalid, for playing around. Example: I have money of Rp 1000, except Rp 1000. Istisna ' Like this is not valid. 3) Mustatsna and MustatsnaMinhu do not wear the letter ' atof. If the sentence is using the letter ' Atof, then the Batallah terms istit'ā '. Like: I have Money Rp 500, and not Rp 100. Istitsnā ' Like this is considered invalid. Al-KhudhoriBiek, Ushulfiqh, (Beirut: Dar al-Dar al-Fikr, 2007), p. 207-209
71. This hadith narrated by Ibn Maajah, no. 2340 and 2341 Mawshul (connected) from the Hadith Ibn ' Abbas. Also narrated by Al-Daruquthny in the sunan, Jld. III, p. 77 and Jld. IV, H. 228 of the Hadith Abu Sa'id al-Khudry. But in both histories there are weaknesses and ' Illat (defects). Once so, this hadith was strongly judged by al-Nawawy based on its path and also approved by Ibn Rajab in his book, Jaami ' al-'ulumWa al-Hikam, Jld. IV, H. 217. This hadith is also narrated by Imam Ahmad in his Musnad-with Lafazh which is slightly different-and Imam Malik in his Muwaththa '. Shaykh al-Buushiiry in his book Mishbaahaz-Zujaajahfiizawaa'id Ibn Maajah states, the Sanad is supported by the narrators of the quality of Tsigaat, only that he munqathi ' (disconnected Sanadnya line) as discussed in the discussion Chapter ' Whoever sells the palm tree. Also narrated by Imam Ahmad in his Musnad, Imam al-Shaafi'ah in his MusnadMursal as well as by al-BaihaqyMarfu ' from the line of Muhammad ibn Abi Bakar of Fudlail ibn Sulaiman, then (al-Baihaqy). Pose a danger.
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74. Ahmad bin Muhammad al-Zarqa, h.172*Ibid.*,h. 155
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78. Ahmad bin Muhammad al-Zarqa, ... h. 227
79. Muhammad Siddiq bin Ahmad al-Burnu, h.193
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82. JaihMubarok, *FikihMu'amalahMaliyyah; AkadJual-Beli*, (Bandung: SimbosiaRekatama Media, 2017), h.102
83. Abdul Azim Islahi, *KonsepEkonomiIbnuTaimiyah*, (Surabaya: Penerbit Bina Ilmu, 1997), h.107*Ibid.*
84. M. Abdul Manan, *Teori dan PraktekEkonomi Islam*, (Yogyakarta: Dana Bakti Prima Yasa, 1997), h.156
85. Abu Husain IbnuHajjaj Muslim, *Sahih Muslim*, (Beirut: Dar al-Kutub al-Alamiyah, 1992), h.1227
86. Muhammad Nasiruddin, *Sahih TarghibWa al-Tarqib; Hadis-hadis Sahih TentangAnjuran Dan JanjiPahala, Ancaman Dan Dosa*, (Jakarta: PustakaSahifa, 2008), h. 63
87. Muhammad dan Alimin, *Etika dan PerlindungandalamEkonomi Islam*, (Yogyakarta: BPEF Yogyakarta, 2004), h. 325
88. Fuqahā ' who argued thus from various Sunni Madhhab are: Abu Bakar al-Jashash (Hanafi), Ibn Hazm al-Zhahiri (Zhahiri) and Zain al-'abidin Ali Ibn Husain (Shafi'i) QS. Al-Baqarah: 2: 275:
a. الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يُفُومُونَ إِلَّا كَمَا يُفُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلَ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ ٢٧٥
89. Meaning:Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah . But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein.**QS. Al-Nisa: 4: 29:**
a. يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا ٢٩
90. Meaning: O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful.
91. Usamah Yusuf al-Juzar, *al-'Uqud al-'Ajilah fi al-Iqtishad al-Islami al-Badil*, (Gaza: Islamic University of Gaza, 2009), h. 17-18
92. They are Hanafiyah, Malikiyah, Shafi'iyah and Hanabilah.
93. Sami ibn Ibrahim al-Swailim, *MadkhalilaUshul al-Tamwil al-Islami*, (Beirut: Markaz al-Nama' Li al-Buhutsa al-Dirasat, 2013), h. 101-102

94. Rafiq Yunus al-Mishri, *Al-Qaul al-Fashil fi al-Bai' al-ajal*, (Damaskus: Dar al-Qalam, 2007), h. 1 Hadith Urwah ibn Bariqi':

a. عن عروة بن البارقي رضي الله عنه قال: دَفَعَ إِلَيَّ رَسُولُ اللَّهِ -صلى الله عليه وسلم- دِينَارًا لَأَشْتَرِيَ لَهُ شَاةً فَأَشْتَرَيْتُ لَهُ شَاتَيْنِ فَبِعْتُ إِحْدَاهُمَا بِدِينَارٍ وَجِئْتُ بِالشَّاةِ وَالدِّينَارِ إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: بَارَكَ اللَّهُ لَكَ فِي صَفْقَةِ يَمِينِكَ (رواه الترمذی و الدارقطنی وحسنه الشعیب الأرنوط)

95. Meaning: It means from Urwan ibn Bariqi ra said: Rasulullah SAW., handed the money of 1 dinar to me to be bought a goat. Then the money I traded 2 goats. Not long ago, I sold one of them for 1 dinar. Then I brought to the Prophet SAW, a goat and money 1 dinar, and then told the incident to the Prophet SAW., then he prayed, may Allah give you in the transaction that is done by your hand. (HR. Al-Turmudhi (1304), Daruquthni (2861), and Hasan by Sha'aib.)

96. Hadith from Abdullah Zubair *radhiyallahu 'anhuma*, he told:

a. وَكَانَ الرَّبِيزُ اشْتَرَى الْعَابَةَ بِسَبْعِينَ وَمِائَةَ أَلْفٍ ، فَبَاعَهَا عَبْدُ اللَّهِ بِالْأَلْفِ وَسِتِّمِائَةِ أَلْفٍ (رواه البخاری)

b. Meaning: Zubair ever bought wild land for 170.000, then that land sold by his son, Abdullah bin Zubair for 1.600.000 (HR. Bukhari 3129).

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99. Koyama, K., Niwase, K. A linear approximate model of creativity in quantum and chaos theory(2017) NeuroQuantology, 15 (4), pp. 1-9.