

# THE EFFECTS OF MEASURES TAKEN IN THE SCOPE OF THE ISLAMIC PRICE POLICY ON INVESTMENT, PRODUCTION, EMPLOYMENT, AND STABILITY

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## Abstract

Price, investment, production, and employment are among the most important elements of economic structure, and intervention in one of these will affect all other elements. A well-functioning economic structure represents the harmonical and balanced collaboration of all financial factors. Price has decisive power over other elements of the economy. Investment, production, and employment plans are generally closely associated with prices because they are made with a profit index. Although the financial principles of Islam emphasize earnings in a legitimate (*ḥalāl*) manner, its price policy does not directly intervene in the price-determining process.

Various price policies and different economic systems have been followed and applied throughout the history of economics. In the field of economics, some systems favor unlimited freedom through sanctifying the individual and capital, while others, such as capitalism, do not recognize any rules. Also, some systems ignore private

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Ilahiyat Studies

Volume 13 Number 1 Winter/Spring 2022

Article Type: Research Article

p-ISSN: 1309-1786 / e-ISSN: 1309-1719

DOI: 10.12730/13091719.2022.131.234

*Received:* March 5, 2022 | *Accepted:* June 10, 2022 | *Published:* November 22, 2022.

*To cite this article:* Yaka, Zeki. "The Effects of Measures Taken in the Scope of the Islamic Price Policy on Investment, Production, Employment, and Stability." *Ilahiyat Studies* 13, no. 1 (2022): 83-117. <https://doi.org/10.12730/13091719.2022.131.234>

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property without a sense of justice for the community, while mixed systems combine some of these factors. However, none of these economic structures gain accomplishment because of injustice and imposed methods contrary to human nature. Furthermore, they were unable to solve problems of economic origin.

Islamic economics and price policy are fundamentally different from other systems. First, Islamic economics carries the inherent religious characteristics of Islam. It centers on justice and legitimacy and has made the moral principles of religion dominant in economics. The Prophet Muḥammad was the first person to transfer the economic principles of Islam from theory to practice. In this sense, the Medina bazaar had deep meanings beyond being an ordinary or local market. In Islamic economics, instead of directly intervening in prices, the Prophet abolished methods such as profiteering, black markets, prevention (*talaqqī l-rukbān/jalb*), brokerage, deception, cheating, and speculation (*najash*), which led to unlawful profits. Instead, he advocated principles based on legitimacy, established a system relying on supply-demand balance, and organized the market with Islamic moral values. The new economic principles prioritized fair competition, equal opportunity, fair income distribution, and sharing. Islamic finance model, therefore, embraces the principles of a free-market economy. However, there are clear differences between the free-market principles as understood by Islam and the free-market principles that dominate present-day capitalism. First, Islam does not accept destructive competition, any form of monopolization, or unlimited freedom of production and consumption. It also does not attribute economic value to some profits, such as interest and gambling, and instead labels them illegitimate and prohibited (*ḥarām*). Although Islam adopts the principles of a free market economy, it does not allow arbitrary decisions. For this reason, it establishes a realistic price policy without artificial interventions and aims to dominate the economy with preventive measures. The system does not allow the establishment of privileged classes that effortlessly earn money regarding the endeavor of other people.

The measures taken in the scope of price policy affect prices and other elements. Investment, directly associated with prices, has significantly contributed to preserving and improving the balance between production and employment. Sustainable investment, production, and employment are ensured by restraining stocking and high prices that reduce consumption, preserving the supply of goods, price stability, and purchasing power. The balance between production, consumption, investment, and employment has been preserved as an indicator of economic stability and development in this respect. Another privileged aspect of the Islamic price policy is

the inspection of economic elements in integrity with an effective control mechanism called *hisbab*. The requirements of appointed *muh̄tasibs*, who must be competent in understanding the calculations and calibrations, show the seriousness and importance given to economic stability in Islam.

Key Words: Islamic economics, price, investment, production, employment, control (*hisbab*).

## Introduction

Concepts such as production, consumption, employment, price, cost, and shopping are inseparable parts of the economic structure, and any intervention in one of these affects the entire economic structure. Religions and civilizations throughout history have closely followed the price issue and set certain principles because changes in the economic structure and elements deeply affect people and societies.

Islam regulates every aspect of life and has not neglected the economic field. Many verses of the Qurʾān and Sunnah are related to provisions that shape the field of economics. Since the first period of Islamic law (*fiqh*), the provisions handled through various legal sources and chapters continue to be discussed in parallel with economic developments. For example, Kallek addressed the issues of “a fixed price (*narkb*), profit, *hisbab* and state-market relations” in articles and independent studies and revealed the relevant provisions along with the changes that took place in its historical course.<sup>1</sup> In his article, Topal evaluated commercial regulations in a different category from those in classical sources.<sup>2</sup> Turan’s article discussed the issue of

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<sup>1</sup> Cengiz Kallek, “Müzayede,” in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XXXII, 236-238; id., “Narh,” in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XXXII, 387-389; id., “Devlet Piyasa İlişkisi,” in *Bütün Yönleriyle Asr-ı Saadette İslam*, ed. Vecdi Akyüz (Istanbul: Ensar Neşriyat, 2007), III, 343; id., “Hisbe,” in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XVIII, 133-134; id., “Narh Konusuna Yeniden Bakış,” *İslam Hukuku Araştırmaları Dergisi* 7 (2006), 257-276; id., “İhtikar,” in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XXI, 560-565.

<sup>2</sup> Şevket Topal, “İslam Hukukunda Alım Satım Piyasasına Yönelik Bazı Düzümler,” *Din Bilimleri Akademik Araştırma Dergisi* 5, no. 4 (2005), 211-228.

economic competition regarding price stability.<sup>3</sup> Öztürk focused directly on Islamic price policy and deeply analyzed financial practices in the Ottoman period. After a short introduction, he carefully scrutinized the price policies during the Ottoman period in terms of their origin, implementation, validity, and practicality.<sup>4</sup> However, these studies did not mention the market's investment, production, and employment dimensions. At this point, it is appropriate to analyze the implementation of the measures taken within the scope of Islamic price policy regarding investment, production, and employment. The article, therefore, elucidates the disadvantages of direct intervention in market prices without taking the necessary precautions and evaluates the influence of fixed prices determined by the supply-demand balance on economic stability and development.

### 1. General Understanding of Economics in Islam

Islam considers all economic activities within the principles of revelation. All economic actions, including the fulfillment of requirements, the scope of needs, and the legal procedure of financial transactions, must be performed within the framework of revelation. The fulfillment of needs as a legitimate action needs to be conducted in the scope of permissibility (*ḥalāl*) and cleanness.<sup>5</sup> Humans, as needy creatures,<sup>6</sup> constantly ask for things from God.<sup>7</sup> The provisions of Islam orders the fulfillment of needs within a fair economic structure based on mutual consent<sup>8</sup> and legitimate labor.<sup>9</sup> For this reason, a Muslim must think about the legitimacy of profit as much as (or even more than) making a profit in all economic activities.<sup>10</sup>

<sup>3</sup> M. Fatih Turan, "İslam Hukuku Açısından Yıkıcı Fiyat Uygulaması," *Atatürk Üniversitesi İlahiyat Fakültesi Dergisi* 43 (2015), 78-103.

<sup>4</sup> Mustafa Öztürk, "Osmanlı Dönemi Fiyat Politikası ve Fiyatların Tahlihi," *Bellekten* 55, no. 212 (1991), 87-100.

<sup>5</sup> Q 2:168.

<sup>6</sup> Q 35:15.

<sup>7</sup> Q 55:29.

<sup>8</sup> Q 53:39.

<sup>9</sup> Q 4:29.

<sup>10</sup> Q 2:168, 172.

Economic processes are as old as human history and have had to cover basic needs such as nutrition, shelter, and clothing. Economic systems have been institutionalized and shaped by increasing needs and emerging problems. Some of these systems were individual-centered such as capitalism, while some were society-centered such as communism. And some were mixed systems. However, humanity could not find peace because justice was not at the center of these systems. Capitalism, which favors unlimited freedom,<sup>11</sup> and communism, which ignores private property,<sup>12</sup> tried to make the economic structure dominate with methods far removed from justice and contrary to human nature.

Setting a price is closely related to other factors because it directly affects the vitality, stability, and development of economies. Attractive and profitable prices have been among the most important determinants of world trade throughout history. Globally, economic systems have always determined profit-oriented procedures and principles within the framework of their worldview. Since many financial systems other than Islam do not rely on justice, they have caused economic problems rather than solutions.

For example, capitalism, as far from religious and moral aspects, shapes the economic conditions of the present time.<sup>13</sup> Since capitalism has always focused on profitable prices and financial growth in a commercial area, it does not pay attention to principles or morality. For this reason, the profit motive has been expressed as “the fuel of the capitalist machine.”<sup>14</sup> The history of colonialism, which was built on the blood of countless innocents and has caused unforgettable humanitarian dramas, is the greatest proof of this truth.<sup>15</sup> The confession of the historian of capitalism Sombart (1863-

<sup>11</sup> Murat Çetin, *İktisadi Sistemler* (Istanbul: İstanbul Üniversitesi Açık ve Uzaktan Eğitim Fakültesi, 2010), 28.

<sup>12</sup> *Ibid.*, 179.

<sup>13</sup> Hayrettin Karaman, *İş ve Ticaret İlmihali* (Istanbul: İz Yayıncılık, 2012), 338; Temel Hazıroğlu, *Katılım Ekonomisi* (Istanbul: İz Yayıncılık, 2017), 88-91.

<sup>14</sup> Şevki Özgener, “Ekonomik Sistemler ve Ahlak,” *Süleyman Demirel Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi* 5, no. 1 (2000), 178.

<sup>15</sup> Metin Ünver, *Sömürgecilik Tarihi* (Istanbul: İstanbul Üniversitesi Açık ve Uzaktan Eğitim Fakültesi Tarih Lisans Programı, 2010), 7-10; Ahmet Gündüz, “Sömürgecilik Kavramı ve Sömürgeci Devletlerin Uyguladıkları Taktikler: Ortadoğu Örneği,” *Tarih Okulu Dergisi* 9, no. 25 (2016), 764-765.

1941) is important in terms of showing the source of the Western economy and civilization when he states: “We have become rich because races and nations have completely died for us, the continents have become desolate for us.”<sup>16</sup> For this reason, capitalism, which is always adjusted to earn more, and communism, which enslaves all individuals for its system, have been the source of problems rather than the solution to economic problems. Regarding the present concepts of modernity, governments with technological and economic superiority aim to continue their colonial actions, which are incompatible with humanity’s interests.<sup>17</sup>

As a profit-oriented method, capitalism involves some disadvantages, including waste of resources, excessive consumption, environmental pollution, injustice in income distribution, low wages, unemployment caused by developing technology, and the abstraction of the trade from religious and moral principles.<sup>18</sup> Although the communist system declares war against original capital and private property to eliminate unemployment, it destroys the free competition with its centralized and imposed method and causes unforeseen economic and social problems.<sup>19</sup>

It is important to note that humanity has solutions and alternatives. The purpose of the present paper is to show that Islamic economics has the power to offer the most realistic solutions to the problems caused by capitalism and communism. Considering the emerging financial problems and the wide importance of the subject, it is obvious that previous studies are insufficient. Islamic measures, therefore, pay attention to the determination of price, investment, production, and employment aspects. It can be assumed that economic development, especially price stability, sustainable

<sup>16</sup> Ahmet Tabakoglu, “İktisat ve Ahlak,” in *İnsan, Ablak ve İktisat*, ed. Musa Kâzım Arıcan, Muhammed Enes Kala, and Yunus Emre Aydınbaş (Ankara: Türkiye Yazarlar Birliği Yayınları, 2018), 65.

<sup>17</sup> Filiz İrge, “Gelişmiş Kapitalizm Eşliğinde Yeni Sömürgecilik,” *Trakya Üniversitesi Sosyal Bilimler Dergisi* 6, no. 1 (2005), 49-51, 76.

<sup>18</sup> Özgener, “Ekonomik Sistemler ve Ahlak,” 179-182; Deniz Altınbaş, “İnsanlığa Karşı Suçlar ve Yeni-Sömürgecilik,” *Uluslararası Suçlar ve Tarih* 11, no. 12 (2011), 37, 53-54.

<sup>19</sup> Özlen Hiç, “Ekonomik Sistemler ve Rejimler,” *Journal of Emerging Economies and Policy* 2 (2017), 124-136; Özgener, “Ekonomik Sistemler ve Ahlak,” 183-186.

economy, and development, is only possible with an integrationist approach.

## 2. An Overview of Islamic Price Policy

Islamic financial system aims to establish judgmental and natural standards for trade and to preserve its validity for Muslims in every era. In economic markets where the state is considered an organizer, prices are adjusted according to free market conditions and fair competition.<sup>20</sup> Islamic economics is far from a purely profit-oriented system and unrealistic price policies. The financial provisions of Islam offer permanent and natural solutions rather than artificial and temporary measures. The solutions regulate the economic structure, which includes prices, investment, production, and employment, and become the source of trust and stability. These principles also prepare the most suitable ground for “sustainable development and economy” in the present day.<sup>21</sup>

The Islamic understanding of economics and price policy were put into practice for the first time in the Medina market under the guidance of the Prophet. Islam ended many nonprincipled market practices of Jewish and polytheist peoples.<sup>22</sup> Islamic provisions prohibit particular financial transactions that provide unilateral gains and lead to destructive competition such as interest,<sup>23</sup> black market, usury, and profiteering (*ihtikār*) since they are considered sources of cheating, corruption, and injustice.<sup>24</sup> For example, unfair competition is considered the reason for destructive price practices.<sup>25</sup> With these preventive measures, Islam aimed to solve problems related to price

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<sup>20</sup> Fatih Kazancı, “Serbest Piyasa Ekonomisi ve İslam Ekonomisi Üzerine Karşılaştırmalı Bir Analiz,” *Uluslararası İslam Ekonomisi ve Finansı Araştırmaları Dergisi* 2, no. 3 (2016), 162.

<sup>21</sup> M. Harris Jonathan, “Basic Principles of Sustainable Development” (Working Paper., Massachusetts: Tufts University, 2000), 4-8; Onur Yeni, “Sürdürülebilirlik ve Sürdürülebilir Kalkınma: Bir Yazın Taraması,” *Gazi Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi* 16, no. 3 (2014), 183-186.

<sup>22</sup> Murat Sarıcık, “Cahiliye Döneminde Arap Yarımadası Panayırları,” *Süleyman Demirel Üniversitesi İlahiyat Fakültesi Dergisi* 31 (2013), 112-120.

<sup>23</sup> Q 2:275.

<sup>24</sup> Q 4:29; Q 83:1-6.

<sup>25</sup> Turan, “İslam Hukuku Açısından Yıkıcı Fiyat Uygulaması,” 80.

instability, production-consumption imbalance, investment, and employment.

Islam also abolishes the monopoly, which prevents free competition and fuels artificial price increases by not allowing unjust profits other than labor.<sup>26</sup> Islamic provisions evaluate economic initiations in integrity with the dimensions of investment, production, and employment rather than limited elements such as price and finance.

Although Islam prioritized the formation of prices regarding market conditions, the system paid attention to inspection. Commercial experiences show that in an uncontrolled market, competition disappears, monopolization and stocking increase, and stability deteriorates<sup>27</sup>, which causes serious losses in production, investment, and employment. No one wants to invest and produce in an environment where the future is uncertain and unstable. The lack of necessary investment, production, and employment has been considered the source of high inflation, high cost, unemployment, poverty, and many social problems.<sup>28</sup>

The Prophet implemented a measure in the scope of the price policy that is considered the driving force of investment, production, and employment without compromise. These inspections were conducted by special officials called *muhtasib* in later times.<sup>29</sup> The *hisbab*, the inspiration for the present-day municipal police, initially only conducted market inspections but became an inspection institution covering all areas of social life over time.<sup>30</sup> Stable inspections prevented artificial price increases such as interest, profit, and the black market and forestalled fluctuations in investment, production, and employment.

<sup>26</sup> Q 53:39.

<sup>27</sup> Tabakoğlu, "Osmanlı Ekonomisinde Fiyat Denetimi," *İstanbul Üniversitesi İktisat Fakültesi Mecmuası* 43 (1987), 112.

<sup>28</sup> Aykut Bedük, "Güçlü ve Büyük Türkiye İçin Üretim, İstihdam ve İşsizlik Politikaları," *SÜ İİBF Sosyal ve Ekonomik Araştırmalar Dergisi* 4, no. 7 (2004), 40.

<sup>29</sup> Muhammed Hamidullah, *İslam Peygamberi*, trans. Mehmet Yazgan (İstanbul: Beyan Yayınları, 2015), 801; İbrahim Sarıçam, *Hız. Muhammed ve Evrensel Mesajı* (Ankara: Diyanet İşleri Başkanlığı Yayınları, 2002), 310; Kallek, "Hisbe," 133, 134.

<sup>30</sup> Kallek, "Hisbe," 140.



In addition to auditing the market, increasing the supply of goods was necessary to ensure price stability. The second Caliph, ‘Umar ibn al-Khaṭṭāb (d. 23/644), supported measures to prevent excessive price increases. He planned to increase the supply of goods with imports from Syria, Palestine, and Egypt to reduce the increased prices because of famine.<sup>31</sup>

### 3. Intervention in Prices in Islamic Economics: *Narkh*

In the dictionary, *narkh/tas‘ir* means setting a price to limit the selling price of a good.<sup>32</sup> As a legal term, it means: “[d]etermining prices and setting an upper limit for some basic needs by the head of state or the officials appointed by him regarding the public interest.”<sup>33</sup> Having professional commercial experience, the Prophet did not directly intervene in prices but interfered in the causes that negatively affected prices since he knew the problems resulting from intervention in prices.<sup>34</sup> As a result of the famine in the 8<sup>th</sup> year of the Hegira, prices in Medina were very high. Upon the request of the Companions of the Prophet to intervene in prices, the Prophet said: “... Indeed, it is only Allah who determines the prices, gives famine and abundance, and provides sustenance. I do not want to meet my Lord when He asks me for an injustice that I have done to the property and life of any of you.”<sup>35</sup> In another narration, the Prophet said: “Maybe I pray to Allah about this.” and “Maybe it is Allah who makes the prices cheaper and more expensive.”<sup>36</sup>

<sup>31</sup> Kallek, “İhtikâr,” 563; Turan, “İslam Hukuku Açısında Yıkıcı Fiyat Uygulaması,” 87.

<sup>32</sup> Jamāl al-Dīn Muḥammad ibn Mukarram Ibn Manzūr, *Lisān al-‘Arab* (Beirut: Dār Şādir, 1954), IV, 365.

<sup>33</sup> Muḥammad ibn ‘Ali ibn Muḥammad al-Shawkānī, *Nayl al-awṭār fī sharḥ Muntaqā l-akbbār* (Beirut: Dār İhyā’ al-Turāth al-‘Arabī, n.d.), V, 248; Mehmet Erdoğan, *Fıkıh ve Hukuk Terimleri Sözlüğü* (Istanbul: Ensar Neşriyat, 2016), 447; Kallek, “Narkh,” 387-389.

<sup>34</sup> Kasım Şulul, *Ana Hatlarıyla Siyer-i Nebi* (Istanbul: Ensar Neşriyat, 2017), 113; Badr al-Dīn Abū Muḥammad Muḥammad ibn Aḥmad ibn Mūsā ibn Aḥmad ibn Ḥusayn al-‘Aynī, *Umdat al-qārī sharḥ Şaḥīḥ al-Bukhārī* (Beirut: Dār İhyā’ al-Turāth al-‘Arabī, n.d.), I, 82.

<sup>35</sup> Abū Dāwūd, “al-Buyū‘,” 49; al-Tirmidhī, “al-Buyū‘,” 73; Ibn Mājah, “al-Tijārah,” 27; al-Dārimī, “al-Buyū‘,” 13.

<sup>36</sup> Al-Shawkānī, *Nayl al-awṭār*, V, 248.

In the free market economy, the principle of nonintervention in prices is among the most important rules of modern economics.<sup>37</sup> Unlike the present day, the Medina market is perhaps the first systematic free market practice in history. The Islamic free market practice differs from the present-day free market concept in many ways, such as destructive competition, monopoly, excessive individualism, preference for individual interests over public interests, speculative activities, unlimited production, and unlimited consumption.<sup>38</sup> The free market principles applied in the Medina market can be a role model in terms of being implemented centuries ago and prioritizing public interest as well as religious and moral values. The ‘free market’ principles applied in the present day were first based on the principles of Adam Smith, who lived in the 17<sup>th</sup> century.<sup>39</sup>

Islamic schools of law (*madhhabs*) did not support the implementation of a *narkh*, a fixed price, for a functioning market under normal conditions.<sup>40</sup> The scholars (*fuqahāʾ*) claimed that *narkh* undermines the principle of consent by referring to the verse: “O you who believe! Do not use your goods unjustly among yourselves, except for trade based on mutual consent...”<sup>41</sup> The Ḥanafī scholars of the first period evaluated the process as a kind of

<sup>37</sup> Çetin, *İktisadi Sistemler*, 29; Kazancı, “Serbest Piyasa Ekonomisi ve İslam Ekonomisi Üzerine Karşılaştırmalı Bir Analiz,” 162; Şennur Sezgin, “Piyasa Ekonomisinin Şartları ve Özelleştirme,” *Akademik İncelemeler Dergisi* 5, no. 2 (2010), 155.

<sup>38</sup> Kazancı, “Serbest Piyasa Ekonomisi,” 175.

<sup>39</sup> Henry Hazlitt, “Piyasa Ekonomisinin ABC’si,” trans. Fuat Erdal, *Piyasa* 6-7 (2003), 11-15.

<sup>40</sup> Muwaffaq al-Dīn ‘Abd Allāh ibn Aḥmad Ibn Qudāmah al-Maqdisī, *al-Mughnī* (Cairo: Maktabat Ibn Taymiyyah, 1970), IV, 239; Abū l-Ḥasan ‘Alī ibn Muḥammad al-Māwardī, *al-Aḥkām al-sultāniyyah wa-l-wilāyāt al-dīniyyah* (Cairo: Muṣṭafā al-Bābī al-Ḥalabī, 1960), 256.

<sup>41</sup> Q 4:29.

prevention (*ḥajr*)<sup>42</sup> and avoided the practice of *narkh* because of its negative influence over free will.<sup>43</sup>

The flow in the Medina bazaar, established and developed in agreement with the commercial principles of revelation in the second year of the Hegira, was completely in line with Islamic principles. Solutions were sought within the principles of revelation for unexpected situations emerging in the market. For this reason, the Companions of the Prophet, who demanded *narkh* for the prices that rose in the famine in the 8<sup>th</sup> year of the Hegira, did not insist upon the statement of the Prophet: "... it is Allah who makes prices cheaper and more expensive." In addition, there was no need for *narkh* in the early periods since both spiritual and moral values controlled the commercial experience. However, when commercial morality deteriorated and illegal activities, such as profiteering and monopolization, which prevented the natural formation of prices, became common, the state's intervention in prices became inevitable. Based on the principle of public interest (*maslaḥah*), Islamic schools of law considered it legitimate to set a *narkh* when prices increased by speculative and illegitimate means.<sup>44</sup>

Regarding the principle of public interest, the *Majallah* (The Ottoman Code of Civil Law) placed a state authority to intervene in prices on a legal basis<sup>45</sup> with the rule that: "Possession on *ra'yyah* depends on the benefit."<sup>46</sup> By examining the practices of different

<sup>42</sup> *Hajr* means forbidding a person from verbal dispositions; a person who is prohibited such dispositions is called *mahjūr* (i.e. a banned person). In this respect, the restriction is imposed for words, not for actions. See, 'Alī Ḥaydar Khojah Amīnzādah, *Durar al-ḥukkām sharḥ Majallat al-ahkām* (Istanbul: Maṭba'ah-ı Abū l-Ḍiyā', 1912), Art.: 941.

<sup>43</sup> 'Alā' al-Dīn Abū Bakr ibn Mas'ūd al-Kāsānī, *Badā'i' al-ṣanā'i' fi tartīb al-sharā'i'* (Beirut: Dār al-Kutub al-'Ilmiyyah, 2010), V, 129; 'Abd Allāh ibn Maḥmūd ibn Mawdūd al-Mawṣilī, *al-Ikbtiyār li-ta'wīl al-Mukbtār* (Istanbul: Çağrı Yayınları, 1987), IV, 439; Ibn Qudāmah, *al-Mughnī*, IV, 240.

<sup>44</sup> Ibn Qudāmah, *al-Mughnī*, IV, 240; al-Shawkānī, *Nayl al-awṭār*, V, 248; Mohammad Nejatullah Siddiqi, *Ekonomide Devletin Rolü: İslami Bir Bakış Açısı*, trans. Faruk Taşçı (Istanbul: İktisat Yayınları, 2018), 11-13.

<sup>45</sup> Al-Sheikh al-Nizām al-Burhānpūrī (ed.), *al-Fatāwā l-Hindiyah* (known as *al-Fatāwā l-Ālamgīriyyah*) (Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1980), III, 214; Muḥammad Amīn ibn 'Umar ibn 'Abd al-'Azīz al-Ḥusaynī Ibn 'Ābidīn, *Radd al-Mukbtār* (Beirut: Dār al-Fikr, 1992), V, 256, 257.

<sup>46</sup> *Majallah*, Art. 58.

periods, Kallek summarized the reasons and conditions that made the *narkh* mandatory:

1. Increasing the cost of goods or services so high as to harm the public at the level of exorbitant prices (*ghabn-i fāḥish*) according to the Ḥanafis,<sup>47</sup>

2. Expensive prices because of the speculation of manufacturers or sellers,

3. The general need for the necessary goods or services,

4. The failure of the state to cover the public interest by any method other than a compulsorily fixed price,

5. The *narkh* application does not result in the restriction of supplies,

6. As a matter of fairness, consulting the trustable specialists who are chosen among the tradesmen, traders, and financial experts,

7. Assessment of the differences in product quality and service expertise,

8. Regarding the principle that “there is no retaliation for loss or damage,” protecting the interests of both sellers and buyers and ensuring the consent of the parties by leaving a reasonable profit share,

9. That authorities have the character of justice.<sup>48</sup>

Islam commands justice at every opportunity,<sup>49</sup> and also takes the necessary precautions. Islam does not approve of a price that would harm the producer and the supplier because it is based on the principle of not doing injustice to the seller and the customer and does not allow people to be put into trouble with excessively high prices.<sup>50</sup>

An arbitrary *narkh* without justification affects supplying goods and producing and disrupts the economic order of the market.<sup>51</sup> If the

<sup>47</sup> *Ghabn-i fāḥish* is a deception to an extent beyond the discretion of experts and is determined as one-twentieth in *ʿurūd* (i.e., commercial goods), one-tenth in animals, one-fifth in *aqār* (i.e., real estate), and one-fourth or more in money. See, Ali Bardakoğlu, “Gabh,” in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XIII, 268-273; Erdoğan, *Fıkıh ve Hukuk Tertimleri Sözlüğü*, 151.

<sup>48</sup> Kallek, “Narkh Konusuna Yeniden Bakış,” 262.

<sup>49</sup> Q 4:58; Q 16:90.

<sup>50</sup> *Majallah*, Art.: 21, 22, 31, 32, 39.

<sup>51</sup> Ibn Qudāmah, *al-Mughnī*, IV, 240.

producer and investor abandon production and investment because of the fixed price practice, disruptions and instability will be inevitable in the investment, production, and employment chain. This situation causes economic shrinkage, which leads to economic, psychological, social, and moral problems.

Since the Prophet aimed to establish commercial morality, he did not accept the demand for *narkb*.<sup>52</sup> Instead, he took permanent measures that radically prevented artificial price increases. These measures contributed to maintaining the supply-demand balance, improving financial systems, and price stability. The measures were made even more effective with prohibitions of particular practices, including interest, *iḥtikār*, *talaqqī l-rukban*, and brokerage. Since Islamic economics contributes to the preservation of individual and social morality, it is completely different from capitalist systems.<sup>53</sup>

#### 4. Major Measures Taken for Price Stability in Islam

Islam has taken measures to ensure price stability and shape investment, production, and employment. The main measures that ensure confidence and stability in the markets by preventing artificial price increases are as follows.

##### 4.1. Prohibition of Interest (*Ribā*)

*Ribā* literally means increase, multiplication, development, or surplus stipulated for one party in mutual agreements, and is defined in *fiqh* terminology as follows: “When two things of the same type and quantity are exchanged for one another, the excess of the goods accepted for one party is called *ribā*.”<sup>54</sup> The concepts of *ribā* and interest are often used interchangeably in Turkish: “*Ribā* is the infinitive in the dictionary and means to increase, and it is the name of the special surplus called interest.”<sup>55</sup>

<sup>52</sup> Abū Dāwūd, “al-Buyū,” 49; Tirmidhī, “al-Buyū,” 73; Ibn Mājah, “al-Tijārāt,” 27; al-Dārimī, “al-Buyū,” 13; Aḥmad ibn Ḥanbal, *al-Musnad* (Egypt: Dār al-Maʿrifah, 1949), II, 327.

<sup>53</sup> Topal, “İslam Hukukunda Alım Satım Piyasasına Yönelik Bazı Düzenlemeler,” 212-214.

<sup>54</sup> Kamāl al-Dīn Muḥammad ibn ʿAbd al-Wāhid Ibn al-Humām, *Fatḥ al-qadīr* (Cairo: Maṭbaʿat Būlāq, 1316), V, 277; Erdoğan, *Fıkıh ve Hukuk Terimleri Sözlüğü*, 480.

<sup>55</sup> Elmalılı Muhammed Hamdi Yazır, *Hak Dini Kur'an Dili* (Istanbul: Eser Kitabevi, 1971), II, 952-953.

Because of its great harm, interest is prohibited not only in Islam but also by all divine religions, the laws of Hammurabi, and ancient Greek, Roman, and Egyptian civilizations.<sup>56</sup> *Ribā*, among the greatest obstacles to production, investment, and employment in history and today, is a disease damaging economic institutions, businesses, societies, and even states.<sup>57</sup> Interest, described as earning without effort,<sup>58</sup> is the enemy of investment, production, employment, and competition in the age of Jahiliyyah and the present day and is also the source of monopoly and excessive borrowing.

Interest is not just a simple exchange of money between two people. It has many religious, moral, economic, and social implications. If an investor who lacks capital receives interest, s/he will inevitably reflect the cost of interest in prices, which means that prices rise with the pressure of interest rates. It also weakens the competitiveness of those who use interest-bearing loans against those who do not. An entrepreneur who must work unprofitably or with low profit will not be able to cover the increasing costs and will take a loss because s/he cannot compete with large capital and will be eliminated from the market over time, leaving a monopolized market with no competition. As a result, closed businesses, unemployed individuals, and high prices determined by monopolies will cause severe societal problems.<sup>59</sup>

Interest also causes the emergence of privileged classes, namely, usurers who exploit the labor of others without putting in any effort or risk. The spread of usury sets a bad example for capital owners who desire to open production and employment areas with new investments. It directs them to interest earnings that appear effortless and riskless. As a result, many social, economic, and security

<sup>56</sup> İsmail Özsoy, "Faiz," in *Türkiye Diyanet Vakfı İslam Ansiklopedisi (DİA)*, XII, 110-126; Murat Pıçak, "Faiz Olgusunun İktisadi Düşünce Tarihindeki Gelişimi," *Manas Sosyal Araştırmalar Dergisi* 1, no. 4 (2012), 63-75; Mahmut Özdemir, "Fâiz (Ribâ) Kavramına İslamî Bir Yaklaşım," *Eski Yeni* 18 (2010), 67-68.

<sup>57</sup> Özsoy, *Fıkıh Doktrininde Para ve Faiz* (Istanbul: Ensar Neşriyat, 2012), 52; Hazıroğlu, *Katılım Ekonomisi*, 77-78; Özdemir, "Fâiz (Ribâ) Kavramına İslamî Bir Yaklaşım," 70-72.

<sup>58</sup> Özsoy, "Faiz," 110-126.

<sup>59</sup> İsmail Özsoy, "*İslam İktisadında Faiz ve Çağımızda Ortaya Çıkan Problemler*," (PhD diss., Istanbul: İstanbul University, 1991), 49-52; Özdemir, "Fâiz (Ribâ) Kavramına İslamî Bir Yaklaşım," 71.

problems are inevitable due to inadequate investment and employment, unemployment, and price increases.<sup>60</sup>

High inflation, unemployment, and global monopoly destroying competition have become the nightmares of humanity in the present day. Interest is still considered an economic value in the capitalist understanding, which indicates that these problems will continue. For this reason, Islam considers a fair economy legitimate,<sup>61</sup> strictly prohibits interest until the Day of Judgment.<sup>62</sup> However, Islamic provisions praise and encourage many types of mutual assistance, such as benevolent loan (*al-qard al-ḥasan*), partnership (corporation), foundation, and charity. The Islamic financial system also avoided and prohibited the formation of any setting that would require interest.<sup>63</sup>

#### 4.2. Profiteering/Black Market Ban

The linguistic definition of *iḥtikār* means black market, hoarding, profiteering, and monopoly. As a legal term, it means a delay in supplying goods to the market to get more profit by raising prices.<sup>64</sup> The terms *iḥtikār* and the black market are usually used interchangeably. The following comprehensive definition is preferred for *iḥtikār*: “The withdrawal of consumer goods from the market to create shortage which damages the public or with the expectation of increasing prices.”<sup>65</sup>

Islamic provisions do not approve of storing goods, slowing production, and preventing the supply of goods to the market by creating a monopoly to wait for the prices to rise. Although scholars disagree regarding the definition, content, and conditions of *iḥtikār*,<sup>66</sup> they agree on its damage and harmful results.<sup>67</sup> Since the practice of *iḥtikār* might be applied to all needed substances, its possible

<sup>60</sup> Özdemir, “Fâiz (Ribâ) Kavramına İslâmî Bir Yaklaşım,” 67-73.

<sup>61</sup> Q 2:188.

<sup>62</sup> Q 2:275, 276, 278, 279; al-Bukhârî, “al-Ḥajj,” 132; “L-Maghâzî,” 78; Abū Dāwūd, “AL-Manāsik,” 56, 61.

<sup>63</sup> Q 20:20; Q 29:11; Abū Dāwūd, “al-Buyū‘,” 26; al-Bukhârî, “al-Waşāyā,” 22.

<sup>64</sup> Kallek, “İhtikâr,” 560-565; Erdoğan, *Fıkıh ve Hukuk Terimleri Sözlüğü*, 237.

<sup>65</sup> Kallek, “İhtikâr,” 560-565.

<sup>66</sup> Al-Kāsānî, *Badā’i‘ al-šanā’i‘*, V, 129; ‘Abd al-Ghanî al-Ghanimî al-Maydānî, *al-Lubāb fî sharḥ al-kitāb* (Istanbul: Dersaadet Yayınları, n.d.), IV, 166; Ibn Mājah, “al-Tijārah,” 6.

<sup>67</sup> Al-Mawṣilî, *al-Ikhtiyār*, IV, 161.

damage covers financial, social, moral, and psychological areas.<sup>68</sup> Currently, organized protests because of price increases can turn into destructive terrorist acts that spread throughout the country, last for days, and even lead to government and regime changes.<sup>69</sup>

Profiteering can be understood as a sign of a problematic manner and idea incompatible with Islamic norms and values. The Prophet describes this mood as follows: “What a terrible servant a black marketer is. He becomes sad upon learning that the prices are falling and becomes happy upon hearing that they have risen.”<sup>70</sup> This *ḥadīth* states that taking advantage of the sadness of others with the desire to earn more is unacceptable and incompatible with Islamic moral values. Islam aims to share, help, and want for one’s believer brother or sister what s/he wants for himself/herself and to raise individuals who cannot go to sleep when their neighbor is hungry.<sup>71</sup>

The Prophet stated that the black market was also vilified by God and said: “*Jālib* (the merchant who brings goods from far places) is provided with sustenance, and the black marketer is cursed.”<sup>72</sup> Different *ḥadīths* related to the black marketer refer to moral punishments and threats and condemn them with striking expressions such as sinful, perverted, far from Allah’s help, deserving of leprosy and bankruptcy, and hellish.<sup>73</sup> Islamic sanctions for those who performed *iḥtikār* are not only limited to the moral level, but the system imposed administrative and penal sanctions such as disallowing them to merchandise at the market, obligating them to

<sup>68</sup> Kallek, “İhtikâr,” 560-565.

<sup>69</sup> Özge Özdemir, ‘Protestanların Son 10 Yılı: Ekonomik Kriz Sonrası Kitlesele Eylemler Dünyayı Nasıl Etkiledi?’ *BBC News Türkçe*, 25 January 2019, Access: 04.11.2022, <https://www.bbc.com/turkce/haberler-dunya-46686118>.

<sup>70</sup> Muslim, “al-Musaqāh,” 129-130; Ibn Mājah, “al-Tijārah,” 6; Abū Dawūd, “al-Manāsik,” 89; “al-Buyū‘,” 40,47; al-Tirmidhī, “al-Buyū‘,” 40.

<sup>71</sup> Q 59:9; al-Bukhārī, “al-Īmān,” 6; Muslim, “al-Īmān,” 71; al-Tirmidhī, “Şifāt al-qiyyāmah,” 60; al-Nasā’ī, “al-Īmān,” 19; Ibn Mājah, “al-Muqaddimah,” 9.

<sup>72</sup> Ibn Mājah, “al-Tijārah,” 12.

<sup>73</sup> Muslim, “al-Musaqāh,” 129, 130; Ibn Mājah, “al-Tijārah,” 6; Abū Dāwūd, “al-Manāsik,” 89; “al-Buyū‘,” 40, 47; al-Tirmidhī, “al-Buyū‘,” 40.



follow the market prices,<sup>74</sup> and applying various governmental punishments (*ta'zīr*).<sup>75</sup>

Although the Ḥanafīs and some Shāfi'īs consider it abominable to the degree of prohibition (*makrūb taḥrīmī*),<sup>76</sup> because of the skepticism of the relevant evidence, the majority consider it forbidden (*ḥarām*). Al-Kāsānī, another scholar of the Ḥanafī school, was also among those who considered profiteering forbidden.<sup>77</sup> However, storing goods without the intention of raising prices was permissible by the Ḥanafīs in times when there was no famine.<sup>78</sup> Although it is controversial on which goods *ih̥tikār* take place, the following general evaluation has been made:

When there is a social necessity, the storage of all kinds of commodities because of stockpiling that cause serious harm to the public interest is considered within the scope of *ih̥tikār*. However, [some activities such as] the protection and storage of the goods that harvested by a farmer or brought by the *jālib* from far places is not considered *ih̥tikār* by the Ḥanafīs.<sup>79</sup>

Stocking goods and selling them at high prices reduces the quantity and negatively affects production. Decreased production will cause a contraction in employment, destructive competition, and price increase. Today, justifying *ih̥tikār* on the pretext of free market principles does not solve the problem. For this reason, the Prophet warned sellers not to stockpile, and this warning turned into institutional control with the *ḥisbah* organization that was established during the reign of the *al-Kbulafā' al-rāshidūn*.<sup>80</sup>

To prevent *ih̥tikār*, Islamic provisions implement economic measures. Some of the economic measures taken in this context

<sup>74</sup> Al-Mawṣilī, *al-Ikhtiyār*, XV, 162; *al-Fatawā l-Hindiyyah*, III, 214.

<sup>75</sup> Al-Kāsānī, *Badā'i' al-ṣanā'i'*, V, 129; Zayn al-Dīn ibn Ibrāhīm ibn Muḥammad Ibn Nujaym al-Miṣrī, *al-Asbbāb wa-l-nazā'ir* (Cairo: n.p., 1904), I, 121; *al-Fatawā l-Hindiyyah*, III, 214.

<sup>76</sup> Abū l-Ḥusayn Aḥmad ibn Abī Bakr Muḥammad ibn Aḥmad al-Qudūrī, *al-Kitāb* (Istanbul: Salah Bilici Kitabevi, 1975), 197; al-Mawṣilī, *al-Ikhtiyār*, IV, 160-161; Abū Zakariyyā Muḥyī al-Dīn Yaḥyá ibn Sharaf al-Nawawī, *al-Majmū' sbarḥ al-Mubaddbbhab* (Beirut: Dār al-Fikr, 1992), XIII, 44.

<sup>77</sup> Al-Kāsānī, *Badā'i' al-ṣanā'i'*, V, 129; Kallek, "İhtikār," 560-565.

<sup>78</sup> Al-Kāsānī, *Badā'i' al-ṣanā'i'*, V, 129; *al-Fatawā l-Hindiyyah*, III, 213-214.

<sup>79</sup> Al-Qudūrī, *al-Kitāb*, 197; al-Mawṣilī, *al-Ikhtiyār*, IV, 161.

<sup>80</sup> Kallek, "Hisbe," 140.

include the prohibition of meeting the buyer or producer entering the market (known as *talaqqī l-rukbbān*), selling the goods by the city dweller on behalf of the villager,<sup>81</sup> or selling a product before possession (*qabḍ*).<sup>82</sup> Another preventive measure is to import cheap goods from abroad to stabilize prices.<sup>83</sup> However, it is crucial not to prevent domestic production because of imports. Dependence on foreign goods instead of producing has destructive effects on domestic investment, production, and employment, and it can cause high prices because of the pressure of the country from which the import is made in the long term.

#### 4.3. The Prohibition of *Talaqqī l-rukbbān*

*Talaqqī l-rukbbān*, which causes *ih̄tikār* and unfair price increases, is defined as follows: “The merchant in the city meets the peasant or the producer who brings goods to sell to the market on the road and buys what he has without [allovng] him to know the price in the market.” This is also called *talaqqī l-jalab*.<sup>84</sup> This is a precaution aimed at preventing the out-of-town structuring of a monopoly.

In a narration transmitted by ‘Abd Allāh ibn ‘Abbās (d. 68/687-688) regarding the prohibition of *ih̄tikār*, the Prophet said: “The Messenger of Allah forbade meeting the riders on the road (taking their goods before they come to the market) and selling on behalf of the villagers.” The narrator of the *ḥadīth* asked Ibn ‘Abbās: “What is the meaning of the sale of the city dweller on behalf of the villager?” and he replied: “He cannot be a broker to a villager and sell his property on his behalf.”<sup>85</sup> Another *ḥadīth* states: “Do not meet a villager on the way for the sale of goods [that he] brought to the market until they are taken to the market.”<sup>86</sup>

The producer, the buyer, and the public were protected against the monopoly of the merchant with this prohibition. The purpose of a

<sup>81</sup> Al-Bukhārī, “al-Buyū‘,” 58, 64; Muslim, “al-Buyū‘,” 20; Abū Dāwūd, “al-Buyū‘,” 45; al-Tirmidhī, “al-Buyū‘,” 17, 18.

<sup>82</sup> Al-Bukhārī, “al-Buyū‘,” 54, 55; Muslim, “al-Buyū‘,” 30, 35; Abū Dāwūd, “al-Buyū‘,” 65.

<sup>83</sup> Kallek, “İhtikâr,” 560-565.

<sup>84</sup> Ibn al-Humām, *Fatḥ al-qaḍir*, IV, 477; Ibn ‘Ābidīn, *Radd al-mukbtār*, IV, 399; Erdoğan, *Fıkıḥ ve Hukuk Terimleri Sözlüğü*, 561.

<sup>85</sup> Al-Bukhārī, “al-Buyū‘,” 72, “al-Ijārah,” 11, 19.

<sup>86</sup> Al-Bukhārī, “al-Buyū‘,” 71; Muslim, “al-Buyū‘,” 14.

purchaser who meets those on the road is to buy their goods cheaper and then sell them at arbitrary prices without giving them a chance to learn the market prices. This type of monopolistic financial transactions damage customers, producers, suppliers, and other tradesmen who buy and sell goods from them.<sup>87</sup>

The opinions amongst the schools of law vary regarding the validity of transactions made in the form of *talaqqī l-rukbān*. Ḥanafīs consider these transactions abominable to the degree of prohibition.<sup>88</sup> However, if it does not cause any damage to the citizens and does not affect prices, they do not see any harm in meeting the manufacturer or importer outside the city and buying the goods.<sup>89</sup> Mālikīs consider a contract in the form of *talaqqī l-rukbān* valid upon the condition that it must not cause a price increase in the market and it must not go against the interests of the producer, customer, and market.<sup>90</sup> Shāfi'īs evaluate these contracts as forbidden, but together with the Ḥanbalīs who accept the validity of the contract, they give the right of an option (*khiyār al-sharṭ*) to the peasant and producer. If the peasant or the *jālib* realizes that the prices are higher in the market and that s/he is being deceived, they can terminate the contract by using the right of option.<sup>91</sup>

In the present day, the states have taken preventive measures against intermediaries causing unnecessary price increases.<sup>92</sup> Some of the existing practices are occasionally considered within the scope of *talaqqī l-rukbān*, such as the price announcement of the state for

<sup>87</sup> Osman Eskicioğlu, *İslam ve Ekonomi* (İzmir: Anadolu Yayınları, 1999), 120.

<sup>88</sup> Wahbah al-Zuhaylī, *al-Fiqh al-Islāmī wa-adillatub* (Damascus: Dār al-Fikr, 1989), IV, 239.

<sup>89</sup> Burhān al-Dīn Abū l-Ḥasan 'Alī ibn Abī Bakr ibn 'Abd al-Jalīl al-Rushdānī al-Marghīnānī, *al-Hidāyah sharḥ Bidāyat al-mubtadi'* (Egypt: n.p., n.d.), III, 53.

<sup>90</sup> Al-Marghīnānī, *al-Hidāyah*, III, 54; Abū l-Walīd Muḥammad ibn Aḥmad Ibn Rushd, *Bidāyat al-mujtabid wa-nibāyat al-muqtaṣid* (Cairo: Dār al-Ḥadīth, 2004), III, 185; Ibn Qudāmāh, *al-Mughnī*, IV, 165; 'Abd al-Raḥmān al-Jazīrī, *Kitāb al-Fiqh 'alā l-madhāhib al-arba'ah* (Istanbul: Çağrı Yayınları, 1987), XII, 276-277.

<sup>91</sup> Abū Ishāq Ibrāhīm ibn 'Alī al-Shīrāzī, *al-Muhadbdhbab* (Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.), II, 63; Ibn Qudāmāh, *al-Mughnī*, IV, 165; al-Jazīrī, *Kitāb al-Fiqh*, II, 277.

<sup>92</sup> *Resmî Gazete*, "Haksız Fiyat Değerlendirme Kurulu Yönetmeliği," 28 May, 2020, No: 31138; *Resmî Gazete*, "Tüketicinin Korunması Kanunu," Decree No: 6502, No: 28835, 28.11.2013.

some products, including wet tea, hazelnuts, or sugar beet before the harvest since this practice forces the producers to sell their goods cheaply.<sup>93</sup> It can be claimed that there is no need for such concerns if the system considers the costs of production and protects the interest of the producer and the consumer. The prohibition of *talaqqī l-rukḅān* provides a competitive environment and price stability but also protects the system from the pressure of monopoly. The prohibition enables the producer and the *jālib* to receive the return of the labor and encourages the continuity of production and supply of goods. The balances between investment, production, and employment are also preserved regarding this method.

#### 4.4. Prohibition of Selling on behalf of Villagers/Brokerage

The prohibition of *talaqqī l-rukḅān* obviates the possibility of out-of-town attempts of monopoly, while the prohibition of brokerage forecloses the intracity formation of monopoly. Both prohibitions aim to close the road to monopoly, prevent unnecessary price increases, and protect producers, consumers, and suppliers against the risk of being deceived.<sup>94</sup>

In the time of the Prophet, some made it a profession to keep the goods of the peasants in return for the promise of high profits and commissions.<sup>95</sup> The Prophet forbade the practice that prepares the ground for monopoly and earning effortlessly through the labor of others: “The city dweller must not sell on behalf of the villager in the city. Leave people [to themselves]. Allah will provide for them from one another.”<sup>96</sup> Another narration from Mālik ibn Anas (d. 179/795) says: “The city dweller is prohibited from selling on behalf of the villager even if it is his brother or father.”<sup>97</sup>

Although the city dweller’s offer of high price attracts the villager and the *jālib*, it brings disadvantages such as decreasing supply of goods, increasing stocking, damaging competition, or causing price

<sup>93</sup> Hamdi Döndüren, *Delilleriyle Ticaret ve İktisat İlmihali* (Istanbul: Erkam Yayınları, 2012), 232.

<sup>94</sup> *Ibid.*, 230.

<sup>95</sup> Celal Yeniçeri, *İslam İktisadının Esasları* (Istanbul: Şamil Yayınları, 1980), 303-321.

<sup>96</sup> Al-Bukhārī, “al-Buyū‘,” 58, 64; Muslim, “al-Buyū‘,” 20; Abū Dāwūd, “al-Buyū‘,” 45, al-Tirmidhī, “al-Buyū‘,” 17, 18.

<sup>97</sup> Muslim, “al-Buyū‘,” 21.

escalation. Islamic provisions abolish this practice because of leading monopoly and harming equality of opportunity. The statement of *ḥadīth*, “leave the people be,” intends to preserve the natural market flow. The statement, “Even if it is his brother or father, he should not sell on behalf of the villager,”<sup>98</sup> refers to the seriousness of the matter and precautions taken against the possibilities that can be considered as an intervention in the markets. In a market visit, the Prophet addressed those who introduced themselves as “brokers” as “Oh community of merchants!”<sup>99</sup> This address form was interpreted in a way that the Prophet disliked even mentioning the name of the brokerage He abolished.<sup>100</sup>

The legal status of brokers is evaluated differently by the schools of law. Although Ḥanafīs, Shāfi‘īs, and Mālikīs considered their transactions abominable, they accepted the legal validity of the contract. Other schools of law adopt different views on brokerage regarding evaluations related to the scarcity and abundance of the offered goods or the negative influence of practice over the prices.<sup>101</sup> Brokerage, as in the form of middlemen or intermediaries, which does not cause negative effects such as monopoly, stocking, and an increase in prices, is not considered within the scope of the prohibition mentioned above.<sup>102</sup> Ḥanafīs considered its practice permissible upon intermediating for a fixed fee.<sup>103</sup>

Today’s brokers of wholesale and retail vegetable and fruit markets are not considered within the scope of this prohibition as long as they avoid stockpiling and protect the rights of producers and consumers.<sup>104</sup> It is important to state that the balance between economic factors is preserved along with continuing to invest, produce and employ, and protecting the interests of producers and *jālib*.

<sup>98</sup> Muslim, “al-Buyū‘,” 21; Abū Dāwūd, “al-Buyū‘,” 45.

<sup>99</sup> Abū Dāwūd, “al-Buyū‘,” 1; al-Tirmidhī, “al-Buyū‘,” 4; Ibn Mājah, “al-Tijārāh,” 3.

<sup>100</sup> Kallek, “Devlet Piyasa İlişkisi,” III, 343.

<sup>101</sup> Al-Jaziri, *Kitāb al-Fiqh*, II, 277; Döndüren, *Delilleriyle İslam İlmibali*, 873.

<sup>102</sup> Al-Marghīnānī, *al-Hidāyah*, 53.

<sup>103</sup> Abū Sahl Muḥammad ibn Aḥmad al-Sarakhsī, *al-Mabsūṭ* (Beirūt: Dār al-Ma‘rifah, 1978), XV, 115-116; Döndüren, *Delilleriyle İslam İlmibali*, 873.

<sup>104</sup> Döndüren, *Delilleriyle İslam İlmibali*, 873.

#### 4.5. Speculation (*Najash*) Prohibition

*Najash* is defined as “fraudulent bidding, raising the price just to intensify the bargain even if there is no real buyer.”<sup>105</sup> Islam forbids all kinds of deception, cheating, and uncertainty that might harm consent between the parties in contracts. *Najash*, which includes lying, cheating, and deception, is also prohibited in this context. The prohibition is related to an intervention made during bargaining or before the expiration of the discretionary period.

By forbidding *najash*, the Prophet said: “...Do not perform *najash*. No one must bargain over his brother’s bargain.”<sup>106</sup> *Najash* causes economic problems, such as unfair earnings, and damages moral and social structures, such as brotherhood, trust, and righteousness. In a narration from ‘Abd Allāh ibn Abī Awfā (d. 86/705), the Prophet said: “The one who does *najash* performs usury and is a traitor, and [*najash*] is a false fraud that is not *ḥalāl*.”<sup>107</sup> The prohibition was confirmed with different examples in another *ḥadīth*: “Do not escalate the customer. No one must sell over the sale of his brother. Do not send a coin-law over your brethren.”<sup>108</sup>

*Najash* can be made in several different ways. Sometimes the seller makes a deal with a third party and deceives the customer, or sometimes, a third person who does not intend to buy from outside makes *najash* without the knowledge of the buyer and the seller. Sometimes, the seller may make *najash* by lying that the goods are worth more or even that some give more than the spoken price.<sup>109</sup> A different type of *najash* is found in present-day execution offices and auction halls. The participants of the auction buy goods cheaper regarding their confidential agreements, and the seller suffers a significant loss. Legal scholars disapprove of a reverse *najash* practice that aims to decrease the price of goods rather than increase them.<sup>110</sup>

Legal scholars agree that *najash* is forbidden and those who

<sup>105</sup> Al-Marghīnānī, *al-Hidāyab*, 53; al-Jazīrī, *Kitāb al-Fiqh*, II, 273.

<sup>106</sup> Al-Bukhārī, “al-Buyū’,” 58; Muslim, “al-Buyū’,” 12,13; Abū Dāwūd, “al-Buyū’,” 46; al-Tirmidhī, “al-Buyū’,” 65.

<sup>107</sup> Al-Bukhārī, “al-Buyū’,” 60; “al-Shahādah,” 22.

<sup>108</sup> Al-Bukhārī, “al-Buyū’,” 64, 70; Muslim, “al-Nikāḥ,” 51-56, “al-Buyū’,” 11, 12; al-Nasā’ī, “al-Buyū’,” 16.

<sup>109</sup> Ibn ‘Ābidīn, *Radd al-mukbtār*, VII, 305.

<sup>110</sup> Al-Zuhaylī, *al-Fiqh al-Islāmī*, IV, 239; Kallek, “Müzayede,” 236-238.

perform it are sinful.<sup>111</sup> Considering the differences in practice, the schools of law propose various provisions regarding the validity of contracts done by way of *najash*. According to the Ḥanafīs, it is permissible to perform a *najash* sale to find the real value of goods previously sold at a lower price than their market value.<sup>112</sup> The Ḥanafīs, who say that the purpose of *najash* prohibition is to protect parties from damage, consider *najash* permissible for goods sold below their real value and a form of cooperation.<sup>113</sup> Regarding the rulings, the Ḥanafīs evaluate a sale through *najash* as abominable to the degree of prohibition and the Mālikīs, Ḥanbalīs, and Shāfi'īs as forbidden. However, they consider the contract legally valid and give the customer the right of option.<sup>114</sup> The right of option can make up for the injustices to some extent.<sup>115</sup> The deception of people by false and fraudulent tools and unfairly lowering or increasing prices are prevented with the *najash* prohibition. The purpose of prohibition centers on the protection of social peace and commercial morality by preventing unfair acquisitions and preserving market stability and human relations.

#### 4.6. Prohibition of Selling Before Possession (*Qabd*)

*Qabd* enables some contracts to gain legal validity in Islamic law and is linguistically defined as ‘to hold something with one’s hand, to grasp it firmly, to bend and narrow.’<sup>116</sup> Its terminological definition means: “The customer receives what is bought from the dealer, he has the right of disposition on it, and [the possession] removes the barriers between the seller (*bā'i*) and the customer.”<sup>117</sup>

The Prophet applied *ta'zīr* punishments to those who did not obey this prohibition. A narration from Ibn 'Umar states: “We used to buy foods at the time of the Messenger of Allah (PbuH), but before we

<sup>111</sup> Al-Jazīrī, *Kitāb al-Fiqh*, II, 273; Döndüren, *Delilleriyle Ticaret ve İktisat İlmibali*, 235.

<sup>112</sup> Al-Shawkānī, *Nayl al-awṭār*, V, 187; Ibn 'Abidin, *Radd al-mukbtār*, VII, 305.

<sup>113</sup> Al-Jazīrī, *Kitāb al-Fiqh*, II, 273; al-Zuḥaylī, *al-Fiqh al-Islāmī*, IV, 239.

<sup>114</sup> Ibn Qudāmah, *al-Mughnī*, V, 385; al-Shirāzī, *al-Mubadḍabab*, I, 291; Ibn Rushd, *Bidāyat al-mujtabid*, III, 185; al-Jazīrī, *Kitāb al-Fiqh*, III, 273.

<sup>115</sup> Topal, “İslam Hukukunda Alım Satım Piyasasına Yönelik Bazı Düzenlemeler,” 216.

<sup>116</sup> Ibn Manzūr, *Lisān al-‘Arab*, VII, 213.

<sup>117</sup> Al-Kāsānī, *Badā'i' al-ṣanā'i'*, V, 244; Erdoğan, *Fıkıh ve Hukuk Terimleri Sözlüğü*, 282.

sold them, he would send someone to order us to transfer them from the place we bought them to another place.”<sup>118</sup> Another narration of Ibn ‘Umar says: “I saw people who bought food on a lump sum basis during the time of the Messenger of Allah (PbuH). When they tried to sell it (where it is), they would be beaten until they loaded it and transported it (to another place).”<sup>119</sup> The scholars agree on the impermissibility of selling movable goods, especially foodstuffs, before the reception of their possession by the customer<sup>120</sup> because the Prophet said: “Whoever buys food, let him not sell it until he takes possession of it.”<sup>121</sup> Most scholars claim that the food item mentioned in this *ḥadīth* is exemplary and that the prohibition covers all movable goods.<sup>122</sup> Although Abū Ḥanīfah and Abū Yūsuf (d. 182/798) approve the permissibility of disposition of immovable goods before their *qabḍ*, Muḥammad al-Shaybānī (d. 189/805), Zufar ibn Hudhayl (d. 158/775) and al-Imām al-Shāfi‘ī extend the scope of prohibition by not allowing the sale of immovable goods before their *qabḍ*.<sup>123</sup>

Selling a purchased good to someone else before its possession and without transporting it to a new place brings some risks. This prohibition provides disclosure of possible defects related to the quantity, type, and quality of the goods, as well as faults and deficiencies that may occur during the production, packaging, transportation, and storage of the goods. The prohibition also contributes to the prevention of misunderstandings and ambiguities concerning possible defects and faults. It also contributes to employment with additional investments because transporting goods from one place to another often requires additional operations, such as transportation, storage, and portage. Disallowance of deceiving people and exploiting labor prevents the formation of a privileged class, encourages fair competition, and eliminates the inconveniences

<sup>118</sup> Muslim, “al-Buyū‘,” 33; Abū Dāwūd, “al-Buyū‘,” 65; al-Nasā‘ī, “al-Buyū‘,” 57.

<sup>119</sup> Al-Bukhārī, “al-Buyū‘,” 54, 56; Muslim, “al-Buyū‘,” 37, 38; Abū Dāwūd, “al-Buyū‘,” 65; al-Nasā‘ī, “al-Buyū‘,” 57.

<sup>120</sup> Al-Zuḥaylī, *al-Fiḡḥ al-Islāmī*, IV, 411.

<sup>121</sup> Al-Bukhārī, “al-Buyū‘,” 54, 55; Muslim, “al-Buyū‘,” 30, 35; Abū Dāwūd, “al-Buyū‘,” 65.

<sup>122</sup> Kāsānī, *Badā‘i‘ al-ṣanā‘i‘*, V, 234.

<sup>123</sup> Al-Kāsānī, *Badā‘i‘ al-ṣanā‘i‘*, V, 218; *Majallah*, Art. 253.



regarding undelivered goods (because of lack of possession). When the system eliminates uncertainties, the market usually becomes the center of sustainable economic development, trust, and stability.

#### 4.7. Perjury and Prohibition of Cheating

An oath means to show God as a witness about the truthfulness of what a person says or does, and it is used as important legal proof in Islamic legal cases.<sup>124</sup> Muslims are discouraged from making casual and false oaths in the Qurʾān: “*And do not take your oaths as a means of deceiving one another or your feet will slip after they have been firm. Then you will taste the evil (consequences) of hindering (others) from the Way of Allah, and you will suffer a tremendous punishment.*”<sup>125</sup> The Prophet pays attention to the function of the oath and says: “Proving his case with evidence falls on the plaintiff, and the oath falls on the defendant.”<sup>126</sup> Just as lying is strictly prohibited in Islam,<sup>127</sup> it is also forbidden to believe and follow the word of the one who swears everything. A relevant *ḥadīth* states: “Do not obey the mean-spirited who swears a lot.”<sup>128</sup> The Prophet says: “Among the three groups that Allah will not look at on the Day of Judgment is the person who takes an oath using the name of Allah.”<sup>129</sup> Muslims are advised to avoid taking random oaths regardless of their truthiness because another relevant *ḥadīth* states: “Refrain from taking too many oaths in trade because an oath increases the yield but destroys the abundance (*barakah*).”<sup>130</sup>

It is easy and possible to deceive people with false oaths and food fraud by changing the original appearance and quality of the product. Islam does not allow to deceive people with adulterations (*taghshīsh*), such as hiding the wet side of wheat under the dry part,<sup>131</sup> which is the most common deceptivity in the present-day

<sup>124</sup> Q 5:106-108.

<sup>125</sup> Q 16:94.

<sup>126</sup> Al-Tirmidhī, “al-Aḥkām,” 12.

<sup>127</sup> Q 22:30.

<sup>128</sup> Q 68:10.

<sup>129</sup> Al-Bukhārī, “al-Musāqāh,” 5; Muslim, “al-Īmān,” 46.

<sup>130</sup> Al-Bukhārī, “al-Buyūʿ,” 25; Muslim, “al-Īmān,” 46; “al-Musāqāh,” 131.

<sup>131</sup> Muslim, “al-Īmān,” 164; al-Tirmidhī, “al-Buyūʿ,” 74; Abū Dāwūd, “al-Buyūʿ,” 52.

commercial market.<sup>132</sup> Similarly to adulteration, when a poor-quality good in the market is sold with an oath and fraud, unfair profits are made by deceiving people.<sup>133</sup> While the customer is deceived into buying poor-quality goods at high prices, the producers of high-quality goods cannot receive their efforts' worth leads to unfair treatment. All these financial transactions are prohibited because of incompatibility with Islamic business ethics.

The Prophet explicitly prohibits adulteration when visiting the butchers after an Eid prayer: "Sell as you wish but do not mix the meat of dead animals with the meat of slaughtered animals."<sup>134</sup> Changing the dates of expired products and selling them must also be evaluated within the context of adulteration.<sup>135</sup>

People with weak fear of God and belief in the hereafter have always found various ways to deceive people and earn unjustly. The provisions of Islam prohibit all actions aiming at deceiving people regardless of their time, form, subject (whether a firm or a person), or the tools used. As usual in every period, people can face various forms of deception in the present day. The common tricks in commercial markets of the present day include weight deceptions in packaged products, brand imitations, food fraud, adulteration, deceptive advertisements, fake campaigns, or false labels. The Qur'an and Sunnah, therefore, repeatedly warn people against all kinds of cheating and deception.<sup>136</sup>

It may be stated that people can be easily deceived by virtual platforms created by the spread of the internet and digital tools. Therefore, it is important to establish a legal basis and to take preventive measures against these deceptions that deteriorate human health and economic balance. Since the use of the internet and digital platforms increased, and virtual shopping has expanded extremely during the COVID-19 pandemic, people have had negative

<sup>132</sup> *Taghsbīsh* means eliminating purity of something that is pure and sincere by mixing other things. See, Erdoğan, *Fıkıh ve Hukuk Terimleri Sözlüğü*, 534.

<sup>133</sup> Al-Zuhaylī, *al-Fiqh al-Islāmī*, IV, 221.

<sup>134</sup> Asım Köksal, *İslam Tarihi* (İstanbul: Şamil Yayınevi, 1987), VIII, 197.

<sup>135</sup> Muslim, "al-İmān," 43, 164; al-Tirmidhī, "al-Buyūʿ," 74; Abū Dāwūd, "al-Buyūʿ," 52.

<sup>136</sup> Q 6:152; Q 6:85; Q 11:84-86; Q 17:35; Q 26:181,182; Q 55:7-9; Q 83:1-6; al-Tirmidhī, "al-Buyūʿ," 4; Ibn Mājah, "al-Tijārah," 1.

experiences and faced a great loss of rights.<sup>137</sup> Taking legal measures has become even more important against many actions under the scope of digital crime ranging from shopping to health and social life to entertainment.<sup>138</sup> It is worth mentioning that these measures must be deterrent, dissuasive, and compensatory to eliminate grievances.

Since the spread of fraud disrupts the balance between investment, production, and employment, economic stability will suffer.<sup>139</sup> Therefore, firms supporting substantial investments and producing highly qualified goods occasionally encounter income losses because of unfair competition when their products are imitated and sold cheaply. These firms mainly decide to close their businesses or shift their capital and investments elsewhere.<sup>140</sup> These negative decisions unavoidably cause the spread of social and moral problems as well as the loss of investment, production, and employment.

#### 4.8. Market Control: *Hisbab*

*Hisbab* literally means to calculate, to count, to be sufficient. The institution is legally responsible for protecting general morality and public order according to the principle of ‘enjoin good and forbid evil (*amr bi-l-ma‘rūf naby ‘an al-munkar*).’<sup>141</sup> *Hisbab* is not considered a mere control mechanism for economic markets. In line with the principle of enjoining good and forbidding evil,<sup>142</sup> many issues concerning general morality and public order fall within the scope of

<sup>137</sup> Osman Demir and Adem Esen, “Covid 19’un Yıkıcı Ekonomik Etkileri ve Türkiye Ekonomisinde Dönüşüm İhtiyacı,” *Journal of Emerging Economies and Policy* 6, no. 1 (2021), 92-95.

<sup>138</sup> Burak Cesur Aköz, “Türk Ceza Kanunu Kapsamında Bilişim Suç ve Cezaları ile Örnek Yargısal Kararların Analizi ve Mevzuat Önerileri” (IT thesis, Ankara: Bilgi Teknolojileri ve İletişim Kurumu, 2018), 50-52, 101, 211.

<sup>139</sup> Salih Yıldız and İbrahim Avcı, “Tüketici Temelli Marka Değerinin Taklit Markalı Ürün Algısı Üzerindeki Etkisi,” *Bingöl Üniversitesi Sosyal Bilimler Enstitüsü Dergisi* 9, no. 17 (2019), 196.

<sup>140</sup> Ahmet Kurtaran, “Doğrudan Yabancı Yatırım Kararları ve Belirleyicileri,” *Atatürk Üniversitesi Sosyal Bilimler Enstitüsü Dergisi* 10, no. 2 (2007), 374-376; Hasan Kaymak, “Yabancı Doğrudan Yatırımları Artırmak İçin Teşvikler Gerekli ve/veya Yeterli mi?,” *Maliye Dergisi*, 149 (2005), 87-91.

<sup>141</sup> Kallek, “*Hisbe*,” 133; Yusuf Ziya Kavakçı, *Hisbe Teşkilatı* (Ankara: Atatürk Üniversitesi Yayınları, 1975), 11-13.

<sup>142</sup> Q 3:104, 110, 114; Q 9:71, 112; Q 22:41.

*ḥisbah*'s responsibility. Economic issues and related regulations are also under its control and supervision.<sup>143</sup>

Since the Prophet laid the theoretical<sup>144</sup> and practical foundations<sup>145</sup> of *ḥisbah* under the control of revelation, its practice started with the market controls of the Prophet.<sup>146</sup> Male and female officials were appointed later, whose duty was only supervision and who were called *muḥtasib*. The first official *muḥtasibs* include Saʿīd ibn al-ʿĀṣ ibn Umayyah (d.13/634) in Mecca, ʿAbd Allāh ibn Saʿīd ibn Usayha ibn al-ʿĀṣ, ʿUmar ibn al-Khaṭṭāb, Samrāʾ bint Nuḥayk al-Asadiyyah and Shifāʾ bint ʿAbd Allāh in Medina.<sup>147</sup>

The appointment of women *muḥtasibs* was an extremely important and appropriate practice because of the presence of women as customers and sellers in the markets. This is significant for sellers and the safety of the women shopping in the bazaar. Traps were set for Muslim women in the Banū Qaynuqāʾ market before the Medina market was established. The following events showed the importance of market security and control for women.<sup>148</sup>

In the beginning, the Prophet himself, governors, permanent-temporary officials, many volunteers, and the Companions of the Prophet also served as *muḥtasibs*.<sup>149</sup> *Muḥtasibs*, who would participate in the bazaar-market inspections, were chosen from the competent people who understood the concepts of measurements, weights, and money settings and knew enough calculations to control the price. *Muḥtasibs* were equipped with wide authority, such as:

<sup>143</sup> Cahit Baltacı, *İslam Medeniyeti Tarihi* (Istanbul: Marmara Üniversitesi İlahiyat Fakültesi Vakfı Yayınları, 2016), 109.

<sup>144</sup> Q 3:104, 110; Q 7:199; Q 9:71; Muslim, "al-Īmān," 78, 80; al-Tirmidhī, "al-Fitan," 11; al-Nasāʾī, "al-Īmān," 17.

<sup>145</sup> Al-Tirmidhī, "al-Buyūʿ," 74; Abū Dāwūd, "al-Ījarah," 50; Ibn Mājah, "al-Tijārah," 3, 36.

<sup>146</sup> Muslim, "al-Īmān," 164; Ibn Mājah, "al-Tijārah," 3, 36; Abū Dāwūd, "al-Buyūʿ," 50; al-Tirmidhī, "al-Buyūʿ," 4, 72.

<sup>147</sup> Hamidullah, *İslam Peygamberi*, 801; Sarıçam, *Hz. Muhammed ve Evrensel Mesajı*, 310; Kallek, "Hisbe," 133,134.

<sup>148</sup> ʿAbd al-Malik ibn Hishām ibn Ayyūb al-Ḥimyarī al-Maʿāfirī, *al-Sirab al-Nabawiyyah* (Cairo: n.p., 1974), III, 48, 1974.

<sup>149</sup> Al-Bukhārī, "al-Buyūʿ," 49, 66; Muslim, "al-Buyūʿ," 33; Ibn Mājah, "al-Tijārah," 20.

Intervening in all kinds of corruption and conflicts violating public order, which are frequently faced in commercial and social life, such as cheating in measuring and weighing instruments, all kinds of deceptions in economic transactions, unpaid debts, violations of neighbor rights, and employee-employer disputes.<sup>150</sup>

This control system created in Islam aims to establish the trustable and stable environment sought by commercial markets. A stable financial environment for investors, producers, sellers, and customers will be established with this effective control mechanism when a fair competition environment is protected, cheating and deception are subjected to immediate intervention, artificial price increases are not allowed, and people are protected against unjustified benefits. The institution contributes to the formation of a vibrant market and the satisfaction of all the stakeholders of commerce in terms of prices. It may be possible to strengthen the economic structure and maintain the balance of investment, production, and employment with such a vibrant and active market.

### **Conclusion**

In the Medina market, the principles of revelation were transferred from theory to practice under the supervision of the Prophet. The practice of all transactions based on cruelty, such as interest, deception, unfair taxation, lying, and cheating, was abolished to provide stability in the market. They were replaced by principles based on justice and legitimacy, fair competition, equal opportunity and distribution, and morality dominated trade system.

The present study shows that although Islam favors a free market economy, it also follows a realistic price policy without artificial interventions. Prices are not formed by direct intervention in Islamic economics but by the principle of spontaneous formation within supply-demand balance and fair competition. The free market understanding of Islam and the free market understanding of present-day capitalism are clearly different. Destructive competition, monopoly, deceptive advertising tricks, rent economy, interest, and

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<sup>150</sup> Fahreddin Atar, *İslâm Adliye Teşkilâtı* (Ankara: Diyanet İşleri Başkanlığı Yayınları, 1979), 170-175.

illegitimate transactions are not evaluated as part of the free market understanding of Islam.

The present study showed that Islamic economic principles are sufficient to create a fair and principled financial market by preserving the balance of investment, production, and employment without wasting resources. Fifteen centuries of experience support that the measures taken within the scope of Islamic price policy can provide solutions to current problems in determining fair prices and balancing investment, production, and employment. Commercial actions based on money-goods exchange in the markets are only the visible part of the economy. The invisible part of Islamic price policy covers a harmonious unity of many economic factors such as investment, production, employment, and labor within the scope of Islamic price policy.

Moreover, since economic relations have become more complex and compulsory in the present day, it is wrong to evaluate the economy regarding only price policy. Attention must be paid to investment, production, and employment factors to make a sound evaluation and solve problems stemming from economics. Evaluating this integrity can greatly contribute to development and increase the welfare levels of societies.

Unlike many economic systems, the price policy of Islam focuses on the causes of price increases rather than directly intervening in prices. In this context, it was also determined that while maintaining the balance of investment, production, and employment, the preventive measures should pay attention to social peace and morality. In Islamic economics, the principle of legitimacy has always been the main starting point. When Islam prohibited illegitimate earning, these prohibitions significantly contributed to maintaining the balance of investment, production, and employment. Stocking, monopoly, brokerage, and the ways leading to these (that prevent people from accessing goods) were closed, and continuity in investment, production, and employment was ensured. It was determined that rights based on labor were secured and that economic imbalance was prevented before it turned into individual and social problems.

The price policy and preventive measures aimed to protect a fair competition environment through equality of opportunity and

contribute to social development by spreading income amongst social segments. Additionally, the ground is prepared to increase the diversity in economic activities and market mobility. It is possible to argue that the positive results obtained by the preventive measures taken within the scope of Islamic price policy are protected by the *hisbah* organization, which is an excellent and functional auditing institution. This way, the effectiveness and continuity of the abovementioned measures are ensured.

### DISCLOSURE STATEMENT

No potential conflict of interest was reported by the author.

### FUNDING

The author received no specific grant from any funding agency in the public, commercial or not-for-profit sectors.

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