

---

## Price Fixation in Islamic Law

Dr. Aayesha Rafiq\*  
Haleema Sadia \*\*

### ABSTRACT

Adl and Qisṭ is indeed a manifestation of God's mercy, rather, it may also be seen as a principal objective of Shari'ah. The origin or sources of administration of justice in Islām are the Quran, Sunnah of the holy Prophet, consensus of opinions of the jurists of Islamic jurisprudence and Analogy (Qiyās).

Justice is a sacred obligation of supererogatory. It is obligatory upon the Muslim rulers to appoint judges for the dispensation of justice to attain equality, to protect the human rights from their violation, to safeguard the lives and properties, and to maintain law and order in society. As a judge is supposed to accomplish a very important and noble task being a regent of Allāh, hence, some vital merits and criteria regarding the conditions and qualifications for the appointment of the Qāḍī or judge in the light of the Qur'ān, Sunnah and Islamic jurisprudence and the code of conduct for the Pakistani judges must be observed at all costs. The author of this paper has discussed these conditions and qualifications in this article.

There are some unanimous conditions for the appointment of judges, while some others are not agreed upon. While presenting the difference of opinions of the Islamic jurists, the author tried to explain, reconcile the opinions and at some places presented her own view in the light of her analysis and arguments. These conditions are around thirty, but the author according to her own discretion chose some of the most important ones to discuss in this paper.

**Keywords:** *Qāḍī, Qadā', the Qur'ān, Sunnah, Islamic jurisprudence, Justice, Conditions for the Appointment of Judges*

---

\* Assistant Professor, Fātimah Jinnah Women University, Rawalpindi

\*\* Lecturer, Mīrpūr University of Science & Technology (MUST), Mīrpūr, AJ&K

## Introduction

Islām has come for the guidance of all mankind. It provides a social system based on the universal justice that condemns injustice and oppression. Islām plays an important role in economic and political spheres of human life and in the character building of society and unites them in one group. It encourages interaction between the societies in order to fulfill their needs. Basically, Islām takes care of economy and maintains the balance between various departments. This article elaborates the concept of Price fixation in Islamic economic perspective, based upon evidences, drawn from Qur'ān and Hadith literature.

Word التسعير (*Tas'ir*) is used in the Arabic language for 'price control' or 'price fixation' it is derived from the root word *si'r* which means the determination of prices.

Price fixation is an important feature of the Islamic economics and it is the specialty of Islamic *Fiqh* that it deals with all fields of life, and the topic of price fixation is also covered. Muslim jurists have played important role in researching and deducing laws of economics and finance. Prices of commodities were fixed in the market as early as pre-Islamic era. Islām approved this social practice with some modification according to Sharī'ah requirements. The unfair business practices were abolished in the light of *Sharī'ah* principles. The jurists developed principles regarding market regulations and laid down the foundation and procedures for it.

The scholars consider hoarding (al-*Ihtikār*) as a big factor in price fixation.

«الاحتكار أن يجلس التاجر السلعة ، ينتظر بما غلاء الأسعار»<sup>1</sup>

*Al-Ihtikār* means 'hoarding' and in Islamic law (*Sharī'ah*) *Fuqahā* define hoarding as monopoly confined merchant item, waiting for the high prices, or restraining of commodities from selling and waiting for

*an increase in prices for the purpose of getting high profits.*

There are two types of price fixation in Fiqh. In the first category, prices are determined by the natural factors. Allāh increases and decreases the prices of goods. There can be no objection or discussion on this kind of price fixation,<sup>2</sup> because it is Allāh, who divides the livelihood (*Rizq*) between the people, and the natural factors determine the price in this system and there is no interference from any person. However, in certain cases, the government fixes the prices of goods and services for the public interest. This price fixation by the government is debatable and is subject to certain conditions. Price control means the control of food prices and its quality and quantity and implementation of fixed prices by the government. All Muslim scholars are unanimous on the point that meaning of price control is the intervention of government for price fixation. It can be done through supervision of the market by the head of state, and this intervention for price fixation is for the administration of justice in the public interest.

Imam Shāfi'ī (150-204 A.H/ 767-820 A.D) defines it as:

«بأن يأمر الوالي السوقة أن لا يبيعوا أمتعتهم إلا بكذا»<sup>3</sup>

*"The government gives the order to sell goods at fixed prices in the market."*

Shawkānī (1173-1255 A.H/1759-1839 A.D) defines it as:

«التَّسْعِيرُ هُوَ أَنْ يَأْمُرَ السُّلْطَانُ أَوْ نُوَابِهُ أَوْ كُلُّ مَنْ وُلِيَ مِنْ أُمُورِ  
الْمُسْلِمِينَ أَمْرًا أَهْلَ السُّوقِ أَنْ لَا يَبِيعُوا أَمْتَعَتَهُمْ إِلَّا بِسَعْرِ كَذَا،  
فَيُمنَعُوا مِنَ الزِّيَادَةِ عَلَيْهِ أَوْ النُّقْصَانِ لِمَصْلَحَةِ»<sup>4</sup>

*The Government gives the order to the seller not to sell their goods but only according to the fix prices for the public interest and forbids from any increase and decrease in price.*

Ibn Taymiyah (661-726 A.H/1263-1328A.D) defines it as determination of price by the government or its deputies, and the buyer and seller are not allowed to increase and decrease the food prices and other items, which are required by the people, taking into account the rights of the parties with justice in the public interest. He defines that it is a compulsion on the people by the head of state that they are forbidden from increasing and decreasing the fixed prices.

Ibn Qayyim (691-751A.H/1292–1350 A.D) expresses the reality of price control in these words that it is for establishing justice and refraining from injustice and it includes pricing of goods and services, both.<sup>5</sup>

All these definitions collectively prove that price fixation comes under *al-Siyāsah al-Sharī'ah* (the Islamic political economy) and it is the authority or right of the government or its deputy to implement it. The head of the state can control the prices of commodities when the public interest demands its implementation. It should always be subject to public interest and necessity.

The price fixation has always remained a complex issue both in advanced and underdeveloped countries. The supporters of the free the markets argue that the market mechanism should play active role in the fixation of prices on the basis of demand and supply. Constant shortages and surplus can be controlled by following the rule of demand and supply.<sup>6</sup>

### **Price Fixation in Islām**

Islām provides a complete code and principles for trade and business. The Holy Prophet (ﷺ) laid down rules and regulations for the free markets, which leave no room for black marketing, profiteering, hoarding, exploitation or deceitfulness.<sup>7</sup>

In Islamic economics, it is very important to control the desire of monopolized the markets by encouraging an atmosphere for a free economy. The basic rule is that, intervention is not

allowed, if the markets are working on normal supply and demand conditions. The Holy Prophet (ﷺ) once said about the import that:

﴿ إِنَّ اللَّهَ هُوَ الْمُسَعِّرُ الْقَائِضُ الْبَاسِطُ الرَّزَّاقُ ﴾<sup>8</sup>

*'Allāh regulates prices and gives shortage, as well as, plenteousness, and He gives livelihood.*

This ḥadīth is used as evidence against price fixations. It is argued that this ḥadīth prohibits intervention, because it will restrain supply of foreign goods and leads to shortage of resources and will create black marketing. The Holy Prophet (ﷺ) encouraged suppliers; because he wants the free markets to prevent deficiency. The principle set by this ḥadīth does not restrain intervention in cases of monopoly. The Holy Prophet (ﷺ) forbids from price controls in normal conditions.<sup>9</sup>

According to the Muslim jurists, if the government intervenes in the markets, it has to fulfill certain conditions: First that only the public authority is empowered to regulate markets. And these authorities can appoint *Muhtasib (ombudsman)*, *Qādī (judge)* or *Vazīr (minister)* for this job. The experts in the field will research and explore real factors behind the unusual price rise, after discussions, the experts will fix the market price maintaining normal profit and cost. Thus, fixed price should be just and fair for the parties to establish mutual consent. And differences of quality should be considered.<sup>10</sup>

The Islamic mechanism, related to price controls is an important part of a general principle of Islamic law, laid down by the *Qur'ān* and *Sunnah*. Mutual respect, mercy and tolerance are basic requirements of Islamic business ethics for buyers and sellers. Therefore, a peaceful bargaining process is encouraged. Thus, abnormal exchange contracts and purchases are discouraged to maintain price stability. It is observed that the aim of price control is to establish stability of prices.

Imam *Gazālī* and *Ibn Khaldūn* has discussed the same view on this issue.<sup>11</sup> Profiteering and monopolies are also illegal. Speculative business, which restrain the sale of the demanded goods to increase the stocks are prohibited by the Holy Prophet (ﷺ). There are penalties for this illegal practice.<sup>12</sup>

However, there are some exceptions to this principle, for example, farmers can retain their produce and sell them whenever they want; craftsmen are free to select the time to sell their goods. These exceptions throw light on the point that profiteering is closely related to that if person stores goods in excess of demand for selling. Producers are discouraged to engage in storing goods. There are certain penalties on this practice.<sup>13</sup> The aim of sanctions is to maintain price stability by bringing hoarded goods into markets. The purpose is to restrain the chain between producers and consumers and to enable consumers to buy goods. The system is established to avoid broker. Moral principles are supported by the penalties so that effective competition can survive and stable prices can be maintained in the markets.

*Ribā* is explicitly defined and prohibited by the Holy Qur'an. *Ribā* and profit have been differentiated. The source of prohibition of *ribā* is *Qur'ān* and *Sunnah*.

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافًا مُضَاعَفَةً وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُفْلِحُونَ﴾<sup>14</sup>

*O ye who believe! Devour not interest involving multiple additions, and fear Allāh that you may prosper*

﴿نَهَى النَّبِيُّ ﷺ عَنْ أَكْلِ الرِّبَا وَمُوكَلِّهِ﴾<sup>15</sup>

*The Prophet (ﷺ) prohibited the one receiving or giving Ribā, (usury)*

The contracts for future goods establish the base for speculative business. The main purpose is to keep wealth in circulation and production process for producing more income, prohibition of *ribā* helps keep prices stable. Islamic guidelines

restrain from extreme behaviors and promote justice in all the fields of life including economy.

### **Opinions of the Muslim Scholars on Price Fixation**

Here, we will discuss views of some classic scholars on price control.

According to Ibn Qayyim and Ibn e Taymiyyah, price control can be for two reasons, if it is for the benefit of the community and is based on justice it is allowed, but if it is based on injustice and *zulm* and for the sole benefit of the seller then it is prohibited.<sup>16</sup>

Practically, we also see and observe in daily life that jobs, which pay high wages for labor attracts the workers, who seek good incomes. Similarly, the crops produces, which generates greater profits, will attract more farmers to cultivate them, as same is the case with the capital.

Mostly, people will invest their capital in that industry where they feel minimum risks, but expect to receive higher profits<sup>17</sup>.

Ibn Taymiyah (661-726 A.H/1263-1328 A.D) wished to establish a norm of legal settlement for financial damages and used the term price of equivalent with an intention to guide a judge. By the term, price, meant a price determined in a market free from imperfection.<sup>18</sup>

Shāh ‘Abd al-Ḥannān expresses price control in the following words:

*"It is the basic responsibility of a state to eliminate the problems of the public. Islamic Government could not fix or regulate price in normal situations. Islām encourages the liberal economy without any limitation, provided, it does not harm others. However, if the traders increase price of products unfairly and in excess by adopting*

*unfair means, then the price of goods needs to be fixed."*<sup>19</sup>

### Arguments of Opponents of Price Fixation in Islamic Law

General rule is that price fixation is (*ḥarām*) prohibited according to the majority of jurists' opinion.

Ḥanafī, Mālikī, Shāfi'ī, Ḥanbalī, Zaydiyah and Imāmīyah are unanimously agreed on the prohibition of price fixation in normal situations, when there is no need of it: It is *ḥarām*.<sup>20</sup> They unanimously agreed on the illegality of price fixation in normal situations<sup>21</sup>.

### Evidences

The Jurists have quoted evidences from *Qur'ān and Sunnah*

#### Quranic Evidences

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالِكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً  
عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا﴾<sup>22</sup>

*Oh ye who believe! Do not devour one another's possessions wrongfully; rather than that, let there be trading by mutual consent.*

In this verse, the word 'al-Bāṭil' means 'wrongfully' and it includes all transactions, which are legally or morally reprehensible or include an element of oppression. On the other hand, 'al-Tijārah' or 'trade' signifies mutual consent of the parties and transfer of benefits between the parties to the contract. 'Mutual consent' means that parties should enter into a contract willingly without any coercion or any kind of pressure. Although bribery and interest apparently represent transactions based on mutual consent, but a closer examination reveals that these transactions actually involve constraint and pressure on one of the parties. In the games of chance, consent is obtained by giving the understanding that there is a possibility of getting high profits. Fraudulent transactions also

seem to be based on the mutual consent of the parties concerned. That kind of consent, however, is based on the false assumption that no fraud is involved in the transaction. If the parties are aware that they would be subject to deception and fraud, they would never consent to a particular transaction.

All property that you have in your possession is a trust property, even if it is in your name, or it belongs to the society, wasting is prohibited in *surah al-Baqrah* verse no 188. Allāh warns us against selfishness and greediness and encourages us to increase property by using it legally. Mawdūdī says this verse imposes a condition of willingness in the business and gives freedom to the seller and buyer, and the price fixation is a restriction of their freedom, so the price fixation is illegal.

### Evidences from Sunnah

«لا يجال مال امرئ مسلم إلا بطيب نفس منه»<sup>23</sup>

*It is not lawful to devour the property of any Muslim, except when he shows his willingness for it.*

Forcing of the seller to sell on fixed price is against this *ḥadīth*

Once prices were increased in the era of the Holy Prophet (ﷺ) and people requested him to fix prices, at that time reason of price fixation was not a fraud or greed or unity of traders for the price increase and exploitation of sellers, but it was due to the increase of demand by the people and the deficiency of the goods in the market. And it is evident that when the supply of something decreases in the markets, people's demand for it rises. So, the Prophet (ﷺ) did not fix the prices. There is a *ḥadīth* reported by Ḥaḍrat Anas Ibn Mālik:

«غَلَا السِّعْرُ فَسَعَّرَ لَنَا، فَقَالَ رَسُولُ اللَّهِ ﷺ: إِنَّ اللَّهَ هُوَ الْمُسَعِّرُ الْقَابِضُ

الْبَاسِطُ الرَّازِقُ، إِنِّي لَأَرْجُو أَنْ أَلْقَى اللَّهَ وَلَيْسَ أَحَدٌ مِنْكُمْ يُطَالِبُنِي بِمُظْلَمَةٍ

و فِي دَمٍ وَلَا مَالٍ»<sup>24</sup>

“The people said, “O, Prophet of Allāh, prices have shot up, so fix prices for us. Thereupon, the Apostle of Allāh (ﷺ) said, Allāh is the one. Who fixes prices, Who withholds, give lavishly and provides, and I hope that when I meet Allāh, none of you will have any claim on me for an injustice regarding blood or property”<sup>25</sup>

In those circumstances, no one was forbidden from buying and selling and no person was forced to buy and sell goods at a higher prices, which are above customary or the market price. The markets in the era of the Holy Prophet (ﷺ) were flexible and based on the principles of justice (al-‘Adālah). The buyer was given the right of option (al-khiyār). The markets were working naturally and smoothly. There were no hoarding and food stuffing. Because of all these factors, there was no need to fix prices and to compel them at fixed prices. Thus, price fixation was against the rules at that time and was considered unjust and hence, forbidden. Due to these reasons, the concept of price fixation was not adopted.

### Legality of Price Fixation in Exceptional Cases

Although the consensus of scholars is that price fixation is *ḥarām* as discussed above, but they differed in giving the government the right to intervene when needed. The scholars have difference of opinions about the permissibility of price fixation in exceptional cases for the protection of the public interest. There are three groups of jurists:

Ḥanafī consider it *Makrūh Tehrīmī*, because reason is that according to them the *ḥadīth* of price fixation is *Khabar-e-Wāḥid* and from *Ahād* cannot constitute illegality, it will be proven by *qaṭ‘ī*.<sup>26</sup>

Shāfi‘ī consider that price control is absolutely forbidden in all circumstances. They did not differentiate between the situation of price rises and price decrease.

Ḥanbalī differentiate between the types of price control<sup>27</sup> some of them such as Ibn Taymiyah and Ibn Qayyim, said that the one constitute an injustice is forbidden, and the one is to achieve justice is allowed.<sup>28</sup>

Imam *Shawkānī* holds that it is prohibited to fix the price because of the possible element of tyranny involved in it.<sup>29</sup> In this case, everyone has their own rights on their properties and the fixing of prices would be an obstacle for them to manage their life. The Imam has the responsibility to look after the public interests of all Muslims and not just looking after the interests of the buyers in a situation of a lower price in the market or alternatively the interests of the sellers in a situation of higher price in the market.<sup>30</sup> Ibn Ḥazm al-Zāhirī scholar (384-456 A.H/994-1064A.D) deny the price fixation absolutely without differentiating the circumstances<sup>31</sup> According to Al-Māwardī, (362-448 A.H/972-1058 A.D) it is not permissible to fix the prices of essential foods whether at a high or low price in the market.<sup>32</sup>

Those scholars, who absolutely deny the price fixation, they follow the literal interpretation of the text of the cited *ḥadīth*, and those who permit price fixation, they adopted *Ijtihād* in the implementation of the text and they gave due consideration to the situations and circumstances, which are mentioned in the text. The Holy Prophet (ﷺ) did not fix the prices because expensiveness was due to decrease in supply and increase in demand, and this was natural by Allāh (S.W) because Allāh provides the sustenance and divides between the individuals. If prices are increased due to act of traders, then it is obligatory on the ruler to interfere and fix the prices in accordance with the text and legal maxims that permit him to do so, for the protection of the public interest and removal of harm.

The jurist did *Ijtihād* on this issue and found that the injustice of traders (*ẓulm*) is the base of price control the text explains that the Holy Prophet (ﷺ) did not fix the prices because it

was not due to act of traders, but it was by nature due to increase of demand and decrease of supply. If it is due to act of traders to gain unlawful profit it is injustice, and injustice is forbidden (*ḥarām*) and removal of injustice is necessary and price fixation is a means for its removal.

Summing up the above discussion, the arguments of opponents of price fixation may be stated as follows;

Firstly, forcing a seller to sell on fixed price is prohibited according to following *ḥadīth*.

*'It is not lawful to devour the property of any Muslim, except when he shows his willingness for it'.<sup>33</sup>*

And the *ḥadīth* of Anas,

*"The people said to Prophet of Allāh; prices have shot up, so fix prices for us. Thereupon the Apostle of Allāh (ﷺ) said Allāh is the one. Who fixes prices, who withholds, give lavishly and provides, and I hope that when I meet Allāh, none of you will have any claim on me for an injustice regarding blood or property"<sup>34</sup>*

Secondly, price fixation is not allowed because people requested for it during the lifetime of the Holy Prophet (ﷺ), which Prophet Mohammad (ﷺ) refused. If it were allowed, the Holy Prophet (ﷺ) would have fixed the prices of goods, but he refused. Thirdly, it is considered as an injustice, and it is *ḥarām* and forbidden, because it is the seller's wealth and he is free to sell it according to his wish. Fourthly, price fixation may lead to increase of prices, and traders will stop selling the goods on low price. Resultantly, there will be an increase in demand, and people will not get the commodity in the market, and it will be dangerous for both, because people will be unable to fulfill their needs, that is why, price fixation is illegal.<sup>35</sup> Fifthly, price fixation leads to price hike, discourages imports and promotes hoarding and food stuffing and

inflicts difficulties on the public. Sixthly, the control of price can be a reason of price increase and the foreign traders will avoid from bringing their goods in the market, if they would be compelled to sell them at low rates. The local traders would store the goods instead of selling them. The people will be unable to fulfill their needs, so they will be forced to pay high rates to get the goods. Both the parties (the sellers and the buyers) would suffer. So, it is declared forbidden. Seventhly, price control does not only restrict freedom of business of companies, but it also becomes a reason of black marketing and needs of consumers remain unsatisfied.

If the *ḥadīth* is the basis of price fixation, then, proper understanding and interpretation of this tradition is necessary and investigation of the circumstances that demand price control are essential. *Ḥadīth* of Anas tells us about the price rise during the time period of the Holy Prophet (ﷺ) but it does not discuss its motives. *Ḥadīth* did not explain the reasons of high prices, whether, it was a result of hoarding or profiteering, and why the Holy Prophet (ﷺ) refused to act even in such conditions. But it can be concluded from Ibn Qūdāmah statements that grains were imported in Medina in that era and prices were already high outside Madīnah, so imposing price fixation on local traders was considered injustice and resulting adverse effects. When we critically examine these two different situations it appears that the motives behind the price rise at that time were natural. The Reality is that the grains were imported from outside and it was the time of famine in Madīnah and refusal of the Holy Prophet (ﷺ) for price fixation was obvious and logical. But if the circumstances were vice versa, for example, if the local traders started to hoard the foodstuff for an increase in the prices, then, price fixation would have been considered permissible. Imam Muslim reports in his *Ṣaḥīḥ*.

«قَالَ النَّبِيُّ ﷺ لَا يَحْتَكِرُ إِلَّا خَاطِئٌ»<sup>36</sup>

*That the Holy Prophet (ﷺ) said that “Hoarding is practiced only by a sinner’*

«سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَخْطُبُ وَهُوَ يَقُولُ: مَنْ اِخْتَكَرَ عَلَى الْمُسْلِمِينَ

طَعَامَهُمْ ابْتَلَاهُ اللَّهُ بِالْجُدَامِ أَوْ قَالَ: بِالْإِفْلَاسِ»<sup>37</sup>

*That the Holy Prophet (ﷺ) said that: ‘one who hoards against the interests of the Muslims, may Allāh inflict him with leprosy and poverty*

A hoarder is a person who purchases goods needed by the public with a view to store them to increase prices. He commits injustice against the community. So, the administration has the authority to force hoarder to sell the food at the market rate when people are in dire need of it. Due to this, jurists opined that if a person needs another person’s food for his survival, he can buy it from him at the customary price even against the will of the owner, and even if he insists on charging a higher price, he is entitled only for the market rate.

The holy Prophet (ﷺ) did not disallow price fixation in all situations, but his prohibition was based on the natural law of demand and supply that can cause price rise, but, in the case of injustice and unfair practices of traders to gain more profit and injure the public interests, it is permitted. When it appears that the traders are involved in the increase of price and hoarding to get profit unlawfully, then, the price fixation is obligatory, because, the denial does not cover this situation. The duty of the state is to protect the public interest of all Muslims and not only the buyer’s interest. It should protect the seller by fulfilling the cost. When an increase of price is due to the traders in the market, then, the state will interfere for the protection of the interest of the Muslims, both buyers and sellers. Its procedure is that the ruler will call a meeting of experts in this field and take suggestions from them and after discussion and satisfaction fix, the prices with their willingness and mutual consent based on protection of rights of buyers and sellers.

## Arguments of the Proponents of Price Fixation in Islamic Law:

The proponents of price fixation give logical arguments and many evidences from texts to support their stance.

### Quranic Evidences

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً  
عَنْ تَرَاضٍ مِّنْكُمْ﴾<sup>38</sup>

*“O ye who believe! Eat not up your property among yourselves in vanities: but let there be amongst you traffic and trade by mutual good will.”*

The selling of something on high prices, while people are in dire need of it, is tantamount to eating of the wealth of others illegally, which is *ḥarām*. Trading is not permitted to devour others wealth (*Ghaṣab*) and to harm the others.

### Evidences from Sunnah

From the ḥadīth of Abdu’llāh bin ‘Umar.

«أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: مَنْ أَعْتَقَ شُرْكَاءَ لَهُ فِي عَبْدٍ، فَكَانَ لَهُ مَالٌ يَبْلُغُ ثَمَنَ  
العَبْدِ فَوَمَّ الْعَبْدُ عَلَيْهِ قِيمَةً عَدْلٍ»<sup>39</sup>

*‘If anyone emancipates his share in a slave and has enough money to pay the full price for him, pay fair price for the slave.’*

This is a ḥadīth in which the Holy Prophet (ﷺ) forbids an extra price of the common slaves. The Holy Prophet (ﷺ) has said that the slave whose ownership is common between two people, if one sells it, then, ownership of other will be finished by paying the market price for that slave, and the other person cannot demand more than the market price.

When the people are in dire need of a certain commodity and the owners refuse selling, but only on high prices, then, in this situation, price fixation is obligatory.

If we leave the people, who are financially strong and free they will increase the prices, and create hurdles for the people to get their basic needs, and it will spread the evil of stealing the others property and murders in the society which is a big evil results out of price fixation, it is evil, and its removal is obligatory by fixation of price.<sup>40</sup>

### Conditions for Price Fixation

Ibn Taymiyah imposed certain conditions for price control and also declared it obligatory in some conditions. If the control of price prevents people from lawful transactions and creates injustice, it is not permitted. On the other hand, if it promotes the administration of justice, in such circumstances, the price control is not only permissible, but it is obligatory. He concludes that when the needs of the peoples could not be fulfilled without implementing the fair price control legislation, then the price control to achieve justice will be implemented.

The followers of *Imām Abū Ḥanīfah*, like the *Mālikītes*, have expressed the same view on price control that if it is necessary for the public interest, then it can be imposed. *Ḥanafī* views are described in the *Hidāyah* in following words:

*“The Sulṭān has no right to fix prices. Because the Holy Prophet (ﷺ) said Allāh is the price-giver and the announcement of price is the right of the trader. So ruler should not intervene except in situations where it is necessary for the public interest. But in case of hoarding, the judge will order the hoarder to sell what is in excess of his needs, which will be assessed generously. The Judge will warn him to refrain from that act. If he is caught again for the same offence, he will be*

*imprisoned, and punished in a way deemed necessary to prevent him from wrongdoing and save the public from harm. If the traders insist on charging higher prices, and the judge (Qāḍī) has no other means of safeguarding the people's welfare except by controlling prices, then he can do so by consulting wise councilors" 41*

## Conclusion

Price fixation is divided into two types, one is based on injustice, which is forbidden and the other is based on justice which is obligatory. When prices increase due to the law of demand and supply without an act of traders, they are doing the business in good manner and according to customary practices without injustice, in this situation price fixation is injustice, and it is *ḥarām* unanimously, but, when prices increase due to the perpetration of traders, they adopt the illegal ways for it and hoard the products and harm the people by their actions then it is mandatory for state to force them to sell on the market price and it is obligatory upon the state, and this view has been chosen by Ibn Taymiyah and his student Ibn Qayyim, also. The prophet's refusal for price fixation is when rise in prices was just and according to normal business transactions, but if people involve in wrong practices and encroaching the wealth of others and put them in problems then price fixation is compulsory.<sup>42</sup>

It appears from above arguments that there are two opinions about government administrative actions for price fixation.

Ibn Ḥazm holds the view that interference of the state for price control is not allowed because price fixation is illegal.

Ḥanafī are of the view that government has the right to interfere and fix the prices when traders increase the prices illegally. The ruler will fix the price by consultation of wise counsellors and forbid from the illegal increase of price.

Abū Ishāq says that a ruler will fix the price of everyday food of the general public and food of animals, as well.

---

Ibn Qayyim said that the state has right to interfere in price fixation, when traders are united to harm the people and increase the price, and the public interest demands price fixation, because it is the duty of the state to supervise the economic system for the public according to their needs. There are many Aḥādīth and legal maxims, which provide the authority to the government for interference and the price fixation with the following conditions.

It is concluded that Islām lays down clear principles for all matters relating to our everyday life. The Issue of price fixation is dealt with in detail by the Muslim jurists and scholars, based upon evidences from the *Qur'ān* and *Sunnah*. The Holy Prophet (ﷺ) prohibited price fixation and the majority of the scholars agree on this principle, but in the case of injustice being done to public by hoarders and businessmen, the government can intervene to fix the prices of commodities for the welfare of the people and to safeguard of the public interest. Those who advocate price fixation they also base their opinion on the principle of safeguarding the public interest.

## References

- 1
- 2 T Mujaddid al-Dīn al-Mubārak Ibn Muḥammad Ibn al-Athīr, *al-Nihāyah fī Gharīb al-Ḥadīth wa al-Āthār*, 2 (Beirut: Al Maktabah al-‘Ilmiyah ), 38.
- 3 al-Shirbīnī, Muḥammad al-Khaṭīb, *Mughnī al-Muḥtāj ilā M’ārifah al-Ma’ānī Alfāz al-Minhāj*, Edition 2<sup>nd</sup>, 2 (Beirut: Dār al-Fikr,1409), 38.
- 4 Shawkānī Muḥammad Ibn ‘Alī, *Nail al- Awṭār*, 5 (Beirut: Dār al-Jīl, 1973), 335.
- 5 Ibn Qayyim al-Jawzīyah, Abū ‘Abdu’llāh Muḥammad Ibn Abū Bakr, *al-Ṭuruq al-Ḥikmiyah fī al-Siyāsah al-Shar‘iyah* (Beirut: Dār, al-Kutūb, 1995), 387.
- 6 Amīr Ḥakīm, ‘Price control Mechanism’, (2008), accessed Feb 14, 2015, <http://alawaiwah.wordpress.com/2008/9/19>
- 7 Ghulām Murtaza, “The Miracle of Islām in Economics”, *Research Papers on Socio Economic System of Islām*, (Lahore: Malik Sons Publishers, 1990), 36-40.
- 8 Abū Dāwūd Sulaymān Ibn al-Ash‘ath, *Sunan Abī Dāwūd*, “Kitāb al-Būyū‘ ”, Bāb fī al-Tas‘īr, 3 (Beirut: Dār al-Kitāb al-‘Arabī), 286, Ḥadīth No. 3453.
- 9 Ibn Taymiyah, *al-Ḥisbāh fī al-Islām* (Cairo: 1318 A.H), 29; Ibn Qayyim, *al-Ṭuruq al-Ḥikmiyah fī al-Siyāsah al-Shar‘iyah* (Cairo, 1317 A.H), 223, 224 & 237, 238.
- 10 al-Bājī Sulaymān Ibn Khālf, *al-Munṭaqā‘*, 3 (Egypt: 1332 A.H), 424, 464.
- 11 Ibn Khuldūn, *Muqaddimah*, 2 (Oxford : Routledge, 1311 A.H), 322, 323.
- 12 Ibn Mājah Abū ‘Abdu’llāh Muḥammad Ibn Yazīd, *Sunan Ibn Mājah*, “*Kkitāb al-Tijārah*”, (Lahore :Kāzī Publications, 1993), Ḥadīth No. 6.
- 13 Orhan Oguz and Ahmed Tabakoglu, ‘An Historical Approach to Islamic Pricing Policy: A Research on the Ottoman Price System and its Application”, *Islamic Econ JKAU*, 3 (1991 A.D.), 65.
- 14 al-Qur’ān, Āl-e-‘Imrān, 3:130
- 15 Imām Bukhārī, *al-Jāmi‘ al-Ṣaḥīḥ* “Bāb al-Ribā” vol.7, 25, Ḥadīth No.1944.
- 16 Ibn Qayyim al-Jawzīyah, *al- Ṭuruq al-Ḥikmiyah*, 189.
- 17 Ozay Mehmata, “*Just Price*”, (2009), accessed 15 Feb, 2015, <http://books.google.com.pk /bookid # 4>.
- 18 Ibn Qayyim al-Jawzīyah, *al- Ṭuruq al-Ḥikmiyah*, 1.
- 19 Shāh ‘Abd al-Ḥannān, *Role of Government in an Islamic Economy*, (2006), accessed March 20, 2015, <http://www.witnesspioneer.org/Articles/economics/role-of-government-in-Islamic-economy.htm:5>.

- 20 al-Marghīnānī *al-Hidāyah*, Vol 8, 127; *Ibn Qudāmah al-Mughnī*, vol 4, 281.
- 21 al-Shirbīnī, *al-Mughnī*, vol 4,161.
- 22 al-Qur’ān, al-Nisā’, 4:29.
- 23 Abū ‘Abdu’llāh, *al-Mustadrak*, vol 3,101.
- 24 Abū Dāwūd Sulaymān Ibn al-Ash’ath, *Sunan Abī Dāwūd*, “Kitāb al-Būyū’ ” , Bāb fī al-Tas’īr, 3 (Beirut: Dār al-Kitāb al-‘Arabī), 286, Ḥadīth No. 3453.
- 25 Abū Dāwūd Sulaymān Ibn al-Ash’ath, *Sunan Abū Dawūd*, Trans. Aḥmad Ḥassan (Lahore: SH. Muḥammad Ashraf, 1984), 982.
- 26 al-Bardsī, *Uṣūl al-Fiqh*, (Egypt: Dār al-Nahzah al-‘Arabiyah, 1969), 77.
- 27 According to Ḥanbalī "Price control is forbidden, and it deprives the people from the economic freedom and they are free in their sale transactions according to their choice" see al-Bhūī Mansūr Ibn Yunus *Kashāf al-Qanā’* , 3 (Makkah: Maṭbah al-Ḥukūmiyah.1394), 187.
- 28 Ibn Qayyim al-Jawzīyah, *al-Ṭuruq al-Ḥikmiyyah* , 257.
- 29 al-Shawkānī, *Nayl al-Awṭār*, vol 5, 247.
- 30 al-Kufrāwī, ‘Auf Maḥmūd, *Dirāsāt fī Takalīf al-Intāj wa al-Tas’īr fī al-Islām* (Egypt: Mu’assisah Shabāb al-Jami’ah, 1985), 158.
- 31 al-Shirbīnī, *al-Mughnī*, vol. 2, 38.
- 32 al-Māwardī, ‘Alī Ibn Muḥammad al-Ḥabīb al-Baṣrī, *al-Aḥkām al-Sultāniyyah wa al-Wilāyah al-Dīniyyah*, (Cairo: Dār al-Fikr: 1983), 256.
- 33 Abū ‘Abdu’llāh *al-Mustadrak*, vol.3, 101.
- 34 Abū Dāwūd, *Sunan Abī Dāwūd*, 982.
- 35 Ibn Qudāmah ‘Abdu’llāh Ibn Aḥmad, *al-Mughnī*, 4 (Dār al-Ḥajar li al-Ṭabā‘at wa al-Nashr wa al-Tawzī‘, n.d), 240.
- 36 Ibn Mājah, *al-Sunan Ibn Mājah*, “Kitāb al-Tijārāt, “Ḥadīth No. 2145
- 37 Ibid, Ḥadīth No. 2146
- 38 al-Nisā’ 4:29.
- 39 al-Būkhārī Abū ‘Abdu’llāh Muḥammad Ibn Ismā‘īl Ibn Ibrāhīm, *Ṣaḥīḥ al-Bukhārī*, “Kitāb al-‘Itq”, 1 (Riyadh: Dār al-Nashr al-Tawzī‘), 469. Ḥadīth No. 2338
- 40 Ibn Qudāmah, *al-Mughnī*, Vol.4, 240
- 41 ‘Allāmah ‘Āynī Badr al-Dīn, *Banāyah Sharḥ al-Hidāyah*, “Bāb ‘Ijz al-Qāḍī ‘An al-Ṣiyānah al-Ḥuqūq al-Muslimīn illā bi al-Tas’īr, 12 (Beirut: Dār al-Kutub al-‘Imiyyah, 2000) 218.
- 42 al-Sharbajī, *al-Tas’īr fī al-Islām*, 430.