

PRICING IN TEGALGUBUG MARKET: AN ISLAMIC PERSPECTIVE

Abstrak

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Latar Belakang. Penentuan harga barang saling menjatuhkan harga antar para penjual demi berebut pembeli.

Tujuan. Studi bertujuan untuk mengetahui hukum dari penentuan harga di Pasar Tegalgubug Kecamatan Arjawinangun Kabupaten Cirebon, Jawa Barat, Indonesia.

Metode. Studi merupakan kajian literatur dan lapangan dengan menggunakan tinjauan hukum ekonomi Islam dalam membaca fenomena yang terjadi di Pasar Tegalgubug.

Hasil. Hasil kajian menunjukkan bahwa terdapat dua pendapat hukum yang berbeda dalam menilai praktik penetapan harga yang terjadi di Tegalgubug menurut perspektif Islam yaitu: Pertama, mereka yang membolehkan penentuan harga beralasan bahwa hal tersebut untuk menjaga kestabilan harga pasar. Kedua, mereka yang melarang adanya penentuan harga yang dilakukan oleh pemerintah atau otoritas lain karena pedaganglah yang lebih berhak untuk menentukan harga.

Kata kunci: hukum Islam, jual beli, penentuan harga

INTRODUCTION

It should be noted that the market in modern times is not a market in the form of buildings in which there are groups of people with merchandise, but what is intended is a market in the broad sense of the exchange of assets between two parties which are not bound by time and place.

When discussing the market certainly will not be able to avoid discussing the price of goods. One resource person interviewed told about the price of goods in Tegalgubug where in order to get many buyers, sellers in Tegalgubug competed to reduce the price of goods to attract buyers. As a result of this behavior, the supply becomes more than the demand which has implications for stalled sales, which in the end the seller is forced to sell goods below the market price so that his merchandise is sold by offering techniques to the buyer where the buyer is generally a customer of other traders. Hearing his customers switch to another seller he finally helped reduce the price of goods below the market price to attract customers back. Because of these sales practices, not a few traders are found to be bankrupt because of continually selling goods without taking profits in order to get as many buyers as possible and try to defeat their competitors. Maybe traders in Tegalgubug practice the hadith of the Prophet Muhammad:

رحم الله رجلاً سمحاً إذا باع، وإذا اشترى، وإذا اقتضى. رواه البخاري

Allah loves generous merchants, buyers and rights holders.

It is important to know that Allah has determined the degrees and fortune and divide the work of his servants, as Allah says:

نَحْنُ قَسَمْنَا بَيْنَهُمْ مَعِيشَتَهُمْ فِي الْحَيَاةِ الدُّنْيَا وَرَفَعْنَا بَعْضَهُمْ فَوْقَ بَعْضٍ دَرَجَاتٍ لِيَتَّخِذَ بَعْضُهُمْ بَعْضاً سَخِرِيًّا (الزخرف 32: 43)

We (Allah) have divided his graces in the life of the world and He has raised their ranks above the others so that they can employ some of them.

Based on the above problem, it can be understood that many traders in the Tegalbugub market are bankrupt because they are competing to reduce prices in order to get many buyers, even though they do not make a profit or even lose money. Therefore, the authors are interested in analyzing how the legal status of market pricing as the case above in the perspective of Islamic law and how the solution to overcome it.

LITERATURES REVIEW

Pricing (*Tas'ir*)

In the discussion of *fiqh muamalah*, buying and selling is divided into 4 types: first, buying and selling goods that can be seen by both parties, such as buying and selling clothes in the market directly. Second, buying and selling which has been characterized by goods such as *as salam* and *istishna*. Third, the sale and purchase of goods that are not in the contract agreement between the two parties, such as the sale and purchase of birds that is still in the wild, which is forbidden because there is a high element of camouflage.¹ Fourth, buying and selling benefits, such as rents.² In the type of buying and selling other than the fourth type, buying and selling has several types (بيع): first, buying and selling *murabahah* (buying and selling profit). Second, buying and selling return on investment. Third, buy and sell losses.³

Etymologically, *tas'ir* (pricing) is derived from the Arabic word *سَعْرٌ يَسَعِّرُ تَسَعِيرٌ*⁴ which has the meaning of determining the price of goods.⁵ Whereas in term, a *tas'ir* is the determination of the price set by the government due to demands, so that sellers are not permitted to sell their goods below or above the fixed price. Whereas according to al-Buthi, *tas'ir* is the price fixing by the state to humans and forcing them to sell and sell according to that price. The above understanding is almost the same as the understanding expressed by Sauki and Ibn Qudamah.⁶

ابن قدامة: "هو أن يقدر السلطان أو نائبه سعرا للناس ويجبرهم على التبايع بما قدره

Tas'ir is the determination of the price of a commodity carried out by the authorities or their subordinates so that the community must follow the specified price.

الشوكاني: "هو أن يأمر السلطان –أو نوابه أو كل من ولي من أمور المسلمين أمرا- أهل السوق أن لا يبيعوا أمتعتهم إلا بسعر كذا، فيمنعوا من الزيادة عليه أو النقصان، لمصلحة.

Tas'ir is an order from a ruler or his representative to a trader to sell his merchandise in accordance with the price set by the government, may not sell cheaper or more expensive than the stipulated price.

الدريني: "هو أن يصدر موظف عام مختص بالوجه الشرعي أمرا بأن تبايع السلع أو تبذل الأعمال أو المنافع التي تفيض عن حاجة أربابها وهي محتبسة أو مغالى في ثمنها أو أجرها على غير الوجه المعتاد والناس أو الحيوان أو الدولة في حاجة ماسة إليها، بثمن أو أجر معين عادل بمشورة أهل الخبرة"

¹Muhammad Ibn Qasim al-Ghazzi, *Fath al-Qarib al-Mujib fi Syarh Alfdh al-Taqrif*, Beirut: Dar Ibn Hazm, 2005, p.163-164.

²Wizarah Auqaf wa al-Syu'un al-Islamiyyah, *al-Mausu'ah al-Fiqhiyyah al-Kuwaitiyyah*, Cairo: Dar al-Shafwah, 2006, v.25, p.192.

³Hasanuddin & Jaih Mubarak, *Fikih Muamalat Maliyyah: Akad jual beli*, Jakarta: Simbiosis Rekamata Media, 2017, p.30.

⁴Ahmad Warson Munawwir, *Kamus Almunawwir*, Surabaya: Pustaka Progressif, 2007, p.633.

⁵Sa'dy Abu Habib, *al-Qamus al-Fiqhy lughah wa Istilah*, Damaskus: Dar al-Fikr, 1988, v.1, p.172.

⁶Nasir Ismail, *al-Tas'ir fi al-Fiqh al-Islami wa al-andhimah al-Wad'iyyah*, Riyadh: Alukah, 2012, p.2.

Tas'ir is a method that limits the price of goods or services that are needed by humans by fixing prices fairly and based on expert agreement.

Based on the description of the experts above *tasir* is the determination of market prices carried out by the government so that traders are not allowed to sell goods at prices that are cheaper or more expensive than the price that has been decided.

The pillars of pricing (*tas'ir*) its limitations, as:⁷ 1) *al-mus'ir*, a judge or his successor who is assigned to represent the government in pricing. Daraini requires this position to be filled by someone who has expertise in the field of pricing; 2) *al-Mus'iru Alaih*, a person who is burdened with pricing, that is, market traders or the general public, and; 3) Goods whose prices are set. According to Ibn 'Irfah, the price of goods that can be set is only for ordinary consumption. Meanwhile, according to Syaokani, all who cover property can be made at fixed price. Even Daraini believes not only property can be priced but also jobs and benefits can be priced. Daraini added that the conditions for price determination are good from goods, something that benefits/services, work that is something that is needed by humans, animals and the state.

In determining the price, the scholars of *fiqh* explained that the pricing has an entity that is different in law in terms of aspects. There are at least 5 forms of pricing as follows: First, initial pricing, namely pricing without cause. Second, determining the price of people who sell cheaper or more expensive than the market price. Third, determining the price of goods being stockpiled. Fourth, price fixing when prices are high/inflation. Fifth, restrictions on buying and selling for certain purposes.⁸ In determining this price only two pricing decisions are discussed namely the first and the second.

Initial price determination that is pricing without cause.⁹ The moslem scholars agree to a prohibition on price setting when it is dangerous for the seller, such as traders being ordered to buy and sell at a fixed price or ordered to buy at a fixed price or at a lower price.¹⁰ Meanwhile, if the price limit for traders does not exceed the price, there will be differences of opinion, as follows: 1) Forbidden, scholars who argue against price fixing are like Ibn Umar, Salim bin Abdullah, predecessor of zahidiyah, Imam Malik in the history of Ibn Qoshim. Shafi'iyah as Zakariya al-Anshori said it was forbidden to set prices even when prices of goods were high/experiencing inflation; 2) *Makruh*, according to the *Hanafiyah* school of fixing prices as said by Ibn Abidin,¹¹ and; 3) Allowed, this opinion was said by Ibn Musayyab, Rabi'ah bin Abdurahman, Yahya bin Said al-Anshori and Imam Malik in the history of *ashab*, the opinion of the *zahidiyah*. The reason of scholars who allow setting market prices is the benefit, which can prevent the seller from raising the high price that in determining the price the benefit includes the good for both the buyer and seller.¹²

The Moslem scholars provide procedures in determining market prices, as follows: 1) how to set prices, Ibnu Habibi argues that the procedure for fixing market prices is that the government/priest gather traders and present other traders to create conducive conditions. Then traders are asked and negotiate prices that are accepted by traders and not force prices that are not granted;¹³ 2) the people who determined the price, Ibnu Habibi explained that the ulama allowed for the pricing of market traders. Whereas wheat importers/distributors may not have market price fixing. And equated importers/distributors of olives, meat, butter and vegetables and the like, and; 3) goods that are included in determining the price, Ibnu Habibi argues that price determination is not based on cotton, steel and not something that is not eaten and does not have a measure because there is no equivalent.

⁷Wizarah Auqaf wa al-Syu'un al-Islamiyyah. *Ibid*, v.11, p.302.

⁸Nasir Ismail. *Ibid*. p.5.

⁹*Ibid*. p.7.

¹⁰Ala' al-Din Abu Bakr ibn Mas'ud al-Hanafi, *Badai' al-Sanai' fi Tartib al-Syarai'*, Beirut: Dar al-Kutub al-Ilmiyyah, 1986, v.5, p.129.

¹¹Ibn 'Abidin al-Hanafi, *Radd al-Muhtar 'ala al-Dur al-Mukhtar*, Beirut: Dar al-Fikr, 1992, v.6, p.399-400.

¹²Wahbah al-Zuhaili, *al-fiqh al-Islami wa Adillatuh*, Damascus: Dar al-Fikr, 2008, v.4, p.2696. Compare Idris & Kamirudin, Analisis harga dan mekanisme pasar dalam persepektif Islam. *Laa Maysir Journal*, 2018, 5, 1, p.115.

¹³Abu 'Umar Yusuf ibn Abdullah al-Qurtubi, *al-Kafi fi Fiqh Ahl al-Madinah*, Riyadh: Maktabah al-Riyadh al-Hadithiyah, 1980, v.2, p.730.

Sauqi Ahmad does not differentiate goods from nature or finished goods such as clothing. Syafi'iyah dan Hanabilah hate transactions in the market which have been determined by the government without cause. In other hand, they also proscribe pricing by government.¹⁴

Pricing to traders who sell goods cheaper or more expensive than market prices.¹⁵ Opinion that allows the determination of prices in the second form refers to Imam Malik who believes that if there are indications that traders want or expect damage to market prices, the authorities must intervene so that market prices remain stable.

Malikiyyah disagreed in limiting market prices in which the Baghdad scholars interpreted the restrictions with the intention of reducing the price of goods.¹⁶ Whereas Basra scholars interpret it by adding selling prices so that it becomes an ideal price. The Ibn Qishar of the *Malikiyyah* cleric compromised both because they contained benefits where when the market price was considered to be too cheap then it was necessary to limit the price threshold and when the price of goods was considered too expensive then a threshold was applied to the market price.¹⁷

The reason for interpreting price restrictions by lowering prices is that the people of Baghdad argued as narrated by Ibn Majin that Umar bin Khattab ordered merchants who sell goods at prices lower than market prices to raise prices according to market prices or to get out of the market. The *Malikiyyah* argument is based on the following hadith:¹⁸

ما رواه في موطنه عن سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّ عُمَرَ بْنَ الْخَطَّابِ مَرَّ بِحَاطِبِ بْنِ أَبِي بَلْتَعَةَ وَهُوَ يَبِيعُ زَبِيبًا لَهُ بِالسُّوقِ فَقَالَ لَهُ عُمَرُ بْنُ الْخَطَّابِ: "إِمَّا أَنْ تَزِيدَ فِي السَّعْرِ وَإِمَّا أَنْ تُرْفَعَ مِنْ سُوقِنَا"

Narrated by Sa'id bin Musayyab that Umar bin Khattab walked and then met Khatib bin Abi Balta'ah who was selling wine, then Umar told him to standardize the price of your merchandise or get out of this market.

Regarding pricing in these forms, scholars such as Syafi'iyah and Hanabilah forbid the practice on the basis of the legal perspective, as the owner of the goods is free to use their wealth or use their assets in the exchange of mutual willingness.¹⁹ This based on the argument of *Naqli* and *Aqli* as below:

قال تعالى: (إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ) [النساء:29]، وقال تعالى: (وَأَحَلَّ اللَّهُ الْبَيْعَ) [البقرة:275].

Allah has justified buying and selling and it is halal when based on willingness.

روى الشافعي عن القاسم بن محمد أن عمر بن الخطاب مر بحاطب بن أبي بلتعة بسوق المصلى وبين يديه غرارتان فيهما زبيب فسأله عن سعرهما، فسعر له مدين بدرهم، فقال عمر: "لقد حدثت بعير مقبلة من الطائف تحمل زبيبا، وهم يعتبرون سعرك؛ فإما أن ترفع في السعر، وإما أن تدخل زبيبا البيت فتبيعه كيف شئت". فلما رجع عمر حاسب نفسه ثم أتى حاطبا في داره، فقال له: "إن الذي قلت لك ليس بعزيمة منى ولا قضاء؛ إنما هو شيء أردت به الخير لأهل البلد، فحيث شئت فبع، وكيف شئت فبع."

¹⁴Wizarah Auqaf wa al-Syu'un al-Islamiyyah. *OpCit*, v.9, p.27.

¹⁵Nasir Ismail. *OpCit*, p.12.

¹⁶Abu Muhammad Abd al-Wahhab al-Maliki, *al-Talqin fi al-Fiqh al-Maliki*, Beirut: Dar al-Kutub al-Ilmiyyah, 2004, v.2, p.152.

¹⁷Abd al-Rahman ibn Muhammad Syihab al-Din al-Maliki, *Irsyad al-Salik ila Asyraf al-Masalik di fiqh al-Imam Malik*, Cairo: Mustafa al-Babi al-Hallabi, v.1, p.85.

¹⁸Ibn Qayyim al-Jauziyyah, *Turuq al-Hikmiyyah*, Damaskus: Maktabah Dar al-Bayan, v.1, p.214.

¹⁹Abu Zakariya Muhy al-Din Yahya al-Nawawi, *Al-Majmu' Syarh al-Muhaz}zab*, Beirut: Dar al-Fikr, v.29, p.13.

al-Syafi'i narrated from al-Qasim bin Muhammad that Umar bin Al-Khattab had passed Hatib bin Abi Balatah in the al-Mussalla market and before him there were two sack of raisins, then Umar asked him about the price of the raisins. Hatib explained that he owed the price of a dirham. After that Omar said: we have heard about the arrival of camels from Taif with raisins, and they consider your price. Either you raise the price or you save it and then sell it as you wish. When Umar returned to his residence he thought again and then came to Hatib at his home, Umar said to him: What I said earlier was not a decision. On the contrary, it is an effort that expects a good for the people in this country. Then where and how you want, please sell as you wish.²⁰

Basically, humans are free to sell their goods without any intervention from anyone. On this basis neither the state nor consumers have the right to set market prices without the seller's willingness. In addition, the determination of market prices also has risks because it can prevent people from buying supplies at affordable prices.²¹

Classic scholars provide details about the seller, which is divided into 2 types: market traders and distributors. As for the market trader, it must follow the market price or not, the provisions as explained above are allowed and prohibited depending on market conditions. While distributors are not prohibited from selling cheaper than market prices as Muhammad's opinion, but Ibn Habib still equates importers with market traders so they must also follow market prices. The reason distributors are allowed to sell goods outside of market prices is because residents of a country or region need goods carried by importers/distributors of commodities that do not exist in their country.²² In other hand, Ibn Habibi still equates it with market traders because it can endanger the market.

Commodities that can be priced have conditions that must be fulfilled, namely: First, goods or services can be eaten and measured,²³ that is food or non-food because according to Ibnu Habibi something that is not eaten and measured has a different shape and is very different. Returned to value/objects not on the equivalent and equalized. on the other hand, Sauqi Ahmad does not distinguish between natural goods and finished goods such as clothing. Second, the commodity is in the form of grains.²⁴

Thus, it can be concluded that the law of determining prices is permissible and prohibited. First, the law of origin of pricing is prohibited because it is an unjust form of pricing and is prohibited in sharia. Second, pricing (*tas'ir*) is allowed because there is a need to perform *tas'ir*, such as returning the market price due to the engineering of certain parties to get a profit incorrectly. Pricing is done by forcing sellers to accept the price set by the state without any particular need is a policy that is not justified by *syara'*. However, if the price fixing creates justice for the whole society, such as stipulating a law not to sell above the official price, then this is allowed and obliged to apply.

Pricing in Tegalbugub market an Islamic perspective

It has already been mentioned about the law of pricing by the government or other institutions that have two laws namely there are those that allow and prohibit the two forms of market pricing that have been outlined. Judging from the background that occurred in the Tegalbugub market as it has been explained that the traders made sales at the lowest possible price to get many customers.

Based on the information above when viewed from the perspective of Sauqi Ahmad that sometimes making a living or work took the form of labor or services and could be in the form of commerce. Sauqi explained that in a trade there are buyers, merchandise, and traders who expect profits.²⁵ When the selling price continues to be made cheap, resulting in traders not getting the ideal profit. This will certainly be detrimental to sellers, farmers, and workers who are involved both in

²⁰Ibn Qudamah al-Maqdisi, *al-Mughni li ibn Qudamah*, Cairo: Maktabah al-Qahirah, 1968, v.4, p.164.

²¹Abu 'Umar Yusuf ibn 'Abdullah al-Qurtubi. *Ibid*.

²²Ibn Qayyim al-Jauziyyah. *Ibid*.

²³Al-Lajnah al-Daimah li al-Buhut al-'Ilmiyyah wa al-Ifta', *Fatawa al-Lajnah al-Daimah al-Majmu'ah al-Ula*, Riyadh: Riasah Idarah al-Buhut al-'Ilmiyyah wa al-Ifta', v.13, p.184.

²⁴Sauqi Ahmad, *Ulama Muslim Wa Ilmu Iqtishod Ibnu Kholdun Muassis Ilm Iqtishod*, 1992, p.72.

²⁵Dar al-Ifta' al-Mishriyyah, *Fatawa Dar al-Ifta' al-Mishriyyah*, Cairo: 1980, v.6, p.98.

trade and in professional staff because according to Ibn Khaldun all markets contain human needs whether primary, secondary, or tertiary needs.²⁶

Market price determination in Tegalugubug is given by the seller, where the majority of the ulemas agree that the price determination is given by the traders, even though there are scholars who allow the price determination to be carried out by the government or market institutions on the grounds of avoiding *dharar*. Seeing the problems that exist in Tegalugubug related to market prices lowered according to their own desires and impact on workers and other parties involved, such as the possibility of being able to determine market prices with the agreement of traders and market associations according to the opinion of Ibn Habibi.

Market prices, according to Ibnu Khaldun, are generally influenced by supply and demand,²⁷ although it must be admitted that there are other factors that also influence market prices. Among other factors that can manipulate market prices are as follows:²⁸

First, the availability of goods (supply). The availability of goods/services in the market will make it easier for people to meet their needs, so the price is relatively always in balance. Vice versa, scarcity of goods will encourage speculation that can result in rising commodity prices. For Ibn Khaldun, when there are few items available, the price of goods will rise. However, if the distance between cities is close and safe to travel, many goods will be imported so that the availability of goods will be abundant, and prices will return to normal.

Second, demand engineering (*Ba'i Najasy*). *Najasy* is a business practice aimed at spiking the price of goods engineered by a third party in which both parties involved in the transaction are still negotiating the price of the goods but the third party interrupts to bargain at a more expensive price.²⁹ Rasulullah SAW forbade this kind of practice because it would only lead to price increases needed by the buyer.³⁰

Third, manipulating the supply (*bai' ihtikar*), namely taking profits beyond normal profits by holding the goods from circulating in the market so that the price is very expensive. Fourth, *Talaqqi Rukban*, this practice is by intercepting people who bring goods from the village and buy the goods before arriving at the market. Rasulullah SAW forbade this kind of practice with the aim of preventing price increases. He ordered that goods be brought directly to the market, so that suppliers of goods and consumers could benefit from appropriate and natural prices.³¹

Fifth, there is a state of boycott (*al-Hasr*), namely the distribution of goods is only concentrated in one seller. Determination of the price here is very necessary to avoid selling these items at a price set unilaterally and arbitrarily by the seller.³²

Sixth, there is a coalition and collusion between sellers (cartels) in which a number of traders agree to conduct transactions between them at prices above or below the normal price. Seventh, *tas'ir* (price fixing) is one practice that is not permitted by Islamic Sharia when market prices occur naturally.³³

Eighth, the ban on taking customs. The imposition of customs duties is very burdensome both for the seller and for the buyer and will only lead to soaring prices of goods that are unfair, therefore Islam does not agree to take profits in this way even for state income. The Messenger of Allah in this regard said, "It will not enter the heaven of those who take customs."³⁴

²⁶Sauqi Ahmad. *Ibid.*

²⁷*Ibid.*

²⁸Idris & Kamirudin. *Ibid.*, p.117.

²⁹Muhammad ibn Ahmad al-Sarkhasi, *Al-Mabsut li al-Sarkhasi*, Beirut: Dar al-Ma'rifah, 1993, v.15, p.76.

³⁰Muslim bin Hajjaj al-Qusairy, *Sahih Muslim*, Beirut: Dar Ihya' al-Turas al-'Araby, tt, vol. 3, h. 1155, hadis no. 1515.

³¹Abu al-Walid Muhammad Ibn Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, Cairo: Dar al-Hadi, 2004, v.3, p.184.

³²Wizarah Auqaf wa al-Syu'un al-Islamiyyah. *LocCit*, v.12, p.275.

³³Wahbah al-Zuhaili, *al-Fiqh al-Islam wa Adillatuh*, Damascus: Dar al-Fikr, v.6, p.6270.

³⁴Abu Abdillah Ahmad bin Muhammad bin Hanbal, *Musnad al-Imam Ahmad bin Hanbal*, Beirut: Muassasah al-Risalah, 2001, vol. 28, p.211, hadis 17001. Compare with Abu Dawud Sulaiman al-Sajistani, *Sunan Abi Dawud*, Beirut: al-Maktabah al-Ashriyah, v.33, p.132, hadis 2937.

Ninth, *Tadlis* (Fraud) which is an ideal condition in a market where sellers and buyers have the same information about goods to be traded so that the possibility of fraud is very small. If the buyer does not have sufficient information as owned by the seller (asymmetric information), then one of the parties will feel disadvantaged and can lead to fraud.³⁵

CONCLUSION

The majority of *fiqh* scholars allow price fixing by traders in Tegalubug on the grounds that the price determination of the goods is the merchant's right. However, the act of competing to reduce prices as the case has an impact on the destruction of market prices has the potential to harm these traders. The best solution to the above phenomenon is by determining market prices based on the agreement of all traders in Tegalubug so that the bankruptcy of traders due to price wars can be avoided.

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