Tas'īr (Price Control) in Islamic Law

Mohamad Hashim Kamali

The market (*sūq* or *bāzār*) has a distinctive place in the history of Islamic civilization. Makkah and Madīnah were major trade centers at the time of the advent of Islam, and the Prophet was himself an active market participant and reformer. There were famous markets—'Ukkāz, Majannah, and Dhū al Majāz—in pre-Islamic Arabia that commonly held fairs during the pilgrimage season. This practice was continued after the appearance of Islam, for when the new Muslims felt that it might be sinful for them to trade in such places (al Zuḥaylī 1984), the following verse was revealed: "There is no sin if you seek the bounty of your Lord (during the pilgrimage)" (Qur'an 2:198).

The main theme here is religious: allaying the fear of indulging in sin. However, it is significant that this potentially sinful activity was referred to in such dignified terms as "seeking the bounty of your Lord." Elsewhere in the Qur'an, we find passages dealing with the market's cultural aspects, such as the verse that asks whether it is proper for the Prophet to mingle with the common people in the market place. The answer received was that prophets, just like everybody else, are free to interact and engage in commercial transactions in the market: "And they say: What sort of a messenger is this, who eats food and walks through the streets? Why has not an angel been sent down to him to be a warner with him?" (Qur'an 25:7) and "And the Messengers whom We sent before you were all (men) who ate food and walked through the streets" (Qur'an 25:20). The second citation refers to market activity in a mainly economic and historical context, one that highlights the market's role in providing foodstuffs and the fact that all prophets mixed with their people on the basis of equality. In other words, they were ordinary men whose spiritual value was not compromised by engaging in market activities.

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These verses characterize Islam's worldview in general and its view of the market's diverse nature in particular. Islam reaffirms its holistic approach to life and informs us that the market is an arena for the combined interplay of culture, religion, economics, and history. This was partly due, perhaps, to the Prophet's own commercial experience and acumen, which he put to good use as his future wife's (Khadījah) trusted agent and that led eventually to the reform of Arabian commercial practices. These reforms sought to purify the market of practices that differed from Islamic ideals of fair play, honesty, and justice. In many ways, a market is like an open theater, for it displays the unfolding of a portion of a civilization's best achievements as well as its worst weaknesses and pitfalls.

One frequent issue is the need to recognize the free market principle: the governing of trade solely by the natural interplay of the economic forces of supply and demand. Only in such a market, it is argued, is one urged to strive and compete with his/her peers in pursuit of better products or services. No market can exist without a profit motive, and the right to make a profit must never be eliminated. Thus a market regulator must be concerned with ascertaining that legitimate profit does not exceed the limits of fair gain and that an individual's greed and desire for profit are controlled. The intention is to ensure that skilled market operators do not take advantage of an unsuspecting customer's ignorance and naivety.

Broadly speaking, one may say that this was the main goal of the new Islamic rules introduced into the Arabian market's economic life. No law dealing with the quantitative limits of profit was promulgated, for profit is the result of supply and demand and so is not a concern of the law. The law's role is limited to ensuring the market's morality, as well as the propriety and fairness of its participants and their activities (i.e., prohibiting fraud and misrepresentation), and implementing precautionary measures to prevent or rectify unfair trading practices.

I shall examine several provisions, mainly as regards price control (*tas'īr*), and highlight some conflicting interests of freedom vs. authority as reflected in relevant Shari'ah provisions. The underlying issue is the extent to which rules on price control may or may not impinge on one's basic freedom to trade and to sell items at the regular market price as opposed to one fixed and imposed by the ruling authorities. The answers provided will show that the intention to preserve the freedom of trade is the overriding factor of the Shari'ah's price control rulings.

The market offers a venue for both the virtuous and the villain. One who sits and mingles aimlessly is known, in common Persian parlance, as a *bāzārī* or a *bāzārgard* (i.e., a person of low personal integrity and esteem). Notwithstanding the great value attached to free marketing and trade, market forces alone cannot always vindicate exemplary values in commerce or culture. The market and its participants are only too willing to follow current economic trends. For example, if people spend more on jewelry and ornaments than on dairy products, this is interpreted as a greater need for the former. As a result, the market reorders its resources and runs the likely risk of sacrificing the majority's genuine benefit (*maṣlaḥah*) for the specious interest of the rich, who can pay for expensive and unnecessary jewelry and ornaments.

Sometimes the prevailing market price does not reflect the public's true interests. For example, the market price of certain goods may not be proportionate to the material and labor costs of their production or may not reflect their social benefit and value (i.e., compare the prices of books with pieces of furniture). Thus the market cannot be left entirely to its own devices. The law has a role to play, even if it means impinging on the ideals of personal liberty and free trade.

Evidence in the Qur'an and the Sunnah

Literally, *tas'īr* means setting the sale price of an item. Jurists have used it to refer exclusively to official decisions on a specific item's monetary price. Sellers and purchasers must obey the ruling, as it has been deemed fair. Any increase or decrease is seen as prejudicial to the buyer, the seller, or the natural flow of supply and demand, upon which normal trade depends (Wizārat al Awqāf 1407/1987; Ibn Qayyim al Jawzīyah n.d.; al Shawkānī n.d.; Zaydān 1402/1982).

While there is no Qur'anic ruling on *tas'īr*, it is seen as incompatible with the Qur'an's approval of the free nature of consent in commercial dealings. The basic authority is the sanctity of private property and the need to trade on the basis of mutual consent: "O ye who believe. Eat not up your property among yourselves in vanities, but let there be among you traffic and trade by mutual good will" (Qur'an 4:29). Some jurists allow *tas'īr* on the grounds of necessity (*ḍarūrah*). The oft-quoted relevant rule is *al ḍarūrah tuqaddaru bi qadrihā* (the legally necessary is determined by the degree of necessity) (Qāsim 1406/1986).

The basic evidence in the Sunnah is the hadith of Anas ibn Mālik:

> At the time of the Messenger of God, the market price rose in Madīnah. The people said, "O Messenger of God, fix the price." He replied, "God is the taker and the disposer, the provider, and the controller of prices. I hope that when I meet Him none of you will have a claim against me for an injury concerning life and property."[1]

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[1]See Ibn Taymīyah, *Public Duties,*, 35. This hadith is reported in the six main hadith collections, except for of al Nasā'ī's. Al Tirmidhī says it is a *ḥadīth ḥasan ṣaḥīḥ*. See al Shawkānī *Nayl al Awṭār*, 232. Abū Dāwūd records that Abū Hurayrah related that a man asked the Prophet: "O Messssenger of Allah. Fix the prices for us." He replied: "You

Commentators have drawn different conclusions from this hadith. One interpretation advanced by Ibn Taymīyah, his disciple Ibn Qayyim al Jawzīyah, and others, is that it does not forbid *tas'īr*. Ibn Taymīyah (1402/1982) says that it addresses a concrete set of circumstances, which is perhaps why it does not convey a binding rule—it is only temporary. He adds that the conditions in Madīnah at that time made a compulsory ruling unnecessary: the food for sale was mostly imported. Local produce was sometimes sold, but the only local crop was barley. Buyers and sellers were not, so to speak, specific categories of people. In addition, all Muslims were a single class and community that sacrificed their persons and property for Islam. The consequent general atmosphere of fraternity did not call for price controls or prohibiting *tas'īr*.

Ibn Taymīyah's analysis thus comes close to saying that, in principle, it is permitted. In support of this interpretation, he refers to another hadith and draws an analogy between *tas'īr* and the freeing of slaves:

> If someone frees his share in a slave and has enough to cover the whole cost of the slave, then an equitable value will be assessed on him, neither too low nor yet excessive, and he will give his co-owners their quotas—thereby compelling the slave's freedom. (ibid.; Ibn Qayyim al Jawzīyah n.d.)

The co-owners of a partially freed slave are entitled to a fair price for their shares and must accept this in order to secure the slave's complete freedom. It is argued, by way of analogy, that if co-owners can be made to sell for a fair price in order to secure a slave's freedom, merchants may be forced to sell for a fair price in order to secure the community's benefit (*maṣlaḥah*) and to prevent any harm. In other words, when a poor person needs food, drink, and clothing but cannot obtain them due to high prices, the owners of these items may be forced to sell them to him for a fair price. This, in essence, is *tas'īr* (Ibn Qayyim al Jawzīyah n.d.).

An Overview of Opinions

Jurists disagree over the permissibility of *tas'īr*. The majority says it is forbidden, an opinion that is based on Anas ibn Mālik's hadith that the Prophet equated it with transgression (*maẓlimah*). The Ḥanafīs say that, in principle, it is impermissible but can be invoked if merchants are demanding excessive prices and the *qāḍī* cannot protect the public from the resulting harm. Before imposing price controls, however, the ruler

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should pray to God for that." Another man came and made the same request. The Prophet said: "Only God lowers and raises them" (Ibn Qayyim al Jawzīyah n.d.).

must consult those who are knowledgeable of market conditions. Imām Mālik is reported to have approved of *tas'īr* only if there are excessive price hikes in necessities or if such a rise is seen as imminent.

The Shāfi'īs and the Ḥanbalīs consider this practice as forbidden in principle and have recorded different opinions. But even Imām al Shāfi'ī, the most vocal opponent, agrees that it is allowed, even obligatory, in the case of exorbitant price hikes or when the poor are in urgent need of food (Wizārat al Awqāf 1407/1987; Ibn Qayyim al Jawzīyah n.d.; Ibn Taymīyah 1402/1982; Zaydān 1402/1982; 'Afr 1405/1985). In general, historical precedent and the practice of Islamic governments has complied with the majority position. We are thus informed that the market controller (*muḥtasib*) of the 'Abbāsid era did not, as a matter of principle, order anyone to sell at a specific price. In fact, he/whe saw it as a duty to prevent price controls by ensuring that merchants and traders avoided arbitrary price changes in essential commodities (al Maṣrī 1402/1982).

Muslim jurists agree that the Shari'ah's trade and transaction norm is that what is not specifically prohibited is permissible (*ibāḥah*). People are free to exchange goods and services, and the law can only intervene if a transgression (*ẓulm*) is committed against one party. Normally, no one can be made to sell a possession or sell it for a specific price, as such practices violate the rights of ownership. In addition, the state cannot interfere with one's exercise of his/her basic rights, except in certain extraordinary situations as outlined in the Shari'ah: defaulting on an outstanding obligation (i.e., as obligatory maintenance [*nafaqah*]) despite an ability to pay, refusing to pay off a debt when able and requested to do so, owning excess food when others are starving, and owning a tree that has spread over the property of another. In these last two instances, the individual may be forced to sell for a fair price (*thaman al mithl*) (al Shawkānī n.d.; Abū Yaḥyā 1409/1989; Qāsim 1406/1986).

Ibn Qudāmah's (1401/1981) analysis is representative of the majority position: the Prophet's response was clearly negative, and he viewed price controls as an unjust policy (*maẓlimah*) that violated the seller's free consent by forcing him/her to sell at a given price. The other point is that market prices are not determined by human authority, for the Prophet stated that it is God who determines them. Therefore, the Prophet upheld the concept of a free market and the freedom of individuals with respect to trade and transactions (Qasim 1406/1986; Ibn Taymīyah 1982/1402 [see the article by M. A. Khan in the appendix of this source]).

The Shari'ah calls for fair and free trading as a matter of principle and may be said to validate *tas'īr* only as a means to vindicate this freedom and fight corruption. Perhaps this is why jurists always viewed it as confined to cases in which official intervention is justified. For example:

1. Exorbitant price hikes by owners of essential commodities. According to the Ḥanafīs and many prominent jurists of the other legal schools, the government may impose price controls to protect the public interest. However, government officials must first consult market participants, guild leaders, and representatives. If, after such meetings, they conclude that price controls are justified in order to protect the public interest, the necessary controls can be imposed. "Exorbitant," al Zayla'ī (1313/1896) writes, means charging something like double the normal market price. One can also derive from this that intervention is not warranted in cases of marginal price fluctuations (Wizārat al Awqāf 1407/1987; Ibn 'Ābidīn 1399/1979).

2. People's need for particular commodities. When there is an urgent need, for example, for weapons during a time of war, those who own them may be compelled to sell them for a fair price. They cannot, so to speak, wait until the enemy prevails and gains control of the arms in question (Wizārat al Awqāf 1407/1987; Ibn Taymīyah 1402/1982).

3. Hoarding and profiteering (*Iḥtikār*). There is general agreement on the prohibition of hoarding foodstuffs and, with some differences of opinion, of other commodities. The hoarder may be forced to sell and may also be punished. There is a minority opinion to the effect that the government may specify a "reasonable" price in this case, which would be tantamount to resorting to *tas'īr*. The general view, however, is that *tas'īr* does not apply to the hoarder (ibid.).

The above list is inomplete. For example, Ibn Taymīyah (1402/1982) and Ibn Qayyim al Jawzīyah (n.d.) add other instances (i.e., collusion by merchants to sell their goods only to certain individuals or groups, or a similar agreement among customers). Such actions require official intervention, for they represent moves away from cooperation and towards hostility, which is a violation of the Qur'anic admonition to "cooperate in good works and *taqwā*, and cooperate not in hostility and rancor" (Qur'an 5:2). If the public interest cannot be realized without a policy of *tas'īr*, the authorities may resort to it, but only if they implement it justly and fairly and discontinue it when there is no further need for it.

A comparison of the views of these two jurists with those of many other jurists shows clearly that both of them have adopted the least restrictive view. Ibn Taymīyah even states that, in certain cases, *tas'īr* may amount to transgression (i.e., forcing people to sell what they own without a valid reason, especially during times of price fluctuations beyond their control) or the means by which transgression is fought (i.e., preventing large price increases during times of need by forcing merchants to sell for a fair price). Indeed, applying price controls in the latter case is more than permissible: it is an obligation, for injustice must be fought (Ibn Qayyim al Jawzīyah n.d; Ibn Taymīyah 1398/1978).

Some contemporary writers, including al Darīnī (1408/1988) and al Nabhān (1404/1984), support the obligatory implementation of price controls in certain cases. Arbitrary price hikes, according to al Darīnī, amount to "merchants taking the law into their own hands" (*taḥakkum al tujjār*), which violates justice and the public interest. As the establishment of justice is an obligation, *tas'īr,* when used in pursuit of that goal, also becomes obligatory. He bases this opinion on the legal maxim of *mā lā yatimmu al wājib illā bihi fa huwa wājib* (what is necessary for the fulfillment of an obligation [*wājib*] also becomes an obligation [*wājib*]). In his discussion of al Darīnī's opinion, al Nabhān adds: "When merchants become exploiters and price hikers (*jashi'īn*, *mustaghillīn*) and the interest (*maṣlaḥah*) of the community necessitates implementing a policy of *tas'īr*, then this becomes an obligation (*wājib*)." Marṭān (1406/1986), another contemporary author, opines that *tas'īr* falls under the general heading of "obstructing the means to evil" (*sadd al dharāi'i'*), in the sense that it imposes a ban on something that is "hateful" (*mubāḥ*) and likely to lead to evil. While selling is permissible and prices are determined through the agreement of the parties involved, price distortions and hikes can harm society. In such cases, the basic freedom of buyers and sellers may be restricted by price controls imposed by the government.

Fair Price

The term "fair price" (i.e., being fair to all parties of a transaction) has various renderings in Arabic: *si'r al mithl, thaman al mithl, qīmah al mithl*, and *al thaman al 'ādil*. The idea of equivalence (*mithlīyah* or *tamāthul*) in these phrases refers to a substantive parity of value between the object for sale and its price as well as the willingness of others to pay a similar price for it. A "fair" price is one that is neither too low or too high and maintains an adequate profit margin after paying for the costs of production and other essential expenditures (i.e., transportation) (ibid.).

The Sunnah seeks to ensure that fair prices prevail and to preempt unjust price manipulation by middlemen and price hikers. As most food sellers in Madīnah were importers who sold their goods upon arrival in the market, the Prophet forbade the townspeople to sell for the nomads or to act as their agents (*bay' ḥāḍir li bād*). The rationale was that the townspeople knew the market conditions and, if they acted as agents, they might raise the price and thus harm their customers. The Prophet proscribed such agency, although agency in general is permissible, due to the potential danger of price inflation. He also forbade the interception of imports before they reached the market (*talaqqī al rukbān*). In such cases, the seller was allowed an option upon arrival in the market, since he/she might not know the regular price and therefore persuaded to sell for a lower (and unfair) price (Ibn Taymīyah 1402/1982).

Furthermore, merchants cannot sell items for one price to those who bargain and for a higher price to those who do not (*al mustarsil*) or who do not know the regular price. Thus we read in the hadith that "cheating the *mustarsil* constitutes usury (*ribā*)." This practice resembles intercepting goods before the newcomer is aware of the regular price. The Sunnah also forbids pushing the price in a prospective sale (i.e., *najash*) through false bidding (ibid.).[2] According to the hadith, the seller must inform the purchaser of any product defect. This is based on the Prophet's declaration that "one who cheats is not one of us" (al Nishāpūrī 1407/1987). There are many other directives in the Sunnah that cover variant opinions (i.e., *khiyārāt*) designed mainly to safeguard the integrity of market transactions against unfair manipulation in the exchange of values.

It is vital that a price control policy produce a fair price and consider all relevant market conditions. For the Mālikī jurist al Bājī (1331/1911), price controls that leave no profit margin will lead to price irregularities (*fasād al as'ār*), supply shortages, and financial losses to the people (Wizārat al Awqāf 1407/1987). Ibn Qayyim al Jawzīyah (n.d.) writes that no religious scholar has supported price dictatorship (i.e., ordering retailers and suppliers to sell at a certain price regardless of profit/loss and without considering the prices and expenditures incurred while bringing their goods to market). Lastly, a fair price is one reched through consultation with decision makers (*ūlū al amr*) and market participants and representatives. This is the best way, according to al Bājī (1311/1911) and the Wizārat al Awqāf (1407/1987), to prevent injustice and price distortion.

As the fixed price must be just, consensual, and acceptable to the public and market participants, it should follow general consensus and custom. Otherwise, its goal of market normalcy cannot be realized. There is dissagreement over the permissibility of undercutting the fixed or prevailing market price. The correct view, recorded by Ibn Qayyim al Jawzīyah (1402/1982) and Wizārat al Awqāf (1407/1987), is that such acts are forbidden, as they can harm price stability and cause hostility.

The Subject Matter of *Tas'īr*

To What Items Can It Be Applied? Some Ḥanafī scholars maintain that it should be confined to foodstuffs and animal feed. The Shāfi'ī view, which is more prevalent, as well as that of some Ḥanafīs (i.e., Abū Yūsuf

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[2]In some Muslim areas like Qayrawān, rural suppliers were given accommodation and rest shelters near the market so they could assess the market before entering. Iranian caravanserais met this need by attaching such shelters to the market so that the doors would open directly to it. See *Encyclopaedia Brittanica*, II, 686, and Khan, "Al-Hisbah," 142-43.

and Ibn 'Ābidīn) and Ḥanbalīs (i.e., Ibn Taymīyah and Ibn Qayyim al Jawzīyah) is that a price controls can be applied to any commodity or service that is susceptible to the idea of a fair price (*qīmah al mithl*). This suggests that fungible goods and those sold by weight and measurement are the main candidates (Ibn Taymīyah 1402/1982; Wizārat al Awqāf 1407/1987). Mālikī jurists have recorded two views. The first one states that *tas'īr* can be applied to all fungible goods. Nonfungible goods are exempt, for they have no substantive equivalence (*tamāthul*) and are therefore not amenable to fixed prices. Ibn Ḥājib al Mālikī asserts that *tas'īr* cannot be applied if there is no exact equivalence. Al Bājī (1331/1911) states that *tas'īr* can only be applied to fungible goods that have an equal or near-equal quality, for superior quality goods may not be subjected to the same prices as those paid for lower quality goods. The second view is that *tas'īr* can be applied only to foodstuffs (Wizārat al Awqāf 1407/1987; al Bājī 1331/1911; Ibn Qayyim al Jawzīyah n.d.).

To What Groups of People Can It Be Applied? As a market phenomenon, *tas'īr* is generally related to market participants, especially merchants and retailers who sell directly to the public. There are exceptions, however:

1. Importers (*Jallābūn*). According to the majority opinion of the legal schools and the Shi'ah Imāmīyah, an importer is only liable to price control in cases of necessity based on fear of general famine and calamity. In such a case, he/she must sell at a fair price. Such Companions as 'Abd Allāh ibn 'Umar, al Qāsim ibn Muḥammad, and Sālim ibn 'Abd Allāh, are said to have held that *tas'īr* does not apply to them. (Wizārat al Awqāf 1407/1987; Ibn Qayyim al Jawzīyah n.d.).

   Another opinion, recorded by the Mālikīs Ibn Ḥājib and al Bājī, says that dealers in goods other than wheat and barley may be subjected to *tas'īr*. As wheat and barley importers are exempt, they may sell to retailers without restriction. Ibn Ḥājib writes that they may sell as they wish among themselves as long as they observe market conditions and do not exceed or undercut prevailing prices. Al Bājī adds several more exemptions: importers of edible oils, meat, fruit, lentils, and other foodstuffs who supply these to retailers. If importers do not cooperate with the price controls, they can stay in the market and observe the prevailing prices or leave. They may not, however, be forced to sell at a fixed price (al Bājī 1331/1911; Ibn Taymīyah 1402/1982; Wizārat al Awqāf 1407/1987).[3]

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[3]The difference between importer and retailer may not always be clear. As Ibn Qayyim al Jawzīyah (al *al Ṭuruq al Ḥukmīyah*, n.d) says: When the shopkeeper sells wholesale at import price, he is like the importer. The difference thus depends on the profit element that the reatiler adds to the import price."

2. Hoarders (*Muḥtakirūn*). Such people are exempt, for they are already violating the law. They can be forced to sell their goods to the public. The hoarder may retain what he/she needs for his/her own consumption and that of his/her family for a period of one year and can then sell the rest at any price. As a hoarder is not a retailer, farmer, or supplier, he/she cannot be subjected to price control. The Ḥanafī jurist al Shaybānī stated that although the hoarder can be forced to sell, the price of his/her goods cannot be fixed. Rather, he/she should be told to "sell as other people sell," which implies that he/she should follow the prevailing market prices (Wizārat al Awqāf 1407/1987; al Bājī 1331/1911; al Zayla'ī 1313/1896; al Muṣilī 1369/1950).

3. Those who sell their goods outside the market area, such as farmers, fruit merchants, craftsmen, transport workers, and even brokers and agents, are not liable to *tas'īr* (at least not directly). Officials are urged to meet with these people and their representatives to ensure conformity to prevailing trade practices and general customs. Standard practices related to quality and service that are generally observed can be applied to them (Wizārat al Awqāf 1407/1987).

What Constitutes a Violation of Tas'īr? The preferred Mālikī, Shāfi'ī, and Ḥanbalī view is that one who disobeys a legal price control policy has engaged in a reprehensible, though essentially valid, sale. The rationale is that the owner is not under interdiction and thus can dispose of his/her property as he/she wants. The buyer may not compel the seller to sell at the fixed price, for this amounts to duress. Many Mālikī jurists agree, in essence, with the majority position, as they say that one who exceeds or undercuts the fixed price may be ordered to follow it or leave the market. The less preferred Shāfi'ī view is that a sale made in violation of *tas'īr* is invalid (*bāṭil*). The Ḥanbalīs have recorded the view that a defiant seller cannot be forced to by the purchaser to follow the official price, for this would invalidate the sale on the grounds of duress.

The majority ruling of the legal schools entitles the imam and the *muḥtasib* to apply a deterrent punishment (*ta'zīr*), as the violator has shown contempt for the imam by his/her action. The punishment may be corporal, financial, or actual expulsion from the market. However, if the *tas'īr* itself is illegitimate, there is no punishment for violating it, as it is considered *ultra vires ab initio* (Wizārat al Awqāf 1407/1987; Ibn 'Ābidīn 1399/1979; al Muṣilī 1369/1950).

Conclusion

Although religious scholars are divided on the validity of *tas'īr*, there seems to be general agreement that it should only be used when there is an urgent need for it.[4] They have generally seen it as a transgression (*maẓlimah*) and a threat to an individual's civil liberty. There also seems to be broad agreement that in cases of necessity (i.e., when exorbitant price hikes cause injustice and threaten the community's welfare), the government is within its rights to impose price controls in order to fight injustice (i.e., profiteering, tyrannical monopoly, or hoarding).

The basic role and philosophy of government in Islam, as a champion of public welfare and interest, are as relevant to modern times as they were during the early years of the Islamic era. Within the Islamic philosophical framework, the state has a wide margin of discretion for initiative and good judgment, in line with the spirit of a Shari'ah-oriented policy (*siyāsah shar'īyah*), to identify and secure the community's interest. The general Shari'ah guidelines in this regard are equally relevant. The state's policy must, in principle, be one of restraint, as this is the directive of the Sunnah and the conclusion reached by the religious scholars. The decision to impose price controls, and then to determine the scope and what items will be affected, must remain largely a matter for the operation of a Shari'ah-oriented policy.

Any contemporary discussion of *tas'īr* must consider such current economic realities as industrialization, ever-increasing mass production and marketing techniques, technical know-how and sophistication, for these contribute to weakening the consumer's position. As the consumer is often unaware of the power and skill possessed by industrial giants, the latter can manipulate the market. When we note, for example, that the mark-up price in the stores is double or triple the production cost, and that the state itself, often for good reasons, adds to the consumer's plight (i.e, adding customs duties and sales taxes), one wonders whether the evil that was once feared has now become common and entrenched in certain quarters. The present free market economy tends, in many ways, to reflect the interests of capitalists and businessmen to a far greater extent than those of the consuming public. A great deal of imaginative work is needed to shift the balance of market forces in favor of the latter.

We realize the limitations of Muslim communities and governments. In general, they are helpless and can do little but comply with the prices laid down for the desired items (i.e., oil, weapons, motor vehicles, and aircraft). The prophetic hadith quoted earlier—that only God has the power to control what we see as well as the underlying factors that are invisible to the naked eye—is perhaps now even more true. Muslim governments must become more aware of their duty as bulwarks and champions of the Muslim public's interests. However, as there might be limits and vested interests within the government, the public must develop

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[4]There are reports that jurists of the Tābi'ūn period declared *tas'īr* as valid due to changed circumstances and *maṣlaḥah*. See al Qaraḍāwī, *Sharī'at al Islām*, 1393/1973).

its resources by organizing consumer associations and exerting pressure on their ombudsmen and representatives to ensure that their interests are considered. There must also be a reasonable ratio between average wages and the prices of necessary goods. When we see no such reasonable relationship in the Muslim world, it is a sure sign of distortion, inefficiency, and corruption somewhere along the line. While a policy of *tas'īr* will not end all unpleasant market realities, it may prove to be an indispensable policy instrument when used for the public welfare.

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