

ISLAMIC LAW REVIEW OF MONOPOLY PRACTICES IN MODERN ECONOMICS

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Abstract

This research aims to analyse how the mechanism of *modern* economic monopoly practices, and how its application can prevent harmful business practices, and support the creation of a fairer and more ethical market in accordance with Islamic teachings. This research uses a qualitative approach with a literature study method (*library research*). This approach was chosen because it is in accordance with the purpose of this research, which is to evaluate monopoly practices in the context of *modern* economics based on the perspective of Islamic law. The results show that the rapid development of the modern economy and the phenomenon of monopoly have become one of the issues that attract the attention of economists, *legislators*, and legal scholars, including Islamic legal experts. In the context of Islamic law, monopolies that harm the interests of society are considered immoral and prohibited, as they can lead to economic injustice and oppression of consumers. Islam emphasises the importance of fairness, balance and protection of individual rights in every economic transaction. Islamic law, through concepts such as *hisbah* (market supervision) and *ihtikar* (prohibition of hoarding goods to raise prices), prescribes those economic activities be conducted in a fair and transparent manner. Therefore, monopolistic practices that result in market imbalances and harm society should be avoided.

Keywords: Islamic Law Review, Monopolistic Practices, Modern Economy

Abstrak

Penelitian ini bertujuan untuk menganalisis bagaimana mekanisme praktik monopoli ekonomi *modern*, dan bagaimana penerapannya dapat mencegah praktik bisnis yang merugikan, serta mendukung terciptanya pasar yang lebih adil dan beretika sesuai dengan ajaran Islam. Penelitian ini menggunakan pendekatan kualitatif dengan metode studi literatur (*library research*). Pendekatan ini dipilih karena sesuai dengan tujuan penelitian ini, yaitu untuk mengevaluasi praktik monopoli dalam konteks ekonomi *modern* berdasarkan perspektif hukum Islam. Hasil penelitian menunjukkan bahwa pesatnya perkembangan ekonomi modern dan fenomena monopoli menjadi salah satu

isu yang menarik perhatian para ekonom, *legislator*, dan ahli hukum, termasuk ahli hukum Islam. Dalam konteks hukum Islam, monopoli yang merugikan kepentingan masyarakat dianggap tidak bermoral dan dilarang, karena dapat menimbulkan ketidakadilan ekonomi dan penindasan terhadap konsumen. Islam menekankan pentingnya keadilan, keseimbangan dan perlindungan terhadap hak-hak individu dalam setiap transaksi ekonomi. Hukum Islam, melalui konsep-konsep seperti *hisbah* (pengawasan pasar) dan *ihtikar* (larangan menimbun barang untuk menaikkan harga), menetapkan bahwa kegiatan ekonomi tersebut harus dilakukan dengan cara yang adil dan transparan. Oleh karena itu, praktik-praktik monopoli yang mengakibatkan ketidakseimbangan pasar dan merugikan masyarakat harus dihindari.

Kata kunci: Tinjauan Hukum Islam, Praktik Monopoli, Ekonomi Modern

INTRODUCTION

In modern economies, governments and regulatory bodies often implement antitrust regulations and policies to prevent companies from achieving dominant power in the market, in order to maintain market balance and protect consumers. However, challenges do arise, especially in the technology and digital industries, where monopolies can form quickly and have far-reaching impacts on the global economy.¹

Monopoly refers to a market situation in which one or more firms dominate the supply of a particular good or service, allowing them to control or control the price and availability of that good or service. Monopoly in the *modern* economic system occurs when a single firm or entity has dominant power over a particular market, thereby inhibiting fair competition. Under these conditions, the monopolising firm can set prices and market conditions without considering the welfare of consumers or competitors.

Monopoly according to Law No.5 of 1999 article 1 paragraph 2 states that Monopoly is the control of a market or production by one actor that may result in unfair business competition. However, in the development of increasingly modern economic times, Monopoly is no longer appropriate or relevant if it is defined as one seller. Because based on the development of the current economy, even though there are several business actors in a market or industry, if there are business actors who have Monopoly-like behaviour, it can be interpreted that the actor or company has a Monopoly position, so that

¹ Joseph E. Stiglitz, *Economics of the Public Sector* (New York: W.W. Norton & Company, 2000), p. 235. 235.

at this time the definition of Monopoly is more directed to the definition in terms of behaviour.²

In addition, there are several articles in Law No.5 of 1999 that regulate permissible monopolistic practices, although it does not directly allow monopoly, but there are several exceptions, namely in Article 50 which mentions several exceptions, namely: Firstly: Monopolies that have been licensed or allowed by the State, in the sense that monopolies granted by the State are in the public interest, such as the production and distribution of electricity, water and gas. Second: Monopoly in Technology, in the sense of monopoly related to patents³, copyrights and other intellectual property rights. Third: Monopolies in the field of security, in the sense of monopolies relating to the production or distribution of weapons, ammunition and other security equipment. Fourth: Monopoly in broadcasting, in the sense that the Monopoly relates to Radio and Television broadcasting that has been granted a licence.

However, there are several requirements for the permissibility of monopoly, namely obtaining a government licence, using monopoly for the public interest and not inhibiting unfair competition. In addition, there are also some special provisions regarding this matter, precisely in Article 52 and Article 53 of Law No. 5 of 1999, namely: The Government may establish a Monopoly for a certain period of time and based on certain conditions, then the Government may grant a Monopoly licence for certain business activities that require large investments.

In the context of *modern* economics, monopoly is often considered a threat to the principles of free competition that are expected to create efficiency, innovation, and more equitable welfare. In this case, Islamic law has its own views on monopoly practices, which can be seen from various perspectives, including business ethics, social justice, and Islamic economic principles⁴

In Islam, monopoly is known as *ihthikar*, which generally means holding or controlling goods to wait for prices to rise, with the aim of gaining large profits. Monopoly by holding back goods is strongly condemned in Islam

² Law No. 5 Year 1999.

³ Law No. 5 Year 1999.

⁴ Adiwarman Karim, *Islamic Economics A Contemporary Study*, (Jakarta: Gema Insani, 2001), pp. 159.

because it can cause suffering to people who need the goods, especially when the goods are basic necessities.⁵

In several hadiths, the Prophet clearly prohibited monopolistic practices. An example is the hadith narrated by Muslim, in which the Prophet Muhammad said: "Whoever commits a monopoly has committed a wrong (sin)." This hadith shows that monopoly, in any form, is considered a behaviour that is detrimental to society and does not reflect with the principles of justice in Islam.⁶

In the context of Islamic law, the study of monopoly is relevant because Islam places justice, equality and the welfare of the people as the main principles in economic regulation. Islam regulates all aspects of life, including the economy, with the aim of achieving public good and preventing exploitation and injustice. Therefore, an understanding of how Islamic law views and regulates monopoly practices is important, especially in the face of increasingly complex modern economic challenges.⁷

In general, Islamic law is known to strongly emphasise the importance of fair and competitive trade. Islam encourages every individual to engage in economic activities that are honest, transparent, and based on the principle of equality. If not managed appropriately, monopolies can cause damage to the economic system and contradict the principles of justice taught by Islam. Muslim scholars and scholars have been discussing this issue of monopoly for a long time, although the forms of monopoly that exist today may differ from what was once discussed in the context of Islamic history.⁸

In the classical literature of Islamic law, monopoly is often associated with the term "ihtikar", which refers to the hoarding of goods to wait for a price increase in the market so that they can be sold at a large profit. Ihtikar is considered a harmful form of monopoly because it prevents the equitable distribution of goods to the public and raises prices in an unfair manner. In several traditions, the Prophet Muhammad explicitly prohibited the practice of ihtikar because it contradicts the principles of justice and public good. For

⁵ Susanti Adi Nugroho, *Business Competition Law in Indonesia*, (Jakarta: Kencana, 2012), pp. 240

⁶ Kansil, Christine, *Principles of Knowledge of Indonesian Commercial Law*, (Jakarta: Sinar Grafika, 2006), p. 189.

⁷ Sandojo Sukirno, *Microeconomics Introductory Theory*, (Jakarta: PT Rajagrafindo Persada, 2005), p. 267. 267

⁸ Veithzal Rivai Zainal, *Islamic Business Management: The Practice of Islamic Shariah-compliant Business Management*, (Yogyakarta: BPEF, 2004), pp. 259

example, one of the traditions reported by Imam Muslim explains that: "*Whoever commits ihtikar (hoarding goods) is sinful*"⁹

However, there are some basic things that distinguish between monopoly and Ikhtikar such as in terms of objectives, methods, impact on the running of the market, the period between the two and the impact on consumers.

On the other hand, Islamic law also pays attention to the concept of "hisbah", which is a market surveillance mechanism to ensure that trade runs fairly and in accordance with sharia principles. This function of hisbah in the modern context can be considered as the forerunner of antitrust regulation that aims to prevent market domination by a few parties. Islamic history records how the institution of hisbah functions in supervising trade activities, ensuring the availability of goods, and preventing fraudulent practices that harm consumers.¹⁰

However, the development of the modern economy with all its complexities demands a more in-depth and contextual understanding of Islamic law in response to monopoly. Not all monopolies in the modern economy can be equated with the ihtikar mentioned in classical literature. For example, monopolies that arise as a result of technological innovation or comparative advantage are not always detrimental, and in some cases can even encourage efficiency and innovation that are good for society. Therefore, it is necessary to distinguish between monopolies that arise naturally as a result of healthy market dynamics and monopolies that are acquired through abuse of economic power or unfair market manipulation.¹¹

In addition, Islamic law also considers the intention and purpose behind one's economic actions. If a monopoly is undertaken with the aim of public good and does not violate the principles of justice, then it may be acceptable in certain contexts. For example, in situations where the state takes over control of strategic sectors to ensure fair and affordable distribution, this may be considered a permissible form of monopoly. Another example is when the state or certain institutions are granted monopoly licences in the provision of

⁹ Yusuf Al-Qaradhawi, *Norms and Ethics of Islamic Economics*, (Jakarta: Gema Insani, 1997), pp. 190

¹⁰ Nur Rianto Al-Arif and Euis Amalia, *Microeconomic Theory: A Comparison of Islamic Economics and Conventional Economics*, (Jakarta: Kencana, 2016), pp. 239.

¹¹ Adiwarman Karim, *Micro Islamic Economics*, (Jakarta Raja Grafindo Persada, 2007), p. 174.

public services to ensure that such services are accessible to all segments of society at reasonable prices.¹²

However, in the context of a free market economy, Islamic law still emphasises the importance of constructive and equal competition. Fair competition is regarded as a way to promote efficiency, innovation and consumer welfare. Monopolies that hinder competition are considered a violation of the principle of fairness and can be detrimental to society. In this case, state intervention or regulatory agencies are considered necessary to address the imbalances caused by monopolies and ensure that markets remain competitive.¹³

Thus, the study of Islamic law's review of monopolistic practices in the modern economy involves an in-depth analysis of sharia principles as well as their application in the contemporary economic context. Modern Islamic legal scholars seek to integrate classical teachings with current economic realities, so that Islamic law can continue to be relevant and effective in responding to new challenges that arise. This study is not only important for legal practitioners and policy makers, but also for Muslims in general, who need to understand how their religious principles are applied in modern economic life.¹⁴

Overall, the main objective of this review is to provide a comprehensive understanding of how Islamic law views the practice of monopoly, as well as how the views of classical and contemporary scholars can provide guidance in facing modern economic challenges, while also providing an understanding of the difference between Monopoly and Ikhtikar. Through this discussion, it is hoped that readers will be able to understand the issue of the principles of justice, balance, and ethics in Islam being implemented in the context of an ever-evolving economy.

RESEARCH METHODS

In this article, the author adopts a qualitative approach with a library research method. This approach was chosen because it is in accordance with

¹² Yusuf Al-Qaradhawi, *Norms and Ethics of Islamic Economics*, (Jakarta: Gema Insani, 1997), p. 191. 191

¹³ Al Arif, Monopoly and Ikhtikar in Islamic Economics, *Shirkah: Journal of Economics and Business*, Vol. 1, No. 3, (2016), pp. 302.

¹⁴ Yusuf Al-Qaradhawi, *Norms and Ethics of Islamic Economics*, (Jakarta: Gema Insani, 1997), p. 257. 257.

the purpose of this research, which is to evaluate monopoly practices in the context of modern economics based on the perspective of Islamic law. In a qualitative approach, the data collected is more descriptive and analytical, with the aim of providing a comprehensive and in-depth understanding of the topic under study.¹⁵

This research uses two types of data sources, namely primary data and secondary data. Primary data sources include literature that directly discusses monopoly and Islamic law, such as fiqh books, fatwas from scholars, and other relevant Islamic texts. In addition, primary data sources also include classic works from scholars who are recognised authorities in the discussion of Islamic law related to economic activities and sharia principles. Secondary data sources include books, journal articles, research reports, and other publications that discuss monopoly, modern economics, and Islamic law. This secondary data is collected from various references taken from libraries, online databases, and other credible sources. The information obtained from this secondary data will support and enrich the analysis of primary data sources.¹⁶

The data collection technique in this research was carried out through the method of searching and collecting literature related to the research topic. This process involved several stages, starting from topic identification, determination of relevant keywords, to the selection of literature that best suits the research focus. In addition, the author also used documentation techniques to record and organise information obtained from various literature sources.

RESULTS AND DISCUSSION

A. Definition of Monopoly and Legal Basis of Monopoly

A monopoly is a type of market structure in which there is only one seller or producer that dominates the entire market. In this condition, the producer has great power to control the price of the products. number of goods or services available. Since there is only one player in the market, monopoly producers can set prices more freely without having to worry about competition from others.¹⁷

¹⁵ Milya Sari, Asmendri, Library Research in Science Education *Research, Journal of Research in Science and Science Education*, Vol. 6, No. 1, (2020), p. 44. 44.

¹⁶ Sugiyono, *Quantitative, Qualitative, and Combination Research Methods (mixed methods)*, (Bandung: Alfabeta, 2017), pp.

¹⁷ C. Fahmi, 'Analysis of Legal Aspects on Capital Investment Fraud in Indonesia' (2024) 1 *Proceeding of International Conference on Sharia Economic Law (ICoShEL)* 79–95.

The profits from a monopoly position are often much higher than in a competitive market, as the producer has no competitors that can reduce prices or improve product quality. However, from a consumer perspective, monopolies are often seen as detrimental as they can lead to higher prices and limited product choice.¹⁸

Theoretically, monopolies go against the principles of free markets and perfect competition, where prices and product quality are set through the interaction between supply and demand. In this context, monopolies are thought to stifle innovation and reduce economic efficiency due to the lack of impetus to improve products or lower production costs. Therefore, most governments in the world implement regulations to limit or control monopoly power.¹⁹

In Indonesia, monopoly law is clearly regulated in Law Number 5 Year 1999 which prohibits monopolistic practices and unfair business competition. The purpose of this law is to prevent commercial practices that may harm market competition or the public interest. This regulation demonstrates the Indonesian government's commitment to maintaining fair competition and protecting consumers from potential abuse of power by large companies.²⁰

According to Law No. 5/1999, monopoly is defined as the control over the production and distribution of a particular good or service by an economic entity or a group of economic entities. To prevent the practice of centralised market power and unfair competition among business actors, the Indonesian government enacted Law Number 5 Year 1999. This law specifically distinguishes between monopolies and monopolistic practices, and prohibits various types of business agreements and activities that have the potential to disrupt fair competition

There are forms of unfair business competition that are mentioned and regulated in Law No.5 Year 1999, namely:

1. Prohibited Agreements

¹⁸ Fatah, Monopoly in the Perspective of Islamic Economics, *Al-Iqtishad: Journal of Islamic Economics*, Vol. 4, No. 2, (2016), pp. 162.

¹⁹ C. Fahmi, S. Wahyuni, and L. M. Rasyid, 'THE ROLE OF COURTS IN RESOLVING CASES OF BANKRUPTCY OF ISLAMIC BANK CUSTOMERS' (2023) 6 *JURISTA: JOURNAL OF LAW AND JUSTICE* 1-22.

²⁰ Muhammad Abdul Manan, *Theory and Practice of Islamic Economics*, (Yogyakarta: Dhana Bakti Wakaf, 1997), p. 154. 154.

In general, an agreement refers to an agreement in which two or more parties agree to do something. According to Article 1 number 7 of Law Number 5 Year 1999, an agreement is an action taken by one or more business actors to bind themselves to other business actors through various methods, either in writing or orally. This law prohibits certain types of agreements, among others

- a) Oligopoly: Oligopoly is a market condition in which only a few producers exist, allowing them to influence market prices. Within the framework of the Antimonopoly Law, oligopoly is regulated in Article 4 paragraph (1). Oligopoly conditions can lead to market imbalances due to the influence of a few dominant buyers or producers.²¹
- b) Price Fixing: Under Article 5 paragraphs 1 and 2 of Law No. 5/1999, there are four types of price fixing agreements. Price fixing indicates the existence of an unorganised oligopoly market. Article 6 provides that one of the prohibited forms of price fixing is price discrimination, where business actors enter into agreements that result in different prices for different buyers of the same goods or services.
- c) Below-Market Price Fixing: The relevant provisions stipulate in Article 7 that this strategy is applied by one or more firms to harm competitors or extract more profits from consumers. Examples of this strategy include certain price cuts to drive competitors out of the market and extorting consumers with high prices from monopoly suppliers and cartels.²²
- d) Agreement with Special Conditions: This provision is stipulated in Article 8, that in this agreement the party receiving the goods or services is not allowed to sell or redistribute the goods or services at a price lower than the price that has been determined and agreed upon.²³

2. Prohibited Activities

²¹ Eko Supriyanto, *Microeconomics from an Islamic Perspective*, (Malang: UIN Malang Press, 2008), p. 201. 201.

²² Hermansyah, *Principles of Business Competition Law in Indonesia*, (Jakarta: Kencana, 2008), p. 30. 30.

²³ Muhammad Djakfar, *Business Law Building Discourse on the Integration of National Legislation with Shari'ah*, (Yogyakarta: UIN-Malang Press, 2009), p. 329.

According to Law No. 5 Year 1999 there is no definition of activities, but if it is interpreted *a contrario* to the definition of agreement given, it can be said that basically what is meant by activities is unilateral legal actions or actions carried out by one business actor or group of business actors without any direct relationship with other business actors. in Law No. 5 Year 1999 determines the forms of prohibited activities, namely:

a. Monopolistic Activities: According to Article 1 No. 1, sole control over the production, or marketing of certain goods or services. Monopolistic acts committed by an individual or group of business actors are regulated in Article 17, namely:

1). Business actors are prohibited from controlling the production or marketing of goods that may result in monopolistic practices or unfair business competition.

2). A business actor may be deemed or suspected of exercising control over the production or marketing of goods if:

Point a: The goods or services have no substitute, in other words, the condition where an individual or a group of business actors controls a certain production, marketing or service.

Point b: Resulting in other business actors being unable to enter the business competition, in other words, business actors being unable to enter the business competition for the same goods or services.

Point c: An individual or group of business actors controls more than 50% of the market percentage of certain goods or services, in other words.

b. Monopsony: According to Article 18 Monopsony is a market situation where there are only a few entrepreneurs or a group of entrepreneurs who have control of most of the market as consumers, while the number of customers, These individual customers are in control of setting prices according to their needs. ²⁴

c. Market power: Entrepreneurs who have market power can control the market and determine the price of goods and services in the market by right, Market power is not 100%, but traders who control higher than 50% of the market share are considered to have market

²⁴ Susanti Adi Nugroho, *Business Competition Law in Indonesia*, (Jakarta: Kencana, 2012), p. 24. 24

power. Types of market manipulation include selling at a loss to eliminate competitors, rigging production costs, and price competition and competition.

A business actor is any business entity or individual, whether in the form of a legal entity or not, that enters into an agreement and carries out business activities in the economic field.

3. Dominant Position

Dominant Position is an activity where a business actor has no competitors in a particular market, in the sense that the business actor has the highest position compared to other competitors in a market related to finance, access to supply or sales, and the ability to adjust demand and supply in the form of goods or services.

Meanwhile, based on the provisions of Law No.5 of 1999, precisely in Article 25, it is explained that a group or individual business actor who has a dominant position is not absolutely prohibited, but what is prohibited is the abuse of the Dominant Position they have, because in the context of the Dominant Position, business actors can have the Dominant Position through legal means, such as for example obtained by means of innovation of their products or by means of the efficiency of their Company.²⁵

As explained in the Business Competition Law in article 1 paragraph 4, business actors generally have the ability to adjust the supply and demand for goods or services compared to other competitors, with this ability, business actors can control prices, therefore the price of goods will increase. This is included in the economic theory of *Supply End Demand*, in the sense that if there is a scarcity of a good, the price will increase, as well as this makes an indicator in determining the dominant position

As regulated in Article 25 of the Competition Law, there are three things where it can be said that a business actor abuses a dominant position if:

²⁵ Anang Triyono, Abuse of Dominant Position by Business Actors: Case Study on the Audit of PT Telekomunikasi Indonesia, Jakarta, Faculty of Law, University of Indonesia, 2010, p. 21.

1. setting conditions of trade, which aims to prevent consumers from obtaining goods or services that compete in quality and price.
2. Limiting technology and market development
3. Inhibiting other business actors, in the sense of inhibiting other business actors in their potential to become competitors from entering the relevant market.

In addition, Article 25 paragraph 1 of the Business Competition Law states that a business actor may abuse a dominant position if it carries out discriminatory actions in the sense of discrimination in terms of price, non-price and selling at a loss.²⁶

B. Monopoly Practices in the Economic System

The practice of monopoly in the modern economic system refers to a situation where a company or entity dominates a large portion of the market for a particular product or service, thereby reducing or eliminating competition. Monopoly can occur through various means, such as control of resources, exclusive patents, or acts of mergers and acquisitions that allow the entity to control the market.

In modern economic systems, governments and regulatory bodies often implement antitrust regulations and policies to prevent companies from achieving dominant power in the market, in order to maintain market balance and protect consumers. However, challenges remain, especially in the technology and digital industries, where monopolies can form quickly and have a broad impact on the global economy.²⁷

Monopoly in the modern economic system occurs when one company or entity has dominant power over a particular market, inhibiting fair competition. Under these conditions, the monopolist can set prices and market conditions without considering the welfare of consumers or competitors. Monopolistic practices often arise through technological mastery, patent

²⁶Ria Setyawati and Rayhan Adhi Pradana, *"Abuse of Dominant Position by dominant business actors through the use of Price Algorithm"*, vol 6, 2022.

²⁷ Joseph E. Stiglitz, *Economics of the Public Sector* (New York: W.W. Norton & Company, 2000), p. 235. 235.

ownership, or strategic mergers and acquisitions, all of which can reinforce market dominance.²⁸

The negative impacts of monopolies include a decrease in innovation, as firms that do not face competition have no incentive to improve their products or services. In addition, monopolies can lead to higher prices and limited choices for consumers, reducing overall market efficiency. Governments and regulators in various countries implement antitrust policies to address these issues, seeking to create a more competitive and fair market environment. However, in the age of globalisation and digitalisation, identifying and controlling monopolistic practices has become increasingly complex, demanding a more dynamic and integrated approach in global economic policy.²⁹

Here are some examples of monopoly practices in the *modern* economic system:

- a) *Microsoft* and Operating Systems: In the 1990s, *Microsoft* faced monopoly charges related to its dominance of the *Windows* operating system. *Microsoft* was accused of using its dominant position to force computer manufacturers to install *Windows* on their devices, blocking the entry of competitors such as alternative operating systems. The case ended in a legal judgement that forced *Microsoft* to change some of its business practices.
- b) *Google* and Online Search: *Google* has been accused of monopolising the online search and digital advertising market. By controlling the majority of market share in online search, *Google* has been accused of using its power to dominate digital advertising and exclude competitors. In some jurisdictions, such as the European Union, *Google* has been fined for abusing its dominant position in the market.

C. The Concept of Monopoly According to Fiqh Scholars

Etymologically, monopoly comes from the word "ركحي - ركح" which means the exercise of arbitrary or oppressive action. Technically, monopoly is

²⁸ C. Fahmi, P.-T. Stoll, S. Shabarullah, M. Rahman, and S. Syukri, 'The State's Business Upon Indigenous Land in Indonesia: A Legacy from Dutch Colonial Regime to Modern Indonesian State' (2024) 8 *Samarah: Journal of Family Law and Islamic Law* 1566–96.

²⁹ Carl Shapiro, Antitrust in a Time of Populism, *International Journal of Industrial Organization*, Vol. 61, No. 2 (2018), pp. 714-732.

the holding or holding of a good over a long period of time when it is difficult to obtain, with the aim of releasing it at a time when society really needs it and making a large profit for the monopolist is defined as a deviant act and can make a profit.

Monopoly and Ikhtikar in trade and business will certainly disrupt the normal trading system and cause losses to many parties. In this situation, the producer makes a huge profit, while the consumer loses because they have to buy the product at a price that is much more expensive than the usual price.

30

Many fiqh scholars have provided definitions of monopoly or Ihtikar. Some of the opinions are as follows:

- a) Yusuf Qardhawi defines Ihtikar or monopoly as the act of holding or hoarding something.
- b) The Hanafi scholars explained that monopoly is the storage of goods produced, whether it is food, medicine, drinks, clothing, or any goods that can harm the market.
- c) Imam al-Ghazali, a fiqh expert, said monopoly or ichtikal is the act of hoarding goods until the price skyrockets.
- d) Imam Shafi'i defined Iftikhar as the process of keeping purchased goods and marketing them at a price higher than the standard price or the price generally desired by the community.

From the various opinions of fiqh scholars, it can be concluded that in language and terms, as well as based on the views of scholars, monopoly or Ihtikar is the act of hoarding goods with the aim of reaping large profits.³¹

The word "*Ihtikar*" comes from the word "حَكَرَ" which means "to destroy a relationship". From the explanation of monopoly above, we can understand that *iftikhar* is the hoarding of a product until its price skyrockets. Some discussion related to monopoly (Ihtikar):

- a) Sa'id bin Musauyab from Ma'mar bin Abdullah, the Prophet said: "Hoarding will not happen except by the wrong person" (HR Muslim).

³⁰ Fatah, D. A., Monopoly in Islamic Economic Perspective, *Al-Iqtishad Journal Of Islamic Economics*, Vol. 4 No. 2, (2016), pp. 195006.

³¹ Munawwarah, E., Market Monopoly in Islamic View, *Journal of Citra Ekonomi*, Vol. 2, No. 1, (2021), pp. 93-99

- b) From Abu Hurairah, the Prophet said: "The one who hoards in order to raise prices is wrong" (HR. Hakim).
- c) From Ibn Umar, the Prophet said: "Whoever hoards food at night, escapes the shadow of Allah, and Allah removes the shadow from him" (HR Ahmad).
- d) Abu Umamah al-Bahili narrated that the Prophet forbade hoarding food (HR. Hakim).³²

Based on these four traditions, scholars who consider *Ihtikar* as a prohibited act state that the activity is expressly forbidden and the person who does it is considered to be committing a sin. Hoarding of goods is considered wrong if it results in an increase in prices in the market. In other words, hoarding goods with the intention of raising hoarding goods in the market and then selling them at a high price in order to make a large profit falls under the prohibited category of *Ihtikar*. However, hoarding goods does not fall under *Ihtikar* if it is practised when the availability of goods is abundant, such as during a large harvest season, because it does not affect the price of goods and does not harm buyers.

There are several views of fiqh scholars on the practice of monopoly in the modern economy, including the following:

1. According to Yusuf Al-Qardhawi

Yusuf Qaradawi defines *ihlikār* as the act of withholding goods from the market to increase prices. In the perspective of the Maliki scholars, some Hanbali scholars, and Imams Abu Yusuf and Abidin, the prohibition of *ihlikār* does not only apply to food, clothing, and animals, but also covers all goods needed by the community. They assume that the prohibition of *ihlikār* is based on the negative impact it has on society in general. Thus, any kind of loss felt by the community is not only limited to necessities such as food, clothing and animals, but also includes all products needed by society.³³

Yusuf Qaradawi also emphasises that monopolisation of various types of human needs, such as food, medicine, clothing, and school supplies, household furniture, and office equipment, is prohibited. This prohibition is

³² Ahmad ibn Hanbal, *Musnad Ahmad*, Kitab Musnad Al-Mukthirin min Ash-Shahabah, hadith no. 5387, hasan by scholars.

³³ Yusuf Al-Qaradawi, *Fiqh al-Zakah* (Beirut: Mu'assasat al-Risalah, 1997), pp. 190

based on the hadith that states, "No one monopolises except the guilty." Thus, monopoly is considered a sinful act. This hadith has a general wording, while the text that specifies the prohibition of monopoly only on food is more specific. However, the specific wording does not invalidate the general wording

2. According to Ibn

Ibn Katsir is of the view that the practice of monopoly as it is considered violates the principles of justice in Islam and can harm society as a whole. Some of the main points of Ibn Katsir's view on monopoly are:

- a) **Justice in Economics:** Ibn Kathir emphasises the importance of justice in every aspect of life, including in economic activities.
- b) **Prohibition of Exploitation:** Ibn Kathir quotes the hadith that prohibits the practice of *ihthikar* (monopoly or hoarding), especially of basic necessities such as food. In his commentary, Ibn Katsir underlines that anyone who engages in monopoly in order to raise prices and control the market has committed a sin because it harms the public interest.
- c) **Islamic Business Ethics:** According to Ibn Katsir, Islam places great emphasis on the importance of ethical behaviour in business. In Islam, profits should not be made at the expense of others, and markets should function in a fair and transparent manner.³⁴

As such, Ibn Katsir's views on monopoly are in line with the principles of justice and ethics in Islam, where monopoly is considered an act that is unfavourable to society and incompatible with Islamic teachings on justice and general welfare.

3. According to Ibn Qudhamah

Ibn Qudamah al Maqdisi, a major thinker in the Hambali school, argued that the government has no right to regulate the prices of goods traded by the community. He stated that citizens are free to determine the selling price of their own goods, a view also supported by scholars from the Shafi'i school.

³⁴ Ibn Kathir, *A Short Translation of Tafsir Ibu Kasir*, (Surabaya: PT. Bina Ilmu, 2012), p. 549. 549.

Ibn Qudhamah referred to a hadith to strengthen his argument on two main grounds. Firstly, the Prophet never fixed prices despite public demand. Had price fixing been allowed, the Prophet would have done so. Secondly, price fixing is considered an injustice (*zulm*), as it involves the right of individuals to sell their goods at a price agreed with the buyer.

4. According to Ibn Khaldun

Ibn Khaldun argued that the market system is a mechanism that sets prices through a process influenced by various elements, including demand, supply, distribution, government policy, labour, money, taxes, and security. Ibn Khaldun emphasised that in running the market mechanism, it is important to maintain morality, including fair competition, integrity, transparency and justice. Although he valued the prices that emerged in the free market, Ibn Khaldun did not recommend government intervention in the management of prices, because the market has its own mechanism to regulate the economy.³⁵

In the concept of *Ikhtikar*, the scholars are of the opinion that what is meant by forbidden hoarding has several criteria, namely:

1. What is being hoarded is the excess of one's needs, along with a year's supply. This is because it is permissible for a person to stockpile for the maintenance of himself and his family for a period of one year.
2. That the person waits until the price of the goods peaks in order to sell them at a higher price because people are in desperate need of them.
3. That hoarding is done at a time when people are in dire need of the goods being hoarded, such as food, clothing and so on. If the goods in the hands of traders are not needed by people, then it is not considered hoarding.³⁶

From some of the criteria above, it can be concluded that hoarding can be said to be haram if it is more than the needs of sustenance for himself and his family within one year. In other words, if hoarding consumer goods to fill the needs of the family and himself within one year is not forbidden because this action is reasonable in order to avoid a period of economic crisis.

D. Correlation and Comparison of Monopoly and *Ikhtikar*

³⁵ Ibn Khaldun, *Muqaddimah*, (Princeton: Princeton University Press, 1958), p. 56.

³⁶ Adiwarmanto A. Karim, *Islamic Microeconomics*, 223

From some of the above definitions, both regarding the concept of Monopoly and the concept of Ikhtikar, there is a correlation and comparison between the two terms. It can be understood that if according to the conceptual terms ikhtikar and Monopoly are two different terms, but if we look at the factual aspects of these two terms have similarities.

The similarity lies in the element of interest. Monopoly and ikhtikar have an element of personal interest or one-sided interest in price competition. Therefore, many acts of Ikhtikar are considered the same as monopoly in the ability to control the price of a good. This element of unilateral interest can cause problems in the course of the economy, so this behaviour is a prohibited act.³⁷

In addition, the similarity lies in its illegality, as explained in Law No.5 of 1999 Monopoly is one of the prohibited activities, because Monopoly is an activity that can lead to unfair business competition. Meanwhile, ikhtikar is considered illegal because ikhtikar behaviour can cause difficulties for others and narrow their space to obtain their needs. As regulated in Law No. 29 of 1948 concerning Eradication of Hoarding of Important Goods, although now the regulation on hoarding has changed in PP No. 71 of 2005 concerning Storage of Basic Needs and Important Goods.

Then the similarity between monopoly and ikhtikar lies in the impact it has, where monopoly and ikhtikar can both cause scarcity of goods and services, cause an increase in the price of an item and cause harm to consumers and other business actors.

In addition, there is a difference between Monopoly and Ikhtikar, which lies in the types of products, where if we look at the definition of Monopoly as explained in Law No.5 of 1999, it is the control of goods or services by a business actor or a group of business actors that can generate unfair competition, but Monopoly practices can be allowed if they are for the benefit of society in general.

Meanwhile, Ikhtikar or Hoarding according to Law No.7 of 2014 concerning Trade states that Sanya business actors are prohibited from hoarding goods of basic needs and important goods in a certain amount or

³⁷ C. Fahmi, 'The Impact of Regulation on Islamic Financial Institutions Towards the Monopolistic Practices in the Banking Industry in Aceh, Indonesia' (2023) 11 *Peuradeun Scientific Journal* 667-86.

time when there is a scarcity of goods, price fluctuations, and obstacles to the trade of these goods.

It can be concluded from the explanation above that monopolistic practices are prohibited in all types of goods or services as long as the consequences of monopolistic practices lead to unfair business competition and harm the public interest. Meanwhile, Ikhtikar is in accordance with what has been regulated in the Law that the types of goods that are prohibited to be hoarded are types of basic necessities and other important goods at certain times.

CONCLUSIONS

Monopoly can be defined statutorily as the control of goods or services by a business actor or a group of business actors that can lead to unfair competition, but monopolistic practices may be allowed if they are for the benefit of society in general. From an Islamic perspective, *Ihtikar* is prohibited as it goes against the principles of fairness and balance in trade. *Ihtikar* is considered to be the act of holding or hoarding goods with the aim of reaping huge profits when goods become scarce, to the detriment of consumers. Islam emphasises the importance of maintaining balance in trade and prohibits practices that can harm many parties. In the sense that monopoly lasts for a long time while *Ikhtikar* is temporary, monopoly can also change the market structure while *Ikhtikar* can affect the price and availability of goods and monopoly harms consumers by reducing choice while *Ikhtikar* causes scarcity and inappropriate prices

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