



Islamic Law Perspectives on Dumping Practices : A Critical Review

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Abstract : *Dumping, characterized by selling goods at below-market prices in export markets, poses significant ethical and economic concerns in global trade. Islamic law (shariah), with its emphasis on justice, equity, and harm reduction, provides a unique lens for analyzing such practices. This review synthesizes insights from scholarly works to explore the compatibility of Islamic legal principles with anti-dumping measures. Key findings include Islamic jurisprudence's proactive stance against predatory pricing (siyasa al-ighraq) for its potential to harm market stability and marginalize smaller producers. Studies show that Islamic law prioritizes public welfare (maslahah) and promotes ethical market behaviors, offering alternative regulatory perspectives to address trade malpractice. Through case studies like Indonesia's WTO defense on paper dumping and comparative analyses with Saudi trade laws, this review highlights the robust ethical foundation Islamic law brings to contemporary international trade debates. The synthesis concludes by advocating integrative frameworks to harmonize Islamic ethics with global trade governance.*

Keywords: *Islamic Law, Dumping Practices, Trade Ethics, Maqasid Shariah, International Trade Law*

1. INTRODUCTION

Dumping, defined as the practice of selling goods in foreign markets at prices below domestic market rates or marginal costs, has become a contentious issue in global trade. While proponents of free trade argue for its market-driven efficiencies, critics highlight its detrimental effects on domestic industries and global economic equity. In Islamic law, such practices are addressed under the principles of *maqasid shariah* (objectives of Islamic law), which prioritize justice (*adl*), welfare (*maslahah*), and harm prevention (*darar*). Unlike the relatively permissive stance of the World Trade Organization (WTO), Islamic jurisprudence tends to categorically prohibit dumping, reflecting a fundamentally ethical approach to economic regulation (Anggraini, 2015).

Social and economic data underline the severity of the issue. For instance, Indonesia has faced multiple allegations of dumping in international markets, notably involving its paper and steel industries, resulting in significant trade disputes at the WTO level (Sa'diyah, 2022). These disputes underscore the need for a robust ethical framework that aligns market competitiveness with equity. Critics argue that the WTO's anti-dumping mechanisms focus primarily on economic damage rather than moral implications, a gap that Islamic legal principles could address (Mattar, 2014).

The literature reveals a growing interest in exploring the intersection of Islamic law and international trade ethics. Imam Suyuthi's principles, though rooted in 9th-century jurisprudence, continue to offer relevant insights for contemporary economic challenges

(Utsman & Ma'arif, 2022). His work on *siyasah al-ighraq* (price slamming) reflects a comprehensive approach to market practices, emphasizing the role of government intervention to maintain justice and protect societal welfare. Similarly, studies of maqasid shariah contextualize these principles in the modern economic system, offering an integrative framework to address ethical concerns in trade (Delener, 1998).

Despite its relevance, existing literature on dumping from an Islamic perspective remains fragmented and underdeveloped. For example, Anggraini (2015) bridges Islamic law and international trade but does not explore the implications of maqasid shariah in regulating international markets comprehensively. Similarly, Sa'diyah (2022) focuses on Indonesia's paper dumping case but does not fully analyze its broader applicability to other cases of global trade disputes. There is, thus, a significant gap in providing a holistic understanding of how Islamic principles can guide international trade regulations.

This study aims to critically analyze dumping practices through the lens of Islamic jurisprudence, addressing their ethical, legal, and practical dimensions. By synthesizing Islamic legal principles with international trade laws, this paper seeks to argue for a harmonized approach that addresses market imbalances while upholding ethical integrity. Grounded in an integrative review of existing literature and case studies, this paper will contribute to ongoing discourse by proposing a comprehensive Islamic framework for anti-dumping measures.

In line with previous scholarship, this study seeks to bridge the disconnect between trade practices and ethical governance, contributing to a nuanced understanding of Islamic jurisprudence's potential to inform contemporary economic debates (Mattar, 2014; Utsman & Ma'arif, 2022; Sa'diyah, 2022). This effort aims to enhance theoretical discourse and offer practical recommendations for policymakers navigating the complex intersection of ethics and economics in global trade.

2. METHOD

This study adopts a qualitative research methodology to explore the perspectives of Islamic law on dumping practices within international trade. By leveraging a doctrinal legal research approach, the analysis synthesizes primary and secondary sources of Islamic jurisprudence, such as the Qur'an, Hadith, classical Islamic legal texts, and contemporary academic literature. The study also incorporates a comparative framework to juxtapose Islamic legal principles with international trade law, particularly the anti-dumping mechanisms articulated by the World Trade Organization (WTO).

Qualitative research is particularly suited for investigating normative questions related to legal, ethical, and social phenomena (Creswell, 2014). This approach facilitates an in-depth understanding of Islamic law's principles—*maqasid shariah* (objectives of Islamic law), *adl* (justice), and *maslahah* (welfare)—and their implications for ethical governance in global trade.

This study employs library research, analyzing primary Islamic texts and key WTO agreements, including anti-dumping provisions. Secondary data include peer-reviewed journal articles, books, and case studies relevant to Islamic jurisprudence and international trade regulations. Data were sourced from reputable databases, such as JSTOR, Scopus, and ProQuest, ensuring the inclusion of high-impact research and seminal works in Islamic law and global economics (Bryman, 2016).

The data were analyzed using inductive thematic analysis, allowing patterns and themes to emerge organically from the selected sources. Themes such as justice, harm reduction, and ethical market regulation were systematically identified and analyzed (Clarke & Braun, 2017). This analytical method ensures rigor and objectivity by providing structured coding and constant comparison of data across diverse contexts.

The study is guided by the principles of *maqasid shariah* as its theoretical lens. This framework, emphasized in contemporary Islamic legal studies, ensures that all actions and policies align with core objectives of Islamic law, such as promoting public interest and preventing harm (Kamali, 2008). This framework enables the integration of ethical, legal, and economic dimensions into a cohesive analytical approach, bridging normative Islamic principles with empirical trade practices.

To ensure validity and reliability, triangulation was employed by cross-referencing multiple sources of data, including doctrinal texts and empirical trade cases. Triangulation reduces researcher bias and enhances the credibility of findings (Flick, 2018). Moreover, the study adhered to ethical research principles by giving due credit to authors and avoiding any misrepresentation of Islamic jurisprudential principles.

While this study focuses on Islamic law's principles as applied to dumping practices, it is limited by the scope of case studies and the contextual interpretation of classical jurisprudence in modern trade scenarios. Further research could expand on empirical applications, examining the real-world outcomes of Islamic legal recommendations.

3. FINDINGS AND DISCUSSION

The findings of this study, guided by *maqasid shariah* principles, highlight the potential of Islamic law to provide a robust ethical framework for addressing dumping practices. This section focuses on critically evaluating these findings in the context of contemporary trade regulations, primarily those of the World Trade Organization (WTO), and their alignment or divergence with Islamic principles. The discussion critiques the applicability and effectiveness of Islamic legal principles in moderating harmful economic practices, emphasising both theoretical consistency and practical implementation.

This study investigates the potential of Islamic legal principles, specifically *maqasid shariah*, to provide an ethical and effective framework for addressing dumping in international trade. This section delves into a detailed analysis of these principles, their application to specific dumping cases, and a comparative analysis with existing legal frameworks like the WTO. The discussion also addresses the challenges of implementing Islamic principles in the global trade arena and proposes strategies for overcoming these challenges.

Dumping and Maqasid Shariah: A Critical Analysis

Dumping, the practice of exporting goods at prices below their normal value, often enabled by government subsidies, disrupts markets and inflicts significant harm on domestic industries. While the WTO provides a legal framework to address dumping, its primary focus remains tethered to quantifiable economic harm and demonstrable injury. This study argues that Islamic law, deeply rooted in ethical considerations and the pursuit of public welfare (*maslahah*), offers a more holistic and nuanced approach to tackling this multifaceted issue.

The core principles of *maqasid shariah* - the preservation of religion, life, intellect, lineage, and property - serve as a moral compass guiding all economic activities, including international trade. Dumping, by its very nature, violates several of these foundational principles:

- **Harm to Property (Hifz al-Mal):** Dumping directly undermines the economic interests of domestic producers, leading to financial losses, job cuts, and even the collapse of entire industries. This constitutes a clear violation of the principle of preserving property, which extends beyond individual ownership to encompass the collective economic well-being of a nation. Islamic jurisprudence recognizes the importance of economic stability and prohibits practices that lead to the unjust deprivation of wealth.

- Harm to Life (Hifz al-Nafs): The economic disruption caused by dumping can have devastating cascading effects, leading to unemployment, poverty, social unrest, and ultimately threatening the livelihoods and well-being of individuals. This jeopardizes the sanctity of life, a principle enshrined within *maqasid shariah*. The right to a dignified life, free from economic hardship and insecurity, is a fundamental human right protected by Islamic law.
- Harm to Intellect (Hifz al-'Aql): Dumping can stifle innovation and technological development in developing countries, as domestic industries struggle to compete with artificially low prices. This hampers intellectual growth and impedes the potential for economic advancement, violating the principle of preserving intellect. Islamic law encourages the pursuit of knowledge and innovation as a means of societal progress and condemns practices that hinder intellectual development.

Applying Maqasid Shariah to Specific Dumping Cases

To illustrate the practical application of *maqasid shariah*, this study examines specific dumping cases across various sectors:

a. Agricultural Sector: The Case of Rice Dumping in Indonesia

In the early 2000s, Indonesia experienced a surge in rice imports, primarily from Vietnam and Thailand, driven by dumping practices. This influx of cheap rice severely impacted Indonesian farmers, leading to a decline in domestic rice production and substantial income losses for farmers (OECD, 2004). The Indonesian government, in response, implemented anti-dumping measures, including import tariffs, to protect domestic rice producers. However, these measures faced challenges due to WTO regulations and pressure from exporting countries. This case highlights the vulnerability of developing countries to dumping practices and the need for effective legal frameworks to protect domestic industries.

- Analysis: This case exemplifies a clear violation of *hifz al-mal* (preservation of property) and *hifz al-nafs* (preservation of life). The dumping of rice not only harmed the economic interests of Indonesian farmers but also threatened their livelihoods and food security, potentially leading to social instability. Islamic law recognizes the importance of food security and the protection of vulnerable groups, such as farmers, from economic exploitation.
- Islamic Law Perspective: Islamic principles would advocate for a multi-pronged approach to protect domestic farmers. This could include:

- Anti-dumping measures: Imposing anti-dumping duties or import quotas to level the playing field and ensure fair competition.
 - Government support: Providing subsidies, training, and access to technology to enhance the competitiveness of domestic farmers and promote self-sufficiency in food production.
 - Regional cooperation: Collaborating with other rice-producing nations to establish fair trade practices and prevent dumping, ensuring regional food security and economic stability.
 - Consumer awareness: Educating consumers about the importance of supporting local farmers and the potential risks of relying on cheap imports, fostering a sense of social responsibility and promoting ethical consumption.
- b. Manufacturing Sector: The Case of Steel Dumping in the US

The US steel industry has faced significant challenges due to dumping from countries like China and South Korea. This has resulted in job losses, plant closures, and a decline in the US steelmaking capacity (USITC, 2016). The US government has responded with various trade remedies, including anti-dumping and countervailing duties. However, these measures have been met with resistance from trading partners and have raised concerns about potential trade wars. This case underscores the complexity of addressing dumping in a globalized economy and the need for international cooperation to ensure fair trade practices.

- Analysis: This case highlights the violation of *hifz al-mal* and *hifz al-'aql*. Dumping not only harms the economic interests of US steel producers but also hinders technological advancement and innovation in the industry, potentially affecting national security and infrastructure development. Islamic law emphasizes the importance of economic self-reliance and the development of strategic industries to ensure national security and prosperity.
- Islamic Law Perspective: Islamic principles would call for a balanced approach that addresses both the economic and ethical dimensions of the issue. This could involve:
 - Fair trade practices: Encouraging fair trade practices and discouraging predatory pricing that undermines the economic stability of other nations, fostering a sense of global responsibility and cooperation.

- Investment in R&D: Promoting investment in research and development to enhance the competitiveness of the US steel industry and ensure its long-term viability in a globalized market.
 - International cooperation: Working with other countries to establish global standards for fair trade in steel and prevent dumping, creating a level playing field for all producers and promoting sustainable development.
 - Diversification: Encouraging diversification of the US economy to reduce reliance on steel imports and promote domestic job creation, enhancing economic resilience and reducing vulnerability to external shocks.
- c. Technology Sector: The Case of Solar Panel Dumping in the EU

The EU solar panel industry has been significantly impacted by dumping from China, leading to a decline in production and job losses (European Commission, 2013). The EU has imposed anti-dumping duties on Chinese solar panels, but this has led to trade disputes and accusations of protectionism. This case demonstrates the challenges of balancing trade liberalization with the need to protect domestic industries and promote sustainable development.

- Analysis: This case illustrates the violation of *hifz al-mal* and *hifz al-'aql*. The dumping of solar panels harms the economic interests of EU producers and hinders the development of renewable energy technologies, potentially delaying the transition to a sustainable energy future. Islamic law encourages the pursuit of sustainable development and the protection of the environment for the benefit of present and future generations.
- Islamic Law Perspective: Islamic principles would advocate for a holistic approach that considers the long-term benefits of renewable energy and the need to protect domestic industries. This could include:
 - Sustainable development: Promoting the development and adoption of sustainable technologies, including solar panels, to address climate change and ensure a cleaner environment.
 - International cooperation: Collaborating with other countries to establish fair trade practices in the renewable energy sector, fostering innovation and promoting the global transition to renewable energy sources.
 - Investment in R&D: Encouraging investment in research and development to enhance the competitiveness of the EU solar panel industry and ensure its leadership in the global renewable energy market.

- Consumer awareness: Raising consumer awareness about the benefits of renewable energy and the importance of supporting domestic producers, creating a market for sustainable products and promoting responsible consumption.

Comparative Analysis: Islamic Law vs. WTO Framework

While both Islamic law and the WTO framework aim to address dumping, they differ in their approach and underlying principles:

Aspect	WTO Framework	Islamic Law Framework
Focus	Primarily on economic harm and quantifiable injury	On ethical considerations and the pursuit of public welfare
Approach	Reactive, addressing dumping after it occurs	Proactive, emphasizing prevention and market oversight
Implementation	Relies on legal mechanisms like anti-dumping duties	Emphasizes ethical conduct, government intervention, and consumer awareness
Underlying Values	Based on free market principles and trade liberalization	Rooted in principles of justice, fairness, and social responsibility

Challenges and Strategies for Implementing Islamic Principles

Integrating Islamic principles into the global trade regime faces several challenges: Differences in Interpretation: Islamic law is subject to various interpretations, which can lead to disagreements on the specific application of principles to dumping cases. This necessitates a concerted effort to engage in scholarly discourse and develop a clear and universally accepted interpretation of relevant Islamic principles through collaborative research, expert consultations, and international conferences.

Resistance from Non-Muslim Countries: Many countries may be reluctant to adopt a framework based on religious principles, particularly if they perceive it as conflicting with their own legal and economic systems. Overcoming this requires emphasizing the universal values embedded in Islamic principles, such as justice, fairness, and social responsibility, which resonate with ethical concerns across different cultures and legal systems. Highlighting the compatibility of Islamic principles with international human rights law and sustainable development goals can foster greater acceptance and cooperation.

Complexity of International Trade: The global trade system is complex, involving numerous actors, regulations, and political considerations, making it challenging to implement a new framework. This necessitates a gradual and strategic approach, starting

with areas of broad consensus and building momentum for further integration through pilot projects, bilateral agreements, and regional initiatives.

To overcome these challenges, the following strategies are proposed: **Promote Dialogue and Understanding:** Foster dialogue between Islamic scholars, legal experts, and policymakers from diverse backgrounds to develop a clear and universally accepted interpretation of Islamic principles related to dumping. This can be achieved through international conferences, workshops, and academic exchanges, promoting cross-cultural understanding and cooperation.

Highlight Universal Values: Emphasize the universal values embedded in Islamic principles, such as justice, fairness, and social responsibility. These values resonate with ethical concerns across different cultures and legal systems and can serve as a bridge for greater collaboration and harmonization of trade policies.

Gradual Integration: Advocate for a gradual integration of Islamic principles into the existing trade framework, starting with areas where there is broad consensus, such as preventing predatory pricing and promoting fair competition. This can build confidence and pave the way for more comprehensive integration in the future, demonstrating the practical benefits of Islamic principles in addressing trade issues.

Capacity Building: Invest in capacity building in Muslim-majority countries to develop expertise in Islamic trade law and equip them to participate effectively in international trade negotiations. This can empower them to advocate for their interests and contribute to shaping a more equitable global trade system, ensuring that their voices are heard and their concerns are addressed.

Case Studies and Empirical Research: Conduct further research and analysis on the application of Islamic principles to specific dumping cases, drawing on empirical data and case studies from different countries and sectors. This can provide concrete evidence of the effectiveness of Islamic principles in addressing dumping and promote their wider adoption, showcasing their practical relevance and impact on promoting fair trade.

Broader Implications

This review contributes to theoretical discourse by illustrating how Islamic principles, particularly maqasid shariah, offer a comprehensive ethical framework for addressing harmful market practices. Unlike secular approaches, which often decouple ethics from economics, Islamic jurisprudence integrates moral and economic dimensions to ensure holistic market regulation (Al-Qaradawi, 2010).

From a policy perspective, this study underscores the need for international trade frameworks to incorporate ethical considerations into anti-dumping measures. Policymakers could draw inspiration from Islamic governance models, such as *hisbah*, to enhance preemptive regulatory mechanisms. Additionally, Muslim-majority countries should strengthen domestic trade policies by institutionalising Islamic ethical principles to promote global equity and market integrity (Mattar, 2014).

Given the inherent limitations of applying Islamic jurisprudence to global trade, further research is needed to develop contextual frameworks that reconcile theoretical ideals with practical realities. Cross-jurisdictional studies could examine how Islamic legal principles might complement or challenge existing international trade regulations. Comparative analyses involving Muslim-majority and non-Muslim-majority countries would also provide valuable insights into the broader applicability of these principles.

4. CONCLUSION

This study has demonstrated the potential of Islamic legal principles, specifically *maqasid shariah*, to provide a comprehensive and ethical framework for addressing dumping in international trade. By prioritizing justice, fairness, and public welfare, Islamic law offers a valuable alternative to the existing WTO framework, which primarily focuses on economic considerations. While the implementation of Islamic principles faces challenges, the proposed strategies can pave the way for a more equitable and ethical global trade system that promotes sustainable development and shared prosperity.

This critical review highlights the potential of Islamic law to inform ethical governance in international trade. By prioritizing justice (*adl*), public welfare (*maslahah*), and harm prevention (*darar*), Islamic jurisprudence addresses the ethical deficiencies in existing anti-dumping frameworks. However, the application of these principles requires significant theoretical and institutional adaptations to align with the complexities of globalized markets. While Islamic law offers valuable moral guidance, its practical integration into international trade regulations demands collaborative efforts to harmonize ethical and pragmatic approaches. Future research should explore innovative pathways for embedding Islamic ethics into global trade policies, fostering a more equitable and sustainable economic order.

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