

# Prevention of Hoarding in Market under Islamic Law: An Overview of Legal Framework in Bangladesh

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**Abstract:** Supply and demand dictate the price of items. Many other elements determine market price. If the regular path of supply is purposefully disrupted to create scarcity, supply and demand are out of balance, causing price hikes in the Bangladeshi market. Hoarding by dishonest businessmen causes market imbalance, which raises the price of basic goods in Bangladesh. Hoarding is a prevalent fault in trade and commerce, but preventing it is difficult. This study examines Islamic economic and legal approaches that can be used to change Bangladesh's legal framework to discourage hoarding. This study examines Islamic laws to curb hoarding. This study paper aims to identify weaknesses in Bangladesh's legal framework and offer practical proposals based on Islamic legal and economic policies to establish economic rights by preventing market hoarding. This research summarizes laws and legal mechanisms. It's qualitative research. Uses primary and secondary data. This article identifies legal framework weaknesses. This also makes concrete proposals for improving the present legal system by preventing hoarding and developing a fair selling system.

**Keywords:** Economic and legal policy, provisions against hoarding, Islamic law

## INTRODUCTION

Hoarding is the activity of accumulating resources, commodities, and materials to create artificial scarcity, limit supply, and increase price and profit. Hoarding occurs when items are stored with the hope of making a profit when their price rises (Madni, 2013). "Hoarding" means stocking or storing anything in excess of the maximum quantity of that thing allowed to be held in stock or storage at any one time by any person by or under any law (Special Powers Act, 1974).

Hoarding refers to obtaining, holding, and owning enough of a stock, commodity, or other asset to manipulate the market price. Large-scale hoarders, warehouse keepers create syndicates to stockpile. In Bangladesh, middlemen regulate and set prices. Agricultural marketing is characterized by a large pricing gap between farmers and retailers. In Bangladesh, the market system is surrounded by wealthy and powerful big guns backed by traditional politics. Most Bangladeshis are Muslims, and Islam is central to their existence. Islam is a lifestyle that leads its members in all aspects of life, not only religion. If Islamic economic and legal strategies are implemented to amend the existing legal framework in Bangladesh addressing hoarding, people will feel legally and ethically compelled to avoid hoarding in the marketplace.

This study evaluates hoarding prevention mechanisms. This study examines inefficient legal tools for prosecuting criminals. The project aims to combat hoarding by creating a complex legal system based on Islamic economic and legal laws. Through this research, we shall give pragmatic and practical

recommendations to help the authorities change or develop hoarding laws that will satisfy Bangladeshi citizens.

## **LITERATURE REVIEW**

Different Islamic schools define 'hoarding' differently. According to Shawafe, hoarding involves buying expensive food and storing it to raise its price (Al Ramali,2003). Hanblah defined it as buying and holding food so that ordinary people can't buy it, then selling it when it's more expensive (Al Maqdasi,1985).

Many governments have denounced food hoarding. In poor countries, anti-hoarding laws are frequent (Sharfman,2006). Hoarding destroys a fair economic balance in society, and customers are most affected because economic balance is meant to help the ordinary people (Madni, 2013).

Hoarding drives up prices. Essential commodity hoarding and price hikes are major problems in Bangladesh. Businessmen raised prices (Sarkar et al., 2009).

Plain reading of hoarding laws reveals a fragmented legal system. The Essential Articles (Price Control and Anti-Hoarding) Act, 1953, cannot be enforced without revising clause 13. Section 13 of the Act states that violating any of its restrictions constitutes a violation of section 3 of the Hoarding and Black Market Act, 1948. The Hoarding and Black Market Act, 1948 was repealed and cannot be enacted.

The Essential Commodities Act, 1957 was created to regulate trade and commerce between different locations in Bangladesh for certain commodities. 1956's Control of Essential Commodities Act has a similar punishment and procedure. These duplicate issues, creating redundancy. To enforce the Essential Articles (Price Control and Anti-Hoarding) Act, 1953, the same punishment and procedure might be inserted from similar legislation. (Law Commission, 2011)

Section 12 of both the Control of Essential Commodities Act,1956 and the Essential Commodities Act,1957 state that any Magistrate of the First Class specially empowered by the government may pass a sentence of fine exceeding one thousand taka on any person convicted of contravening a section 3 order, despite section 32 of the Code of Criminal Procedure,1898. This clause will be changed to align with section 32 of the 1898 Code of Criminal Procedure, where a First-Class Magistrate can sentence a 10,000 Taka fine.

Bangladesh's laws specify hoarding but don't provide a method to enforce them. Bangladesh's hoarding rules focus on punishment, not prevention. This article focuses on issues that can make hoarding laws more effective by educating potential offenders that refraining from hoarding is their moral and religious commitment.

## **METHODOLOGY**

Qualitative research methodology has been followed to attain the objective of the study. The purpose of the qualitative methodology for this study is to depict the ineffective legal mechanism to prevent hoarding. The study is basically based on secondary data. Data is collected from various sources of published books, journals, articles, newspapers, periodic and reports. The data analysis has followed the qualitative way which maintains, at the time of analyzing the data, the descriptive and critical technique.

## **ECONOMIC AND LEGAL POLICIES OF ISLAM IN THE MARKET PLACE**

In Communist Economic System, the government regulates businesses and industries and decides all economic policies. In capitalism, the government gives a rough overview of business policies, and then businesspeople and industrialists set their own to influence their business.

Islam is moderate on this subject. Businessmen and industrialists in Islam have freedom to set corporate policies, but not unlimited freedom. They must follow rules of Quran and sunnah. These laws and restrictions of Islamic law were created for the good of society as a whole, because Islam only intends to allow non-harmful people to do business in society. To achieve this goal, businessmen's character must be changed. To encourage Muslim businesspeople to be honest and true, the Prophet remarked,

"A truthful businessman will be in the company of Prophets, Veracious, and Martyrs" (Al-Bukhari, 1970).

Islam does not limit business or professional earnings based on local trends, market conditions, production costs, etc. Islam urges a businessman to focus not only on worldly profit but also on afterlife reward when selecting business policies. Muslim businesspeople who believe in the hereafter are willing to forsake greed in the expectation of making much more in the afterlife.

### **PROVISIONS AGAINST HOARDING IN ISLAMIC LAW**

Maumar bin Abdullah said that the Messenger of Allah said that no one withholds goods till their price rises but a sinner (Al-Muslim, 2001).

The prophet Muhammad (sm) also said that a person who hoards some goods for forty days will not be able to feel the fragrance of Jannah (paradise), where the fragrance of Jannah reaches upto a distance of five hundred year's journey (Husayn Nuri, 1987). The Messenger of Allah also mentioned that a hoarder is cursed (Al-Qazveeni, 1999). Messenger of Allah also said that the angel Jibril informed him that there is a valley covered with violent fire in the hell which has been prepared for three groups of people: the hoarders, the drunkards and those who take bribes (Husayn Nuri, 1987).

The famous companion of Prophet Muhammad (PUB) Ibn Umar said that the Prophet said that, if anyone stores grain for forty days with the intention to sell for a high price, Allah will leave him (Al-Hakim, 1990)

Messenger of Allah also said in another hadith that whoever hoards food (and keeps it away from) the Muslim, he will be persecuted by Allah by leprosy and poverty (Ibn Majah, 2009).

Most of the Islamic scholars agree that the government has the right to compel a person to sell his food stuffs if that person stores food stuffs and people living in that area face severe scarcity of that food stuff. However, there are some exceptional situations where storing or hoarding can be permitted in Islam. For example, where the government collects many goods and stores them for the public in cases of emergency situations that is permitted in Islam. Moreover, Islam permits to store for a limited period of time to invest or fulfill the personal needs or family needs only provided that the storing is not harmful for the public and there is no possibility of price hiking due to this storing. Islam also allows to buy food stuffs when the price is cheap and then to use it for personal and family use. Storing of seeds of grains for irrigation purpose is also permissible.

### **AFFAIRS FOR PROHIBITED HOARDING IN ISLAM**

According to Shawafe and Hanblah schools of thought only goods which is related to food and drinks, storing of those goods are prohibited (Al-Nowavi, 2002). The support for this argument is found in the hadith which says that whoever hoards foods he will be beaten by Allah by leprosy and bankruptcy (Al-Qazveeni, 1999).

On the other hand, scholars like Imam Malik of Maliki school of thought, Imam Abu Yusuf from Hanafi school of thought opine that hoarding is not related to any particular thing and it is related to all those things which a person may be in need. The argument behind this opinion lies in the fact that the hadith which prohibits storing food stuffs has not discriminated between food and drinks of human being and food and drinks of other creatures besides human. So, the intention of that hadith was not to discriminate between food stuffs and other useful materials. They also cite another hadith mentioned in Sahih Muslim in support of their opinion which states that whosoever practices hoarding is sinful (Al-Maqdasi, 1985). This hadith has not mentioned the name of any specific goods. Thus, in this regard the views of Imam Malik and Imam Yusuf are more acceptable as in most of the hadith there is no prohibition on hoarding of only specific goods and permission on hoarding of remaining goods. Hence, prohibition of hoarding may be applied for any kinds of goods.

Therefore, it can be argued that hoarding is prohibited for any goods and it may be any goods which are of daily use for people. So, it may include medicines, clothes, nutritious items etc.

## **PRECONDITIONS FOR PROHIBITION OF HOARDING IN ISLAMIC LAW**

Storing food for a limited time to meet family requirements is not forbidden. Banu Nadheer stored dates for a year in Madina during Islamic times, and it wasn't considered hoarding (Al-Bukhari,1981). Stored goods must be collected from local market in order to be considered as prohibited hoarding. Islamic law has four separate views regarding the time span of hoarding. According to Umar (R.), hoarding must last at least 40 days. Another opinion suggests that the minimum period is 30 days. Third, don't set a time frame. Imam Shaukani believes that hoarding should be prohibited if it is harmful to society as a whole (Al-Shaukaani,1973). The fourth position favors not setting a precise time period and focuses on the type of storing and harm it does to society rather than the time period of storing.

## **EXISTING LEGAL FRAMEWORK TO PREVENT HOARDING IN BANGLADESH**

One of the most burning and discussed issue of Bangladesh is the unusual price of hike of essential commodities. The existing legal framework in Bangladesh addresses its intention to prevent hoarding. Law does not allow hoarding in the market. The existing mechanisms to prevent hoarding are given below:

### **The Essential Articles (Price Control and Anti-Hoarding) Act, 1953**

The purpose of the Essential Articles (Price Control and Anti-Hoarding) Act,1953 is to control the supply and distribution of essential commodities in trade and commerce. This law prohibits hoarding and the government shall take such action as to storage, distribution or disposal of the excess quantity. (Essential Articles Act, 1953) Section-8 clearly describes the prohibition against withholding of sales. To prevent hoarding the government may require maintaining accounts and registration of godowns under the said Act. Under this section any officer authorized by the government may require a trader to keep hung up in his business center a notice-board quoting therein the daily stock of essential articles held by him in his stock (*Essential Articles Act, 1953*).

For penalties this law makes a reference to the section-3 of the Hoarding and Black Market Act, 1948 for the contravention of any provision of this Act. (*Essential Articles Act, 1953*) However, the Hoarding and Black Market Act, 1948 has been repealed and thus it is not capable of being implemented. Moreover, it provides indemnity to any person for anything which is done or intended to be done in good faith. (*Essential Articles Act, 1953*)

### **The Control of Essential Commodities Act, 1956**

Under the Control of Essential Commodities Act, 1956, the government can control the price of essential commodities and prohibit their withholding from sale. If a person violates an order, he may be sentenced to up to three years in jail, fine, or both. If the order so allows, the court trying the case may order the forfeiture of any property in which the violation occurred (Control of Essential Commodities Act, 1956). According to Section 9, anyone who makes a false statement in a book, account, record, declaration, return, or other document faces up to three years in prison or fine, or both. Section 12 allows any First-Class Magistrate to impose a fine of more than 1,000 rupees on anyone convicted of violating section 3 order, despite section 32 of the Code of Criminal Procedure, 1898. Section 32 of the Code of Criminal Procedure, 1898 allows a First-Class Magistrate to impose a fine of 10,000 taka.

### **The Food (Special Courts) Act, 1956**

The Food (Special Courts) Act, 1956, has been established for setting up Courts for speedy trial of offences in relation to foodstuffs. The Food (Special Courts) Act, 1956 excluded the jurisdiction of the Control of Essential Commodities Act, 1956, or any other law in respect of foodstuffs and the offence in respect of this shall be tried and punished by Special Magistrates appointed under this Act (Food Act, 1956). Section-6 renders punishment for any offence committed under this Act and the punishment is imprisonment for a term which may extend to three years or with fine or with both and the Court of Special Magistrate may direct that any foodstuffs in respect of which the said Court is satisfied shall be forfeited to the government.

### **The Essential Commodities Act, 1957**

The purpose behind enacting the Essential Commodities Act, 1957 is to control price and regulate trade and commerce between different areas in Bangladesh in respect of certain essential commodities.

Under sub-section (2) of section-3, the government may order for controlling the prices at which any essential commodity may be bought or sold in any area and for prohibiting the withholding of sale between different areas in Bangladesh of an essential commodity ordinarily kept for sale etc. and section-6 provides punishment for a term which may extend to three years or with fine or with both (Essential Commodities Act, 1957). Suppose any person makes any statement or furnishes any false information in any book, account, record, declaration, return or other documents. In that case, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both (Essential Commodities Act, 1957).

### **The Special Powers Act, 1974**

The 1974 Special Powers Act covers market hoarding. The 1974 Special Powers Act defines hoarding. Section 25 states that hoarding is punishable by death or imprisonment for life, or 14 years of rigorous imprisonment and shall also be liable to a fine. If the accused establishes, he was stockpiling for non-financial advantage, he may be imprisoned for up to three months and fined. A court that convicts of hoarding shall forfeit the property involved. Every Sessions Judge, Additional Sessions Judge, and joint Sessions Judge is a Special Tribunal for this Act offenses in his sessions division. For trials of offenses listed in paragraphs 3 and 4 of this Act's Schedule, the government may create one or more Special Tribunals with one Metropolitan Magistrate or a Magistrate of first class (Special Powers Act, 1974).

### **The Mobile Court Act, 2009**

The Magistrate empowered by this Act can take cognizance of the offences committed under the Laws mentioned in the Schedule of the Mobile Court Act, 2009. The Schedule of the Mobile Court Act, 2009 includes the Control of Essential Commodities Act, 1956. Thus actions against hoarding can be taken under this Act.

## **FINDINGS AND RECOMMENDATIONS**

Although in a free market economy, the government should have some mechanisms to keep at a tolerable level the prices of essential commodities which affect the larger population (Mondal, 2019). The short-term imprisonment indirectly gives impunity to the culprit. This problem should be addressed by making amendments to the said Act or enactment of new laws. After analyzing the abovementioned legal framework, the following recommendations are being made:

- a) Laws relating to hoarding should be amended to meet the demand of the present era.
- b) The monetary fine should be increased focusing the present economic condition of Bangladesh as hoarding is a million-dollar business.
- c) Profits of hoarding should be confiscated after proper trial by competent court
- d) Exemplary punishment in terms of imprisonment should be awarded.
- e) A uniform law relating to hoarding needs to be enacted in the heading of 'Anti-hoarding Act' covering all the aspect to satisfy the demand of the present time.
- f) The law enforcing agencies should be properly equipped and trained to prevent hoarding. In respect of agricultural product, the Agricultural Marketing Department should be made stronger by equipping it with trained manpower and efficient legal mechanism.
- g) Public awareness regarding the bad impact of hoarding should be raised through government and non-government agencies and media.
- h) The principle of Islamic law should be kept in mind while introducing and implementing laws against hoarding because the Almighty Allah has ordained Islamic law, and He knows the nature of his creature the best. As a result, this law best suits human nature. Islam does not

impose any law that is against human nature and becomes burdensome for mankind. In the case of hoarding, Islam permits profit and does not impose any restriction on the profit, but Islam allows profit as long as it is not harmful to society. Furthermore, Islam declares reward in life hereafter for sacrificing greed. Thus, Islam has created a proper balance that effectively implements laws against hoarding.

## CONCLUSION

Bangladesh's current legal structure prohibits hoarding, which has various problems that must be resolved by implementing Islamic law. To combat hoarding, the government and law enforcement must be proactive. As mentioned in this article, hoarding can be controlled by updating and implementing the laws. To resist merchants' and businessmen's tendencies, a clear legislative framework and strong political will are needed. Hoarding and stockpiling must be dealt uniquely in our law because the practice is uncommon elsewhere. Finally, lawmaking and implementation should be practical. When revising and implementing hoarding laws, values, religion, socioeconomic status, and market conditions should be considered.

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