

# RE-INTERPRETATION OF ISLAMIC TRANSACTION PRINCIPLES IN ECONOMIC ACTIVITIES

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**Abstract:** *Mu'amalah*, as a human activity related to devotion to Allah, must abide by the rules established by Islamic law for the benefit of society and the maintenance of rights and duties among people. Therefore, the purpose of this paper is to provide a comprehensive and applicable explanation of the reinterpretation of Islamic transactional principles in 21st century economic activities. This article is a library study using qualitative methods. Methods for collecting document data from relevant journals and books. It is then analyzed using content analysis methods. The result of this research is the principles of Islamic transactions: (1) *mashlahah* as an indicator of transactions, (2) justice in transactions, and (3) prohibition of all transactions involving *ribâ*, *gharâr*, *tadlîs*, *tahkîr*, *maysîr*, and *risywah*. The similarity between the study and previous studies lies in the concept and principles of Islamic transactions, but the difference is that this study fully explains the principles of Islamic transactions, with examples of their application in economic activities.

**Keyword:** reinterpretation; Islamic transaction principles; concepts and applications; economic activities

**Abstrak:** *Mu'amalah*, sebagai aktivitas manusia yang berhubungan dengan pengabdian kepada Allah, harus mematuhi aturan yang ditetapkan oleh hukum Islam untuk kemaslahatan masyarakat dan pemeliharaan hak dan kewajiban di antara orang-orang. Oleh karena itu, tujuan dari makalah ini adalah untuk memberikan penjelasan yang komprehensif dan aplikatif tentang reinterpretasi prinsip-prinsip transaksional Islam dalam kegiatan ekonomi abad ke-21. Artikel ini merupakan studi literatur dengan menggunakan metode kualitatif. Metode pengumpulan data bibliografi dari jurnal dan buku yang relevan. Kemudian gunakan metode analisis isi untuk menganalisis. Hasil penelitian ini adalah prinsip-prinsip perdagangan Islam: (1) *maslahah* sebagai indikator perdagangan, (2) keadilan perdagangan, dan (3) larangan semua transaksi yang melibatkan *ribâ*, *gharâr*, *tadlîs*, *tahkîr*, *maysîr* dan *risywah*. Kesamaan dengan penelitian sebelumnya terletak pada konsep dan prinsip transaksi Islam, namun perbedaannya adalah penelitian ini menjelaskan secara lengkap prinsip transaksi Islam dan mencontohkan penerapan transaksi Islam dalam kegiatan ekonomi.

**Kata kunci:** interpretasi ulang; prinsip transaksi syariah; konsep dan aplikasi; aktivitas ekonomi

## Introduction

In Islamic teachings, three main elements or basic frameworks are interrelated, strengthen, and determine the religious quality. These three main elements are called *arkân al-dîn*. The three elements are faith, *Islam*, and *ihsân (akhlâq)*.<sup>1</sup> The third element has an essential function and role: to

function as a colour giver to the first and second elements, namely faith and Islam. Thus this third element is present in all teachings and activities in Islam, starting in the education of *tauhîd*, worship, politics, and socio-culture to *mu'amalah* in a broad and economic activity.<sup>2</sup>

<sup>1</sup> Hilman Taqiyudin, "Konsep Etika Muamalah Dalam Islam," *Muamalatuna: Jurnal Hukum Ekonomi Syariah*, vol. 11, no. 1 (2019), pp. 80–102; Ahmad Maulidizen, Heristina Fitri Rukmana, and Muhammad Rafi Thoriq, "Revealing The Existence of Moneylenders in Trading Activities at Parung Market Based on Islamic Economic Principles," *Jurnal Ekonomi*, vol. 11, no. 3 (2022), pp. 556–563.

<sup>2</sup> Sami M. Abbasi, Kenneth W. Hollman, and Joe H. Murrey, "Islamic Economics: Foundations and Practices," *International Journal of Social Economics*, vol. 16, no. 5 (1989), pp. 5–17; Mausudul Alam Choudhry, "Principles of Islamic Economics," *Journal Middle Eastern Studies*, vol. 19, no. 1 (1983), pp. 93–103; John R Presley and John G Sessions, "Islamic Economics: The Emergence of a New Paradigm," *The Economic Journal*, vol. 104, no. 424 (1994), pp. 584–596;

The relationship between human interaction in business activities has also progressed very rapidly. One of them is a trading business based on Islamic law. Sharia trading business model can be in the form of buying and selling sharia. In other words, the practice of buying and selling must meet the provisions of Islamic law. These sharia principles are related to some of the basic principles of *mu'amalah* in buying and selling, namely the prohibition of *ribâ*, *maysîr*, *gharâr*, *tadlîs*, and *risywah*.<sup>3</sup> If economists look a little at the business ethics in Islam and do not have a subjective view, there are universal values that civilized humans uphold. In Islamic transactions, ethical principles must be used as guidelines by all parties conducting transactions. These principles are not only supported by humans with universal values but also come from revelation. Therefore, this article will comprehensively discuss the principles of Islamic transactions in economic activities.<sup>4</sup>

## Method

This research is library research with a descriptive approach, which describes or explains the Re-interpretation of Islamic transaction principles in 21<sup>st</sup> Century. The research data collection method uses the documentation method and various articles and books. Then analyzed using the content analysis method, which is analyzing library data that is a descriptive or scientific analysis of a premium message.

Mehmet Asutay, "A Political Economy Approach to Islamic Economics: Systemic Understanding for an Alternative Economic System," *Kyoto Bulletin of Islamic Area Studies*, vol. 1, no. 2 (2007), pp. 3–18.

<sup>3</sup> Sri Sudiarti, *Fiqh Muamalah Kontemporer* (Medan: FEBI UIN SU Press, 2018), 9; Syed Nawab Haider Naqvi, "Ethical Foundations of Islamic Economics," *Journal of Islamic Studies*, vol. 17, no. 2 (1978), pp. 105–136; Ahmad Maulidizen, "Business Ethics: Analysis of Al-Ghazali's Economic Thought With Sufism Approach," *Religia: Jurnal Ilmu-ilmu Keislaman*, vol. 22, no. 2 (2019): pp. 160–177.

<sup>4</sup> Agus Arwani, "Epistemologi Hukum Ekonomi Islam (Muamalah)," *Religia: Jurnal Ilmu-ilmu Keislaman*, vol. 15, no. 2 (2012), pp. 125–146; Ahmad Maulidizen, Heristina Fitri Rukmana, and Muhammad Rafi Thoriq, "Moneylender and the Welfare of Traders in Parung Market: Theological and Economic Approach," *Journal of International Conference Proceedings (JICP)*, vol. 5, no. 4 (2022), pp. 136–149.

## Result and Discussions

### 1. Maslahah as an Indicator of Transactions

Iswandi stated that he could not separate the meaning of *mashlahah* from the absolute essence and the meaning that is *majâzî*. The fundamental purpose of *mashlahah* is the value of the benefits produced, namely the perfection of the desired target's services. The definition of *majâzî* is a factor that causes the value of benefits to occur or is interpreted as a business that contains benefits. For example, business and agricultural activities are businesses that have the values of *mashlahah* because these businesses do provide benefits or factors that give the value of *mashlahah* itself. This meaning defines that *mashlahah* is the benefit itself, regardless of the benefit value as an output or the benefit value as a process.<sup>5</sup>

Unlike other religions, Islam is the only religion with a system and rules in the form of ethics and laws Allah directly made. The Prophet is a practical example of this economic system.<sup>6</sup>

<sup>5</sup> Andi Iswandi, "Maslahat Memelihara Harta Dalam Sistem Ekonomi Islam," *Salam: Jurnal Filsafat dan Budaya Hukum*, vol. 1, no. 1 (2014), pp. 19–32. To understand further *Mashlahah* as an output or process; (1) al-Ghazâlî, *Mashlahah* as an effort in which to take the values of benefits and deny the values of damage. Where this process is aimed at maintaining *Maqâshid al-sharî'ah*. (2) al-Khawarizmî, *Mashlahah* is an effort to sustain *Maqâshid al-sharî'ah* by enying *mafsadah* or values of damage caused by human behavior, (3) al-Thûfî, *Mashlahah* is *wazn* from the word *maf'alatun* from the word *shalaha*, which means that the form of a material is made in such a way as to be used, for example, a pen is made to be used for writing, and a sword is made in such a way that it can be used to cut. (4) Ibn 'Abd Salam explained that sometimes a *Mudharat* could produce benefit so that *Mudharat* is allowed or ordered to do it. However, this permissibility and commandment are not due to essential fading, but because it is considered that *Mudharat* is the cause of certain benefits. For example, amputation of organs transmits diseases throughout the body as a form of guarding the soul for survival, risking life in jihad, and all forms of punishment applied in sharia. (5) al-Syâthibî, *Mashlahah* is to take advantage and reject *mafsadah* which is not only based on common sense alone but to preserve the rights of the slave. The intellect can know not all worldly benefits, but only some, and others are known through sharia. See 'Abû Hamid Muḥammad bin Muhammad al Ghazâlî al-Thûsî Al-Shâfî'î, *Al-Mutasyfâ Min 'ilmi Al- Ushûl* (Beirut: Dâr al-'Ulûm al-Hadîtsah, n.d.), p. 286; Al-Syawkânî, *Irsyâd Al-Fuhûl Ilâ Tahqîq Al-Hâq Min 'ilmi Al-Ushûl* (Mesir: Mathba'ah al-B , *Al-Mashlahah Hifz Al-Nafsi Fî Al-Syarî'ah Al-Islâmiyyah* (Mesir: Mu'assasah al-Mukhâr, 2004), p. 28; Ibn 'Abd Salam, *Qawâ'id Al-Ahkâm Fî Mashâlih Al-An'am*, 1st ed. (Beirut: Dâr al-Jail, n.d.), p. 11; Al-Shâthibî, *Al-Muwâfaqât Fî Ushûl Al-Syarî'ah*, 2nd ed. (Beirut: Mushthafû Muḥammad, n.d.), p. 374.

<sup>6</sup> Many verses of the Qur'an or Hadîth explain the basic concepts of economic activity, including the basic concepts of

According to ‘Alî Mûsâ Husayn, there are three essential things that need to be considered in maintaining or preserving property in muamalah activities, namely the recording, testimony, and participation of documentation.<sup>7</sup>

## 2. Realizing Justice in Transactions

According to Khadduri<sup>8</sup> and Tamyiez,<sup>9</sup> Justice is divided into positive and rational justice. Positive justice is a human product concept formulated based on individual or collective interests. This scale of justice develops through tacit consent and formal action. This justice is a product of the interaction between expectations and existing conditions. Meanwhile, rational justice is justice that comes from God, which is called divine justice. This justice is considered to apply to all humans, especially to devout religions. Meanwhile, Fauzi,<sup>10</sup> the concept of justice in Islam is, *first*, justice based on *Tauhid*, all the pleasures Allah bestows, as stated in *Aqîdah*. *Second* is law-based justice, namely equality in accessing welfare from the economy, health and education in social institutions as stipulated in statutory regulations.

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assets, work, buying and selling, debt, pawning, production, consumption, distribution, investment, accounting, asset management, and social security instruments. Inheritance, endowments, *infâq*, alms, taxes, and other basic concepts relating to economic activity. Only Islam has a fundamental economic concept, and no religion other than Islam has an economic concept or an economic system.

<sup>7</sup> Iswandi, “Maslahat Memelihara Harta Dalam Sistem Ekonomi Islam,” 31; Ahmad Maulidizen and Mohammad Anton Athoillah, “The Concept of Muzâra’ah and Its Implications on Socio-Economic of Society in Cianjur, West Java,” *ESENSIA: Jurnal Ilmu-Ilmu Ushuluddin*, vol. 19, no. 2 (2018), pp. 249–277.

<sup>8</sup> Majid Khadduri, *Teologi Keadilan Perspektif Islam* (Surabaya: Risalah Gusti, 1999), p. 1; Mahir Amin, “Konsep Keadilan Dalam Perspektif Filsafat Hukum Islam,” *Al-Daulah: Jurnal Hukum dan Perundangan Islam*, vol. 4, no. 2 (2014), pp. 341.

<sup>9</sup> Tamyiez Dery, “Keadilan Dalam Islam,” *Mimbar: Jurnal Sosial dan Hukum*, vol. 17, no. 3 (2020), pp. 249–265. Several fields of justice that must uphold are legal justice, economic justice, political justice, theological justice or belief, health justice and education justice. In the Qur’an, justice is built on several principles: equality, honesty and sincerity. See Afifa Rangkuti, “Konsep Keadilan Dalam Perspektif Islam,” *Tazkia: Jurnal Pendidikan Islam*, vol. 1, no. 1 (2017), pp. 1–14.

<sup>10</sup> Fauzi Al-mubarak, “Keadilan Dalam Perspektif Islam,” *Istighna: Jurnal Pendidikan dan Pemikiran Islam*, vol. 1, no. 2 (2018), pp. 115–143; M Samson Fajar, “Keadilan Dalam Hukum Islam (Tinjauan Multidisipliner Dalam Kasus Poligami),” *Jurnal Al-Adalah*, vol. 12, no. 1 (2014), p. 48.

Wahbah Zuhaylî interprets *al-Syûrâ*’ verse 14 that justice is one of the teachings carried by each apostle. Even the concept of justice did not change from one generation of apostles to the next generation and ended in Muhammad.<sup>11</sup> The Quran mentions justice. The word *al-‘Adl*, in various forms, is mentioned 28 times, the word *al-Qisth* is mentioned 27 times, and the word *al-Mizan*, which contains the meaning relevant to both, is mentioned 23 times. The term fair means; (1) straighten, amend or change, (2) escape, depart or dodge from one wrong path to another right path, (3) equal or equalize, and (4) balance or compensate for, proportionate or are in a state of balance.

According to the Quraish Shihab, justice has four meanings: *First*, fair in the same sense. If it is said that someone is fair, it means that he treats one person equally to another. The meaning of equality here is equality in rights (*al-Nisâ’* [4]: 58). The word *al-‘Adl* in this verse means equality, in the sense that a judge must treat the litigants equally because equal treatment between the parties in a case is their right.<sup>12</sup> *Second*, fair in a balanced sense. Justice is synonymous with appropriateness or proportion. Equilibrium does not require an equation of rates and loads for all unit parts to be balanced. It can be a small or large part, while small and large are determined by its expected function. The Quranic guidelines distinguish one from the other, such as the distinction of men and women in some of the rights of heirs and witnesses. When viewed from the perspective of

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<sup>11</sup> Prophet Muhammad, as the bearer of the last message, also had justice teachings. Suppose the Quran and Hadîth are agreed upon as the two primary sources and education of the Prophet Muhammad. In that case, Muslims have a firm grip on exploring and understanding the concept of justice, which can then be applied in individual and social life. See Wahbah Al-Zuhaylî, *Al-Tafsîr Al-Munîr*, 9th ed. (Beirut: Dâr al-Fikr, 1991), p. 41.

<sup>12</sup> Muhammad Quraish Shihab, *Wawasan Islam* (Bandung: Mizan, n.d.), p. 114. Murtadha calls this justice social justice. As members of society, individuals can achieve happiness in a better form. Therefore, the rights and preferences of these individuals must be preserved and realized. In this case, justice does not mean equalizing all society members according to the communist concept, equal feeling, but balancing them in the chance of achievement. Murtadha Muthahari, *Keadilan Ilahi*, Agus Effen, (Bandung: Mizan, 1992), p. 56; Harisah, “Konsep Islam Tentang Keadilan Dalam Muamalah,” *Syarie: Jurnal Pemikiran Ekonomi Islam*, vol. 3, no. 2 (2020), p. 180.

justice, one should understand it in the sense of balance, not equality.<sup>13</sup> *Third*, fair in the intention of “paying attention to individual’s rights and giving those rights to their owners.” The opposite of justice, in this sense, is tyranny. *Fourth*, justice is attributed to God. Fair here means maintaining the obligation to continue existence, not preventing the continuation of reality, and obtaining grace when there are many possibilities. The justice of Allah is His mercy and goodness (al-Hûd: 6).<sup>14</sup>

Islam defines fair as not wronged and not wronged. This value’s economic implication is that economic actors are not allowed to pursue personal gain if it harms others or destroys nature. Without justice, humans will be divided into various groups. One group will tyrannize other groups, resulting in human exploitation of humans. Each tried to get a result that was greater than the effort he put in.<sup>15</sup>

<sup>13</sup> Justice, in this sense, raises the belief that Allah, who is all-wise and all-knowing, creates and manages everything with a certain size, level and time to achieve its goals. This belief will later lead to God’s justice. Harisah, “Konsep Islam Tentang Keadilan Dalam Muamalah,” 118; Muhammad Helmi, “Konsep Keadilan Dalam Filsafat Hukum Dan Filsafat Hukum Islam,” *Mazahib: Jurnal Pemikiran Hukum Islam*, vol. 14, no. 2 (2015), pp. 133–144; Damanhuri Fattah, “Implementasi Nilai Keadilan Dalam Kajian Hukum Islam,” *Al-Manahij: Jurnal Kajian Hukum Islam*, vol. 5, no. 2 (2011), pp. 135–152.

<sup>14</sup> The Justice of God, Murtadha Muttahari, describes a problem that interests everyone, involving illiterate villagers and thinkers. Therefore, God’s justice has a particular urgency and is a matter without equality. Muslim theologians have not finished discussing the issue. Sy’ah and Mu’tazilah view justice as the second principle in *ushûl al-Dîn* (religious issues). See Muthahari, *Keadilan Ilahi*, p. 63. Economic development in Islam is not just about increasing goods and services. Islam does not see the growth of wealth as separate from how it is distributed (equalization) and demands the realization of justice. An ideal economic development will be able to be realized optimally and have an impact on economic equality if growth is needed and accompanied by equitable economic distribution. See Desi Rahmiyanti and Siti Achiria, “Implementasi Keadilan Dalam Pembangunan Ekonomi Islam,” *Al-Buhuts: Jurnal Ekonomi Islam*, vol. 14, no. 2 (2018), pp. 53–68; Naerul Edwin and Kiky Aprianto, “Kebijakan Distribusi Dalam Pembangunan Ekonomi Islam,” *Al-Amwal: Jurnal Ekonomi Syariah*, vol. 8, no. 2 (2016), pp. 437–456.

<sup>15</sup> Al-Baqarah:30, al-Hujarât: 9, al-Fajr: 20, al-Ahzâb: 21, al-Hasyr: 7. See Akhmad Mujahidin, *Ekonomi Islam: Sejarah, Konsep, Instrumen, Negara Dan Pasar* (Jakarta: PT. Raja Grafindo Persada, 2013), p. 26. The problem of injustice or inequality in the distribution of income and wealth today cannot be separated from the economic system, which is still dominated by the market (capitalist) economic system. To respond to this, Islam offers an economic system that prioritizes the value of justice in ownership that relies on two aspects: freedom and justice. This distribution system provides a mechanism in the

Inequality in income and natural wealth in society is against Islam’s spirit and commitment to brotherhood, solidarity, and social justice. There are several ways to eliminate social disparities, including (1) removing monopolies except by the government in specific fields, (2) guaranteeing the rights and opportunities of all active parties in the economic process, both production, distribution, circulation and consumption, (3) ensuring basic needs fulfilment of every member of society and (4) carry out the mandate of *al-Takâful al-Ijtimâ’î* or social, economic security insurance, where those who can bear the weak.<sup>16</sup>

Justice in the economic field is a condition in which everyone gets what is rightfully theirs. It also means fair treatment for everyone to get a decent life following existing needs and potentials. Economic justice in Islam means a balance between rights and obligations that humans must fulfil and the human ability to fulfil obligations.<sup>17</sup> Aristotle distinguishes justice into two, namely distributive and cumulative justice. *Mudhârabah* is a

distribution of Islamic economics, namely economic and non-economic mechanisms, by involving the government’s role in productive and non-productive economic activities to realize distributive justice. With the distribution of assets using non-economic instruments through the activity of giving *zakat*, *infâq*, *grants*, *waqf*, and *alms*, it is hoped that it can bridge the income distribution gap. See Anita Rahmawaty, “Distribusi Dalam Ekonomi Islam: Upaya Pemerataan Kesejahteraan Melalui Keadilan Distributif,” *Jurnal Equilibrium*, vol. 1, no. 1 (2013), p. 16; Arie Syantoso, Parman Komarudin, and Iman Setya Budi, “Tafsir Ekonomi Islam Atas Konsep Adil Dalam Transaksi Bisnis,” *Al-Iqtishadiyah: Jurnal Ekonomi Syariah dan Hukum Ekonomi Syariah*, p. 4, no. 1 (2018), pp. 20–39.

<sup>16</sup> In this way, the standard of living of each individual will be more secure and better preserved. Each individual’s human side and honour follow the inherent dignity of humans as *khalifah* of Allah on earth. The concept of Islamic justice in the distribution of income and wealth is the desire of each individual. Income inequality is possible in Islam because each person’s contribution to society is different. See M. Zaidi Abdad, *Lembaga Perekonomian Ummat Di Dunia Islam*, (Bandung: Angkasa, 2003), p. 59; Mardani, *Hukum Ekonomi Syariah Di Indonesia*, (Bandung: PT. Refika Aditama, 2011), p. 27.

<sup>17</sup> The existence of the Islamic economic system harmonizes the capitalist and socialist economic systems. Even the Islamic economic system tends to stand alone and apart from other economic systems. The sharia economy applies the principles of efficiency and benefit while preserving nature, and the motive is to seek luck in the world and the hereafter. See Wing Redy Prayuda, “Keadilan Ekonomi Dalam Perspektif Hukum Islam,” *Al-Mustashfa: Jurnal Penelitian Hukum Ekonomi Islam*, vol. 2, no. 1 (2017), pp. 42–50; Nurdin, “Konsep Keadilan Dan Kedaulatan Dalam Perspektif Islam Dan Barat,” *Media Syariah*, vol. 13, no. 1 (2011), pp. 112–130.

cooperation between fund owners or investments to carry out certain businesses with profit-sharing based on a ratio. The principle of justice applied in the *mudhârabah* contract at Islamic financial institutions is distributive justice. There needs to be intensive supervision for the implementation of *mudhârabah* transactions following Islamic principles and the realization of the value of justice for both parties.<sup>18</sup>

### 3. Prohibition of *Ribâ*

*Ribâ* is the addition of several special assets.<sup>19</sup> Ibn Riffah stated that *ribâ* is an added value in transactions of gold, silver, and all types of food, and can also say that *ribâ* takes certain assets other than borrowed assets.<sup>20</sup> Also, *ribâ* is defined by al-Shâfi'î as a specific 'iwâdh (exchange) contract whose similarity is not known in the size of sharia at the time of the contract or by terminating (delaying) the two conversions or one.<sup>21</sup> Jumhur Ulama divides *ribâ* into two parts, namely (1) *ribâ fadhli* is a sale and purchase that

<sup>18</sup> Popon Srisusilawati and Nanik Eprianti, "Penerapan Prinsip Keadilan Dalam Akad Mudhârabah Di Lembaga Keuangan Syariah," *Jurnal Law and Justice*, vol. 2, no. 1 (2017), pp. 12–23; Ahmad Maulidizen, "Riba, Gharar Dan Moral Ekonomi Islam Dalam Perspektif Sejarah Dan Komparatif: Satu Sorotan Literatur," *Jurnal Ekonomi Islam (IslamiConomics)*, vol. 7, no. 2 (2016), pp. 1–16.

<sup>19</sup> 'Abû Bakr Al-Jazîrî, *Minhâj Al-Muslim*, ed. Musthofa, (Jakarta: Megatama Sofwa Presindo, 1998), p. 560.

<sup>20</sup> An example of *ribâ* in a transaction is an addition in a payable account. Yanto borrowed Rp. 100,000 to Yanti, but Yanti provided a condition if Yanto wanted to borrow Rp. 100,000, he had to return Rp. 110,000 the following month. In this transaction, there is an additional amount of Rp. 10,000, so this addition is called *ribâ*. See Wahbah Al-Zuhaylî, *Al-Fiqh Al-Shâfi'î Al-Muyassar*, ed. Muhammad Afifi and Abdul Hafiz (Surabaya: Almahira, 2010), p. 37; Rudiandiyah, "Telaah Gharâr, Ribâ Dan Maysir Dalam Perspektif Transaksi Ekonomi Islam," *Al-Huquq: Journal of Indonesian Islamic Economic Law*, vol. 2, no. 1 (2020), p. 106.

<sup>21</sup> Abî al- 'Abbâs Al-Ramlî, *Nihâyah Al-Muhtâj* (Beirut: Dâr al-Fikr, 2004), p. 424; Muhammad Iman Sastra Mihajat, "Contemporary Practice of Ribâ, Gharâr and Maysir in Islamic Banking and Banking," *International Journal of Islamic Management and Business*, vol. 2, no. 2 (2016), pp. 1–19; Sirajul Arifin, "Gharâr Dan Risiko Dalam Transaksi Keuangan," *Jurnal Tsaqafah*, vol. 6, no. 1 (2010), pp. 312–334; Efa Rodiah Nur, "Ribâ Dan Gharâr: Suatu Tinjauan Hukum Dan Etika Dalam Transaksi Bisnis Modern," *Jurnal Al- 'Adalah*, vol. 12, no. 3 (2015), pp. 647–662; Nadratuzzaman Hosen, "Analisis Bentuk Gharâr Dalam Transaksi Ekonomi," *Jurnal Al-Iqtishad*, vol. 1, no. 1 (2009), pp. 53–64; Muh Fudhail Rahman, "Hakekat Dan Batasan-Batasan Gharâr Dalam Transaksi Maliyah," *Salam: Jurnal Sosial & Budaya Syar'i*, vol. 5, no. 3 (2018), pp. 225–278.

contains the element *ribâ* on a similar item with the addition of one of these objects. Therefore, if executing a sale and purchase agreement between similar goods, one of them should not be exaggerated to avoid the element of *ribâ*; (2) *ribâ nasi'ah*, selling goods of the same kind, but the other one more, with payment ending, such as selling one kilogram of wheat with one and a half kilograms of grain, which is paid after two months. Examples of unbalanced trading, such as buying one watermelon with two watermelons to be paid after a month.<sup>22</sup>

### 4. Prohibition of *Gharâr*

The language definition of *gharâr* is danger, and *taghrîr* is bringing oneself to something dangerous. In muamalah contracts, the Sharia trading business prohibits *gharâr* in each transaction. *Gharâr* can be interpreted as obscurity or danger.<sup>23</sup> [1] Whereas the meaning in terms of *fiqh*, *gharâr* has three definitions; (1) Ibn 'Âbidin, special *gharâr* applies to something whose results are unclear, whether it is possible or not, (2) special *gharâr* on comments with unknown specifications. Ibn Hazm stated that *gharâr* in business is something where the buyer does not know what is being bought, or the merchant does not know what is being sold, (3) *gharâr* contains the two meanings above. Said al-Sarhsy, *gharâr* is something whose results are not clear. The majority of scholars share this opinion.<sup>24</sup>

<sup>22</sup> Herlina Kusuma Wardani, "Perilaku Ribâ Kebiasaan Masyarakat Sesat Tidak Sesuai Prinsip-Prinsip Syariah Islam," *Jurnal Ilmiah Ekonomi Islam*, vol. 3, no. 2 (2017), pp. 152–156; Ahmad Maulidizen, "Bay'al-'inah: Concept and Implementation According to Mazhab Contemporary Scholars," *Al-Banjari: Jurnal Ilmiah Ilmu-Ilmu Keislaman*, vol. 18, no. 1 (2019), pp. 1–24.

<sup>23</sup> Muhammad Yusuf Saleem, *Islamic Commercial Law* (Singapore: John Wiley & Sons, 2013), p. 3; Rudiandiyah, "Telaah Gharâr, Ribâ Dan Maysir Dalam Perspektif Transaksi Ekonomi Islam," 100; A Royyan Ramly, "Konsep Gharâr Dan Maysir Dan Aplikasinya Di Lembaga Keuangan Syariah," *Jurnal Islam Universal: International Journal of Islamic Studies and Social Sciences*, vol. 1, no. 1 (2019), pp. 63–82.

<sup>24</sup> *Gharâr* also relates to a sale and purchase contract where there is ambiguity or ambiguity in the agreement's substance or the object. Based on the explanation of article 2 paragraph 3 of Bank Indonesia Regulation No. 7/46 / PBI / 2005 regarding the agreement for collecting and distributing funds for banks that carry out business activities based on sharia principles, it explains that *gharâr* is a transaction that contains deception from one party so that the other party is disadvantaged. For example, a buying and selling transaction containing *gharâr* is when Abu plans to buy Andi's herbal

Observing various forms of the prohibition on the occurrence of *gharâr* in economic transactions, such as SHiddîq Muhammad al-'Amîn al-DHarîr, states that the practice of *gharâr* can occur in business contracts. *Gharâr* is classified into two: *First*, *gharâr* is related to contracts; this *gharâr* arises because of a contract's existence, implying a lack of clarity. There are several contracts containing *gharâr*, covering two buying and selling under one contract; *the Second* is a down payment; *The third* is buying and selling those only touches goods, *the fourth* is trading that has certain conditions in the future (*mu'allaq*), and *the five* transactions are postponed for a certain period in the future.<sup>25</sup>

medicine plantation. However, Andi provided information that he only sold guava seeds on his 2-hectare farm, which could harvest in a few months, and paid some money when the contract was agreed upon. This transaction contains *gharâr* because the sale and purchase object is unclear or ambiguous, namely whether Abu bought guava or guava, which is unclear in size, type, and weight. There is also *gharâr*, which is small, moderate, and heavy in level from the other side. Therefore some scholars define *gharâr* as anything that is believed to exist. But its perfection is doubtful. For example, selling fruit before it is suitable for picking, selling the fetus to its mother, selling fish at fishing ponds or ponds by fishing or fishing, and so on. See Trisadini Prasastinah Usanti, A Shomad, and Ari Kurniawan, *Absorpsi Hukum Islam Pada Akad Pembiayaan Di Bank Syariah* (Surabaya: Luthfiansah Mediatama, 2013), 10; Abdul Haris Muchtar, Ahmad Maulidizen, and Amriatus Safaah, "Am and Khas Linguistic Method Concept and Implementation in Islamic Law Determination," *Al Mashalih-Journal Of Islamic Law*, vol. 3, no. 1 (2022), p. 12.

<sup>25</sup> In principle, *gharâr* relating to objects is all obscurity or ignorance of the type of an item, classification of goods and characteristics, including quantity, specific identity or because the time of payment is uncertain. Included in *gharâr* related to this object is if the seller or the object cannot hand over, the object is not held or owned, and finally, the object cannot be seen clearly. So can conclude that *gharâr* like this is, it is unclear on the object being traded, it is not clear on the object contract, it is unclear the ownership of the object, and it is not clear to trade goods that cannot be seen. See Agus Triyanta, "Gharâr; Konsep Dan Penghingarannya Pada Regulasi Terkait Screening Criteria Di Jakarta Islamic Index," *Jurnal Hukum*, vol. 17, no. 2 (2010), pp. 615–632. According to scholars, it can tolerate a certain level of *gharâr*. According to Ayyûb, several aspects of a contract, *gharâr*, can be classified into two: *First*, *gharâr al-fâhisiyî*, namely *gharâr* whose level of ambiguity and doubt is very high. For this reason, the contract or transaction becomes highly speculative and contains elements of *maysîr* (gambling) or chance, and has the potential to harm one of the transacting parties. Therefore, the scholars of *gharâr al-fâhisiyî* agreed that they should not be in the contract or make a contract null and void; *The second gharâr al-yasîr* is a minimal level of obscurity and besides that, something that is sometimes impossible to avoid in a contract or transaction, for example selling a house without having to look at the foundation. See Ramly, "Konsep Gharâr Dan Maysîr Dan Aplikasinya Di Lembaga Keuangan Syariah," p. 68.

## 5. Prohibition of *Maysîr*

The word *maysîr* in Arabic means getting something easily without working hard or getting profit without working. It contains elements of gambling, betting, or risky games. Another term used in the Quran is the word *azlam*, which means the practice of gambling. In language, *maysîr* can be put in a few sentences: easy, rich, and obligatory. In terms, *maysîr* is every transaction a person enters into, and he may lose and possibly gain. Buying and selling is different from *maysîr*, a trader when spending money, then he gets goods, and with that goods, he transacts for profit even though he may get a loss, but once someone spends money, they may lose or get nothing, and maybe he is lucky.<sup>26</sup>

The principle of gambling is prohibited, whether deeply involved or plays little or no role, hoping for profit (for example, just experimenting). For some people involved in cheating, we get what we shouldn't gain or lose. An opportunity. Making deductions and betting falls into the definition of gambling. Gambling in general (*maysîr*) and the sale of raffles in particular (*azlam*), and any form of bet, lottery, or lottery based on other forms of gambling is *harâm*.<sup>27</sup>

<sup>26</sup> This is the definition of *maysîr* in the term ulama, although some people interpret this *maysîr* into Indonesian in a narrow sense, namely gambling. Gambling in religious terminology is defined as "a transaction conducted by both parties for the ownership of an object or service that benefits one party and *harms* the other by associating the transaction with a certain action or event." For example, in a transaction, Evi gives a lottery ticket of Rp. 1,000 per sheet in the hope of winning and getting prizes from the lottery. The lottery ticket has a cash prize of IDR 1 billion. See Rudiansyah, "Telaah Gharâr, Ribâ Dan Maysîr Dalam Perspektif Transaksi Ekonomi Islam," p. 103.

<sup>27</sup> Prophet Muhammad prohibited all business forms that bring money obtained from chance, speculation, and predictions or conjectures (for example, gambling) and not earned from work. The Law Dictionary also defines gambling as a game using money as a bet, such as playing dice, cards, etc. Gambling can also mean risking money or property in a game of guesswork based on the chance to get an amount of money or property more significant than the original amount of money or property. In contrast, tail gambling is illegal gambling by guessing the final number of the official lottery. There is a condition that he is said to be gambling according to Islam, namely; (1) there is an asset at stake, (2) there is a game used to determine the winning party and the losing party, and (3) the winning party takes the property from the losing party. The scholars not only provide legal provisions for gambling but determine penalties for people who gamble, including; (1) the testimony of people

There are several reasons why *maysir* is strictly prohibited in Islam; (1) economically, *maysir* can lead to poverty because it is rare for someone to keep winning, the most likely to lose, (2) psychologically, as the Quran says, progress can foster a curious attitude. Hostility and arrogance on the winning side. Meanwhile, the loser can cause stress, depression, and even cause suicide, and (3) sociologically, gambling can damage the family joints, which are the core of society. Gambling also causes social conflicts such as divorce and arguments and even leads to criminal acts such as murder.<sup>28</sup>

## 6. Prohibition of *Tadlīs*

*Tadlīs* in a language hides defects, covering up, and the origin of the word *tadlīs* is taken from the word *idalas*, which means dark. Al-Azhârî stated that *tadlīs* was taken from the word *dulsah*, which means dark, so if the seller covers up and does not convey the defect of his merchandise, it means he has committed *tadlīs*. Fraud carried out by sellers is to hide the badness of the goods they sell, both in quality and quantity.<sup>29</sup> *Tadlīs* is a transaction that contains something unknown by one of the parties conducting the sale and purchase transaction. Every transaction in Islam must be based on the principle of willingness between the two parties.<sup>30</sup>

who gamble is not accepted, (2) physical laws are given in the form of beatings, and their gambling equipment is destroyed, (3) they cannot be greeted with greetings when they meet them, (4) gambling players receive cursing from Allah, (5) gambling players according to the law, they may be expelled from their residence, (6) can punish gambling players according to the applicable law for giving lessons and (7) gambling players can be taken over by the right of possession of the property by the legal authority to save their property and family. See Siti Saha and Meta Suriyani, "Efektivitas Penghukuman Bagi Pelaku Maysir (Perjudian) Di Kota Langsa," *Jurnal Hukum Samudra Keadilan*, vol. 3, no. 1 (2018): p. 121.

<sup>28</sup> Al Yasa' Abu Bakar Halim and Mahar, *Hukum Pidana Islam Di Nanggro Aceh Darussalam* (Banda Aceh: Dinas Syariat Islam Provinsi NAD, 2006), pp. 75–76; Saha and Suriyani, "Efektivitas Penghukuman Bagi Pelaku Maysir (Perjudian) Di Kota Langsa," p. 128; Evan Hamzah Muchtar, "Muamalah Terlarang: Maysir Dan Gharâr," *Jurnal Asy-Syukriyah*, vol. 18, no. 2 (2017), pp. 82–100.

<sup>29</sup> Dwi Suwiknyo, *Kamus Lengkap* (Jakarta: PT. Raja Grafindo Persada, 2007), p. 247; Ahmad Maulidizen, "Islamic Finance in Theory and Practice: A Critical Analysis," *Jurnal Ekonomi Islam (IslamiConomics)*, vol. 8, no. 2 (2017), p. 111.

<sup>30</sup> M Sholahuddin, *Asas-Asas Ekonomi Islam* (Jakarta: PT. Raja Grafindo Persada, 2007), p. 188; Ahmad Maulidizen, "Riba,

*Tadlīs* is something that contains an element of deception. This element is not only in Islamic economics but also in conventional economics. *Tadlīs* (fraud) in investing is conveying something in a business transaction with the information provided that does not match the facts that exist in that something.<sup>31</sup> *Tadlīs* in the conventional economic system is often referred to as misrepresentation. According to S.B. Marsh and J Soulsby, what is meant by cheating is a statement of facts made by one party in a transaction (contract) against the other party before the agreement is made to persuade the other party to agree to the statement. The act of cheating and deception affects others so that the other party is willing to follow what the cheating party wants.<sup>32</sup> Sutjipto et al., there are transactions containing *gharâr* and *tadlīs* in the e-marketplace.<sup>33</sup>

Gharar Dan Moral Ekonomi Islam Dalam Perspektif Sejarah Dan Komparatif: Satu Sorotan Literatur," *Jurnal Ekonomi Islam (IslamiConomics)*, vol. 7, no. 2 (2016), pp. 1–16.

<sup>31</sup> What is meant by seller fraud is when the seller hides a defect in his trade goods from the buyer, even though the seller knows it or if the seller covers up the defect with something that can trick the buyer so that it does not appear defective or covers up his merchandise that all is good. In the view of scholars regarding *tadlīs*, Ibn 'Arabî stated that falsification (cheating) is *Harâm* because it contradicts purity. When good goods are mixed with defective goods, they are covered so that they are not visible to the buyer because if they see them, consumers do not continue the steps to buy them. Al-Baghâwî stated that fraud or fraud in buying and selling is *Harâm* as well as covering up the disabilities of Ibn al-Haytâmî stating that in his merchandise there is a defect, so he must notify the buyer. See M Nadratuzzaman Husen, *Gerakan 3H Ekonomi Syariah*, (Jakarta: PKES, 2007), p. 18.

<sup>32</sup> Islam prohibits deception and fraudulent investment. Any investment which is based on fraudulent acts and trickery is *Harâm*. So with the fraud committed by the seller, the law becomes *Harâm*, and the property obtained by the seller does not get a blessing. The ideal condition in the market is when the seller and the buyer have the same information about the goods being traded. If one party does not have information like the other party, then one party will feel aggrieved, and there will be fraud or fraud. See Abdul Manan, *Hukum Ekonomi Syariah Dalam Perspektif Kewenangan Peradilan Agama*, (Kencana: Kencana, 2012), p. 190; Adiwarman A Karim, *Ekonomi Mikro Islami*, (Jakarta: PT. Raja Grafindo Persada, 2015), p. 188; Utari Rahayu Lubis and Ismaulina, "Tadlīs Dalam Bisnis Jual Beli Online Perspektif Ekonomi Syariah (Studi Mahasiswa Ekonomi Syariah FEBI IAIN Lhokseumawe)," *Jurnal JESKaPe*, vol. 4, no. 2 (2020), pp. 247–256.

<sup>33</sup> Trisnaning Setya Sutjipto and Eko Fajar Cahyono, "Tadlīs Dan Taghrîr Dalam Transaksi Pada E-Marketplace," *Jurnal Ekonomi Syariah Teori dan Terapa*, vol. 17, no. 5 (2020), pp. 874–885.

## 7. Prohibition of *Ihtikâr*

The word *ihlikâr* comes from *hakara*, which means persecuting and destroying relationships. *Ihtikâr* means hoarding merchandise to await price hikes. Term *ihlikâr* means buying goods during the field and then stockpiling them so that they are scarce in the market and the price increases.<sup>34</sup> According to Suhrawardî<sup>35</sup> and Adiwarmân,<sup>36</sup> *ihlikâr* is buying goods in large quantities so that these goods decrease in the market so that the price (hoarded goods) increases, and when the price rises, then they are released (sold) to the market so that they get multiple profits. *Ihtikâr* with the act of storing property, benefits or services and reluctant to sell and give them to others, which results in a drastic increase in market prices due to limited supplies or completely missing stock of goods from the market, while society, countries or animals need these products, benefits or services. For example, an increase in the price of fuel oil (BBM). The goods that are hoarded are usually goods that are needed by the community daily.<sup>37</sup>

So, it appears that some scholars reduce the item called *ihlikâr*, which is only limited to staple foods. In contrast, some scholars expand *ihlikâr* to all forms of goods that can bring harm to humans. Some even expand it by adding benefits or services. The practice of *ihlikâr* will cause the market mechanism to be disrupted, wherein producers will then sell at a price higher than the normal price. As a result, sellers will get large debt (monopolistic rent), while consumers will suffer losses. The impact of *ihlikâr* is (1) *Ihtikâr* can disrupt the economy; this is due to the high prices of goods sold by actors. In this case, the seller will get a bigger profit than normal profit,

<sup>34</sup> Nasrun Haroen, *Fiqh Muamalah*, (Jakarta: Gaya Media Pratama, 2007), p. 157.

<sup>35</sup> Suhrawardî K Lubis, *Hukum Ekonomi Islam*, (Jakarta: Sinar Grafika, 2012), p. 151.

<sup>36</sup> Karim, *Ekonomi Mikro Islami*, p. 174; Adiwarmân A Karim, *Ekonomi Mikro Islam* (Jakarta: PT. Raja Gafindo Persada, 2010), p. 174; M Hasan Ali, *Berbagai Macam Transaksi Dalam Islam*, (Jakarta: Raja Grafindo Persada, 2003), p. 153.

<sup>37</sup> Mohammad Mufid, *Ushul Fiqh Ekonomi Dan Keuangan Kontemporer*, (Jakarta: Prenada Media Grup, 2016), pp. 157–158; Ahmad Maulidizen and Mohammad Taqiuddin Bin Mohamad, “Penjadwalan Ulang Pembiayaan Mikro Murabahah Di Bank Syariah Mandiri Cabang Dumai Provinsi Riau,” *Jurnal Ilmiah Islam Futura*, vol. 17, no. 1 (August 3, 2017), pp. 169–199.

while the consumer will suffer a loss, (2) hampering the welfare of humanity. In practice, *ihlikâr* will hamper the distribution of wealth among humans because consumers still have to pay a product price which is higher than the marginal cost and (3) the existence of *Ihtikâr* can also lead to inflation, which results in the country’s economy and creates unemployment.<sup>38</sup>

## 8. Prohibition of *Risywah*

Etymologically, *risywah* means sticking one’s head out, taken from the context of a bird/chicken that sticks its head in its mother’s mouth while asking that the food in its mother’s beak be fed to.<sup>39</sup> In terms of *Risywah*, it is a property that is given to buy the honor or power of the owner in order to help or legalize something that is actually not lawful.<sup>40</sup>

Ibn ‘Âbidîn states that there are four kinds of *risywah*; (1) *Risywah*, which is *Harâm* for the person who takes and gives it, namely *risywah* for profit in court and government, (2) *Risywah* for the judge so that he decides the matter,

<sup>38</sup> Moch Bukhori Muslim, “Ihtikâr Dan Dampaknya Terhadap Dunia Ekonomi,” *Ihtikâr dan dampaknya terhadap dunia ekonomi*, vol. 6, no. 1 (2010), pp. 1–14; Taufiq and Razali, “Ihtikâr: Perilaku Menimbun Dalam Kajian Muamalah,” *Jurnal Ilmiah Syariah*, vol. 19, no. 1 (2020), pp. 85–95; Ahmad Maulidizen, Nur Atikah, and Yuni Sahara, “Contemporary Study of Ihtikar According to Scholars and the Effect of Ihtikar Practices in the Economy,” *Jurnal Ilmiah Ekonomi Islam*, vol. 5, no. 2 (2019), pp. 89–101; Fasiha and Muh Ruslan Abdullah, “Analisa Hukum Ekonomi Islam Terhadap Praktek Ihtikâr,” *Al-Amwal: Journal of Islamic Economic Law*, vol. 3, no. 2 (2018), pp. 186–197; Salim Hasan, “Praktik Ihtikâr Dalam Tinjauan Kritik Etika Bisnis Syariah,” *Al-Tafaqquh: Journal of Islamic Law*, vol. 1, no. 2 (2020), pp. 140; 325 Lukman Hakim, “Ihtikâr Dan Permasalahannya Dalam Perspektif Hukum Islam,” *Jurnal Darussalam*, vol. 7, no. 2 (2016), pp. 320–330; Muhammad Deni Putra and Frida Amelia, “Dampak Ihtikâr Terhadap Mekanisme Pasar Dalam Perspektif Islam,” *Jurnal Imara*, vol. 3, no. 2 (2019), p. 186.

<sup>39</sup> Ibn Manzûr, *Lisân Al-‘Arab*, (Mesir: Dâr al-Ma‘ârif, n.d.), p. 322; Ibrahim Musthafâ, *Al-Mu‘jâm Al-Wasith*, (Beirut: Dâr al-Da‘wah, n.d.), p. 348; Ibrahim Musthafâ, et.al. *Al-Mu‘jâm al-Wasith*, (Beirut: Dâr al-Da‘wah), p. 348; Haryono, “Risywah (Suap Menyuap) Dan Perbedaannya Dengan Hadiah Dalam Pandangan Hukum Islam,” *Al-Maslahah: Jurnal Hukum Dan Pranata Sosial Islam*, (n.d.), p. 429–450; Fazzan, “Korupsi Di Indonesia Dalam Perspektif Hukum Pidana Islam,” *Jurnal Ilmiah Islam Futura*, vol. 14, no. 2 (2015), p. 150.

<sup>40</sup> Ibn Hajr Al-‘Asqâlânî, *Fath Al-Bârî*, 15th ed, (Beirut: Dâr al-Ma‘ârifah, n.d.), p. 221; Ibn Hajr al-‘Asqâlânî, *Fath al-Bârî*. Ju 5, (Beirut: Dâr al-Ma‘ârifah, 1379 H), p. 221; Hepi Riza Zen, “Politik Uang Dalam Pandangan Hukum Positif Dan Syariah,” *Al-‘Adalah: Jurnal Hukum Islam*, vol. 12, no. 3 (2015), p. 530.



even if the decision is right because he must do it (*harâm* for the giver accept), (3) *Risywah* to rectify a matter by asking the ruler to reject the *harâm* and take advantage. This *Risywah* is *harâm* for those who take it only. As a reason for this *risywah* can be considered a wage for people who deal with the government. The giving is used for one's business, then distributed. It is *halâl* from both sides as a gift to please people. But on the one hand, it is *harâm* because its substance is tyranny. Therefore, it is *harâm* for those who take it only, that is, as a gift to withstand injustice and as a reward in resolving matters when required. But if it is not required, while one is convinced that the gift is a gift given to the ruler, then according to Hanafiyyah scholars, it is okay. If a person performs his duties unconditionally, and not because of his greed, then giving him a gift is *halâl*, and (4) *Risywah* to reject the threat of self or property, can be for the giver and *harâm* for the person who takes it. This can be done because rejecting harm from Muslims is obligatory, but not taking property to do what is obligatory.<sup>41</sup>

## Conclusion

Based on the explanation above, it can be concluded that the principles of Islamic transaction that must be considered in every transaction are (1) *mashlahah* as an indicator in transactions, (2) realizing Justice in Transactions, (3) prohibiting all transactions containing *ribâ*, *gharâr*, *tadlîs*, *tahkîr*, *maysir*, and *risywah*.

<sup>41</sup> The original law of *Risywah* is *Harâm*, and it is permissible under certain conditions with conditions; (1) Emergency, in a special sense, is an essential interest which, if not fulfilled, can cause terrible difficulties that lead to death, while in general, it refers to something essential to protect and maintain the objectives of sharia. The conditions for *Dharûrah* include (a) not speculative or imaginative, (b) no other solution is found to overcome suffering except for this, (c) the solution (in this case the *risywah* took) must not violate the crucial rights that trigger it. murder, apostasy, confiscation of property, or having fun with the same sex, (d) there must be a strong justification for doing the *rukhsah*, and (e) in the view of experts, that solution must be the only available solution. (2) to take obligations and rights that are lost when wronged, (3) not to overdo it and become a habit, (4) to get *mashlahah râjihah* (real) is not an estimate and (5) do not justify it, but deny it and always pray to Allah because basically, that method is *Harâm*. See Bahgia, "Risywah Dalam Tinjauan Hukum Islam Dan Undang-Undang Tindak Pidana Suap," *Mizan: Jurnal Ilmu Syariah*, vol. 1, no. 2 (2013), p. 152.

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