

COMMODITY FUTURES TRADING: ITS PERMISSIBILITY ACCORDING TO SUNNI TRADITIONALIST *IJTIHĀD* AND *IJTIHĀD MAQĀSIDI*¹

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ABSTRACT

Futures trading has become the single most voluminous mode of commerce globally since the turn of the 20th century. Its potential for wealth creation is unmatched by any other commercial transaction, and prompted the contemporary Sunni scholar, Kamali, to challenge the traditionalist (*ahl' kitab*) Sunni position that futures trading is forbidden. This paper presents a narrative of the *Shari'ah* textual sources, the traditionalist Sunni juristic reasoning (*ijtihād*), a critical analysis of Kamali's *ijtihād* and an exploration of the goals and purposes of an Islamic *Shari'ah* (*maqāsid al-Shari'ah*)-oriented approach to juristic reasoning on futures trading. The objective of this paper is to raise for reconsideration, in the light of financial globalisation, the permissibility of commodity futures trading. This comparative study of Sunni *ijtihād* involves the application of black-letter research methodology. The scope of the study is limited to commodity futures trading, as the traditional Sunni *ijtihād* pertains to such trade. It is found that Kamali advances compelling textual-based and inferred *Shari'ah* goals-based juristic reasoning (*ijtihād maqāsid*), within a contemporary socio-economic context, for qualified permissibility of commodity futures trading. In view of the phenomenon of financial globalisation catalysing unprecedented uncertainty, unwarranted risks (*mukhatarah wa al-gharar*), and excessive speculation amounting to gambling (*al-maysir*), which threatens the integrity and sustainability of the futures industry and its institutions, the writers support the qualified permissibility of commodity futures trading. It is recommended that new local policies and regulatory frameworks for the futures industry be set up by governments and futures industry regulators, with the assistance of academic researchers, to combat the negative effects of financial globalisation on futures trading. This is to protect the public interest (*maslaha al-amm*) and the Islamic *Shari'ah* goals (*maqāsid 'al-Shari'ah*).

Keywords: futures trading, financial globalization, juristic reasoning (*ijtihād*) Islamic *Shari'ah* goals (*maqāsid 'al-Shari'ah*).

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