

Review

## Evaluating the Cigarette Excise Moratorium through Qawā'id Fiqhiyyah

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### ABSTRACT

The government's moratorium on cigarette excise tax increases reflects a persistent policy tension between maintaining economic stability and safeguarding public health. While the tobacco industry contributes significantly to state revenue and employment, its widespread consumption generates serious long-term health and social harms. This study employed a qualitative normative approach with a descriptive-analytical design. Data were derived from secondary sources, including government reports, academic literature, and classical as well as contemporary Islamic legal texts. The analysis was grounded in al-qawā'id al-khamsah and their derivative legal maxims to assess the balance between maṣlaḥah and mafsadah. The findings indicate that the moratorium produces short-term economic benefits, including industrial stability, employment protection, and sustained fiscal revenue. However, it also leads to more significant long-term harms, such as increased cigarette consumption, patterns of israf, and rising public health burdens. From the perspective of qawā'id fiqhiyyah, these harms outweigh the benefits when the policy is not accompanied by mitigating measures. This study concludes that a more balanced policy is required through gradual excise tax increases combined with transitional support for affected stakeholders, public health initiatives, and the development of alternative economic sectors. Such an approach aligns with the objectives of maqāsid al-sharī'ah, particularly the protection of life and wealth, and offers a more sustainable and ethically grounded policy framework.

## 1. INTRODUCTION

The cigarette industry in Indonesia is generally divided into two main categories: clove cigarettes and white cigarettes. Kretek cigarette production dominates approximately 87 percent of the industry's total output, while white cigarettes only account for about 13 percent of the market share. White cigarette producers are affiliated with the Indonesian White Cigarette Producers Association (Gaprindo), while the kretek cigarette industry is organized under the Indonesian Cigarette Manufacturers Association (Gappri) (Mukhtarom, 2021). The tobacco industry (IHT) is a strategic domestic sector with a high level of competitiveness and a substantial contribution to the national economy. The sector's role, often associated with local wisdom, is evident in its ability to absorb labor, contribute to state revenue through excise taxes, and serve as a vital commodity

for plantation farmers, particularly tobacco and clove producers. In Indonesia, IHT is recognized as a labor-intensive sector capable of absorbing a very large workforce (Kemenperin, 2017).

Cigarette excise policy is a strategic fiscal and regulatory instrument for controlling tobacco consumption and protecting public health (Marbun, 2025). However, recent discussions have suggested a moratorium on cigarette excise tax increases, specifically postponing or temporarily halting excise increases, as a measure to maintain the stability of the tobacco industry and protect workers and tobacco farmers (Rachmat, 2010). Some view the moratorium as a way to avoid economic pressure on the tobacco industry (IHT) and the potential for an increase in illicit cigarettes, which would harm both the state and legal producers. However, the moratorium discourse has also raised serious criticism and challenges (Aulana et al., 2025). Researchers and tobacco control agencies have highlighted that halting excise tax increases could weaken the effectiveness of cigarette consumption controls, particularly for vulnerable groups such as children, while potentially undermining long-term health development goals (Kurniawan, 2020).

In the perspective of Islamic sharia, public policy must be based on the principle of maintaining benefit and preventing damage as emphasized in *qawā'id fiqhiyyah* and *maqāṣid al-sharī'ah* (Ahmad et al., 2025). One of the main rules states that rejecting *mafsadah* must take precedence over attracting *maṣlahah*, especially when the damage caused is real, extensive, and sustainable (Nurdiyanto et al., 2025). In the context of a cigarette tax moratorium, economic benefits such as industry stability and worker protection are only temporary and partial. Conversely, the harms of cigarettes to public health, increased medical costs, and the degradation of human resources constitute systemic dangers (Ahsan et al., 2020). Sharia does not condone policies that perpetuate sources of harm for short-term economic gain. Therefore, the state is obligated to prioritize policies that protect the public interest and prevent collective harm. The principle of *al-ḍarar yuzāl* emphasizes that all forms of harm must be eliminated or at least minimized by the competent authorities (Helim, 2025).

Cigarette consumption is contrary to the aim of protecting the soul and mind, which is the main goal of sharia (Julian et al., 2025). A moratorium policy that has the potential to increase the affordability of cigarettes could weaken efforts to control consumption and increase its negative impacts (Rampai, 2021). If the moratorium is imposed for socio-economic reasons, then it can only be justified under Islamic law as a temporary and transitional policy. The state remains obligated to provide healthier and more sustainable economic alternatives for tobacco farmers and

workers (Yaqin et al., 2025). Sharia law emphasizes that economic development must be in line with the protection of health and the long-term welfare of society.

According to Prof. Wahbah al-Zuhailī, public policy must always be measured with the framework of *maqāṣid al-sharī'ah*, especially the protection of the soul (*ḥifẓ al-nafs*) and reason (*ḥifẓ al-'aql*) as the primary goal of the Shari'a (Umami et al., 2025). Any economic activity or state regulation that predominantly creates real harm to public health loses its sharia legitimacy, even if it has short-term economic value (Afdhal et al., 2024, p. 144). Cigarette consumption, which has been proven to damage health and reduce the quality of life, can be considered at least as an act that is close to being forbidden when its impact is widespread and ongoing (Mirnawati et al., n.d., p. 7). Therefore, policies that indirectly increase the affordability or consumption of cigarettes are contrary to the *fiqh* principle of *dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*, namely prioritizing the prevention of harm over the acquisition of benefits.

Wahbah al-Zuhailī asserted that policy dispensations based on socio-economic reasons, such as the protection of tobacco farmers and workers, can only be justified within the framework of *ḍarūrah* or *ḥājah 'āmmah* which is temporary and limited (Negara, 2024). A moratorium policy that has the potential to increase harm should not be made permanent without a clear transitional direction. The state bears a sharia responsibility to prepare healthy, halal, and sustainable economic alternatives, so that economic development is not built at the expense of public health (Setiadi, 2025). According to al-Zuhailī, the legitimacy of state policy can only be maintained if economic growth goes hand in hand with the protection of the long-term welfare of society in accordance with the main objectives of sharia (Negara, 2024).

The contribution of tobacco excise to state revenue remains significant. In 2024, excise revenues were recorded at IDR 226.4 trillion, with tobacco revenues accounting for the largest contribution (approximately IDR 216.9 trillion) (Cukai, 2025). The tobacco industry also absorbs labor on a large scale: based on BPS data published by the media, it is estimated that around 1.46 million people work in the tobacco processing chain (2024), including labor in the micro, small, medium and large sectors (Usman, 2025). On the other hand, the circulation of illegal cigarettes continues to erode policy revenue and effectiveness. Customs and Excise reported prosecuting hundreds of millions of illegal cigarettes in 2023–2024 (the number of operations reached hundreds of millions), highlighting enforcement challenges and potential loss of state revenue. Furthermore, smoking prevalence in Indonesia remains high, with WHO and health agency reports

indicating significant prevalence rates, making public health a primary concern in tobacco control policies (Organization, 2023).

The existence of the cigarette industry in Indonesia presents a dilemma. On the one hand, this sector is expected to be a source of government funding through excise revenues, while also serving as a significant employment provider (Santoso, 2016). However, the government also firmly urges the public to abstain from smoking due to health concerns (Sumarno & Kuncoro, 2002). The increasing attention to health issues related to the dangers of smoking, initiated by the World Health Organization (WHO), has prompted the government to issue Government Regulation No. 81/1999 in conjunction with Government Regulation No. 38/2000 concerning the protection of cigarettes for health, which was later refined through Government Regulation No. 19 of 2003. This policy was also reinforced by a fatwa (prohibition) issued by the Muhammadiyah Central Executive Board (PP Muhammadiyah). This fatwa needs to be studied objectively because it has the potential to undermine the sustainability of the national cigarette industry and impact the workforce that depends on the sector for its livelihood. Based on these conditions, this study aims to identify factors that influence the capital structure of cigarette companies in Indonesia (Handayani, 2020).

The moratorium on excise increases, which postpones the increase in cigarette excise rates, emerged amid this dilemma (Djasuli et al., n.d, 2025). On the one hand, it is intended to protect jobs and prevent the increase in illegal cigarette circulation. On the other hand, it has the potential to weaken effective fiscal instruments that reduce tobacco consumption for the sake of public health (Marbun, 2025). Recent policy developments also indicate a tendency for the government to consider socioeconomic implications before deciding on excise rate increases. The decision not to raise rates for a specific period is a response to concerns about jobs and illegal cigarettes (Dilvih, 2024).

The issue of the legality of smoking has become a sensitive debate in society. Some consider smoking to be haram (forbidden) because it causes various forms of harm, both to the smoker's health and to the waste of wealth (Sadri, 2012). This view is reflected, among other things, in a fatwa from one of Indonesia's Islamic community organizations, Muhammadiyah, which, through a decision by the Tarjih and Tajdid Council, declared smoking haram. More broadly, Indonesian society displays diverse views on the legality of smoking. Some Islamic organizations, such as Muhammadiyah, expressly forbid the practice of smoking, while Nahdlatul Ulama (NU) views

smoking as permissible, reprehensible, or haram, depending on the context and intention. The Indonesian Ulema Council (MUI) states that smoking can be haram under certain circumstances, such as when it is done in public spaces, by children, or by pregnant women (Kamilia, 2023).

From an Islamic legal perspective, especially through the *qawā'id fiqhiyyah* approach, all state policies, including fiscal ones such as cigarette excise, must be reviewed from considerations of *maslahah* (public good) and *mafsadah* (damage). A good policy is one that brings as much benefit as possible and minimizes *mafsadah*. In the context of smoking, the negative impact on health (life), economy (property) and other social aspects is the main focus. Several studies show that cigarette consumption causes damage to the soul (health), offspring, intellect and wealth which directly touches *maqāsid as-syarī'ah* (Chabiba & Sa'diyah, 2021). The concept of *hisbah* in Islamic economics is also relevant in this context. The state has the authority to act as a market supervisor to ensure that economic activities are conducted in accordance with Sharia values and do not cause harm (Putri et al., 2024). In the case of cigarettes, the state must ensure that fiscal policies, such as excise taxes, are not only instruments for increasing state revenue but also serve as a means to regulate public consumption behavior (Nabilah & Addainuri, 2025). This aligns with the principle of distributive justice in Islamic economics, where fiscal policy is directed at protecting vulnerable groups and preventing broader harm to society.

In the framework of *qawā'id fiqhiyyah* (rules of fiqh), the study of fiscal policies such as cigarette excise is not enough to be seen from an economic aspect alone, but must also be weighed from the principles of *maslahah* (public benefit) and *mafsadah* (damage). Therefore, this study seeks to integrate empirical evidence (acceptance, employment, illegal distribution, prevalence) with a fiqh basis to provide a comprehensive assessment of the morality and effectiveness of the moratorium on cigarette excise increases. Thus, this research aims to analyze the moratorium policy on increasing cigarette excise tax through an Islamic economic approach using the *qawā'id fiqhiyyah* framework. This analysis will highlight the conflict between the benefits resulting from protecting jobs and state income, and the benefits resulting from increasing cigarette consumption rates and the burden on public health. It is hoped that this research can provide balanced policy recommendations, which not only consider economic and political aspects, but also moral and spiritual values in Islam.

In this context, the *qawā'id fiqhiyyah* approach provides a strong normative framework for evaluating public policy by taking into account the objectives of Islamic law (*maqāsid al-*

*sharī'ah*), particularly the protection of life (*hifẓ al-nafs*), wealth (*hifẓ al-māl*), and lineage (*hifẓ al-nasl*), especially given that the negative impacts of cigarette consumption on public health are widespread and long term in nature. Within this framework, economic stability and the sustainability of state revenue are indeed recognized as legitimate forms of *maṣlahah*; however, such benefits must be critically assessed in terms of their urgency and scale when confronted with the potential for systemic social and health-related harm. In addition, the state possesses legitimate *sharī'ah* authority to undertake fiscal intervention in order to control cigarette consumption, even when such policies entail short-term economic adjustments. A moratorium on excise tax increases, if not accompanied by other regulatory or preventive instruments, risks reinforcing the normalization of cigarette consumption and exacerbating the public health burden. Therefore, this policy must be evaluated critically to ensure that it does not contradict the principles of justice and the state's responsibility as the guardian of public welfare.

Accordingly, this study emphasizes that cigarette excise policy should ideally be formulated in a gradual, proportional manner and oriented toward structural transformation. The state's role is not limited to revenue collection but extends to safeguarding moral values and societal well-being. The integration of empirical economic analysis with *qawā'id fiqhiyyah* is expected to generate policy recommendations that are more holistic, sustainable, and consistent with the ethical foundations of Islamic economics.

## 2. METHOD

This study employed a qualitative normative research design with a library research approach (Arifuddin et al., 2025, p. 28). The research focused on examining the moratorium policy on cigarette excise increases through the perspective of *qawā'id fiqhiyyah* as a normative framework in Islamic law. This type of research was appropriate because it emphasizes the analysis of legal norms, principles, and values rather than empirical measurement (Firmanto et al., 2024, p. 93). allowing for an in-depth understanding of policy justification within a sharia based perspective.

The data sources used in this study consist of secondary data obtained from various authoritative and credible materials. These include official publications and statistical reports from government institutions such as Customs and Excise and the Central Statistics Agency (BPS), policy documents and health reports from international organizations such as the World Health Organization (WHO), as well as academic journals, books, and research reports from policy

monitoring and tobacco control institutions. The type of data analyzed was textual data, including legal documents, policy statements, statistical narratives, and classical and contemporary fiqh literature related to *qawā'id fiqhiyyah*.

The data collection technique was documentation, whereby relevant texts and documents are systematically identified, selected, and categorized based on their relevance to the research focus. The data analysis technique utilized descriptive-analytical methods using content analysis, aimed at identifying and interpreting key themes related to *maṣlahah* and *mafsadah* within the cigarette excise moratorium policy. The analysis examines the alignment between public policy outcomes and the principles of *qawā'id fiqhiyyah*. Finally, conclusions are drawn inductively by synthesizing normative Islamic legal principles with policy implications, resulting in an evaluative assessment of the policy's legitimacy and direction from a sharia perspective.

### 3. RESULTS AND DISCUSSIONS

The term al-qawā'id is the plural form of the word qā'idah (rules). Etymologically, qā'idah means principle, basis, or foundation, both in concrete and abstract senses, as in the expressions qawā'id al-bayt (house foundation), qawā'id al-dīn (religious principles), and qawā'id al-'ilm (scientific principles). Based on this understanding, rules are understood as the foundation or foundation on which a building stand. Meanwhile, al-qawā'id al-fiqhiyyah (rules of fiqh) terminologically refers to the basic principles related to the discussion and categories of fiqh law. Scholars explain that the rules of fiqh are universal and encompass various parts below them, so they can be applied to partial cases (juz'iiyyāt) that fall within their scope (Djazuli, 2019, p. 4). Terminologically, the principles of Islamic jurisprudence are understood as general legal principles encompassing various derivative provisions based on their universal nature or totality. These principles are the result of ijtihad based on the Qur'an, hadith, and ijma' (consensus of opinion), and are formed through a process of generalization of various fiqh themes that developed within the circles of the imams of the schools of thought (Hilal, 2013).

Qawa'id fiqhiyyah exists as a methodological instrument that functions to unite and summarize various fiqh problems into universal principles. With its general nature, this rule is able to answer various legal problems without having to examine each problem partially. This provides flexibility in the application of Islamic law, especially when dealing with contemporary problems that are not found explicitly in the text.

The principles of fiqh can basically be divided into two categories. First, those that are independently original (al-aṣl fī dhātihī) and not derived from other principles of fiqh. Second, those that function as derivations or branches of other principles. The first category is known as the main principles of fiqh (al-qawā'id al-asāsiyyah), while the second category is called the macro principles of fiqh (al-qawā'id al-fiqhiyyah al-kulliyyah) because the scope of their discussion falls within the scope of these main principles (Rafsanjani, 2018).

### 1. First Rule

الأُمُورُ بِمَقَاصِدِهَا

*“Everything depends on the intention” (As-Suyuthi, 1958, p. 6)*

This principle is taken and summarized from a number of texts of the Qur'an. For example, the words of Allah SWT:

وَمَا كَانَ لِنَفْسٍ أَنْ تَمُوتَ إِلَّا بِإِذْنِ اللَّهِ كِتَابًا مُؤَجَّلًا ۗ وَمَنْ يُرِدْ ثَوَابَ الدُّنْيَا نُؤْتِهِ مِنْهَا ۗ وَمَنْ يُرِدْ ثَوَابَ الْآخِرَةِ نُؤْتِهِ ۗ وَمَنْ يُؤْتِ الشُّكْرَ يُؤْتِ أَضْعَافًا عَظِيمًا

*“Every living thing will not die, except with Allah's permission as a predetermined time. Whoever desires the reward of this world, We will surely give him that (worldly) reward and whoever desires the reward of the hereafter, We will surely give him (also) that reward (afterlife). We will reward those who are grateful.” (QS. Ali-Imran (3) : 145) (Al-Quran Kementerian Agama RI, 2015)*

The moratorium on cigarette excise increases is a government policy that temporarily halts increases in cigarette excise rates. In a macroeconomic context, cigarette excise serves three main functions: a fiscal function as a source of state revenue, a regulatory function to control cigarette consumption and its negative impacts on health, and a protective function to maintain the sustainability of the tobacco industry and create jobs.

The cigarette industry in Indonesia is a sector that contributes significantly to state revenue. In 2024, state revenue from tobacco excise taxes was recorded to exceed IDR 230 trillion. Furthermore, this industry also provides a livelihood for millions of workers, from tobacco farmers and factory workers to distributors and traders. However, high cigarette consumption has resulted in various consequences, including an increased prevalence of non-communicable diseases such as tuberculosis, lung cancer, and heart disease, which in turn increases the burden on national health care costs.

The Islamic jurisprudence principle "الأمورُ بِمَقَاصِدِهَا" (*all matters depend on the intention*) emphasizes that the goal and intention are the determining factors in the legal status of an action or policy. In the context of public policy, the government's intentions must be analyzed to understand whether the policy achieves benefits (*maslahah*) or actually causes harm.

The government may have several intentions underlying the moratorium policy, including protecting jobs by not raising excise taxes, with the hope that the cigarette industry will not experience mass layoffs. This is in accordance with the Islamic principle of preserving the soul (*ḥifz al-nafs*) and preserving descendants (*ḥifz al-nasl*), because job losses can trigger poverty and social problems. Maintaining national economic stability, the cigarette industry is a major contributor to state revenue. If excise rates increase too high, it is feared that a black market (illegal trade) will emerge which will actually reduce state revenue. Controlling cigarette inflation is included in the inflation calculation component. Excessive excise increases can trigger price increases that have a broad impact on the economy. If the government's intentions are truly oriented towards the public interest, then this policy can be categorized as *jaiz* (permissible) or even *mustahabb* (recommended), as long as it does not ignore aspects of controlling consumption and public health.

The moratorium could lead to potential negative consequences, including increased cigarette consumption, especially among adolescents and the poor, and an increased health burden due to the continued high prevalence of smoking-related diseases. This contradicts the tobacco control mission, as stipulated in the Health Law and the national anti-smoking campaign. If the government's intention is purely to protect the interests of the wider community, such as the welfare of tobacco farmers, factory workers, and economic stability, then this policy is acceptable as long as it is accompanied by an effective cigarette consumption control strategy. However, if the intention is solely focused on state revenue or perpetuating the cigarette industry without considering health, then this policy contradicts the *maqasid* of sharia, particularly regarding the protection of life and mind. Several alternative approaches need to be considered, including a gradual approach to excise tax increases, which should be implemented gradually rather than completely halted, to balance economic and health interests. Economic diversification: The government needs to provide transition programs for cigarette industry workers, such as skills training in other sectors. Earmarking excise tax revenue should allocate a significant portion of

cigarette excise revenue to health programs and cigarette control campaigns, as well as public awareness campaigns on the dangers of smoking to reduce consumption from the demand side.

A moratorium on increasing cigarette excise can be considered appropriate if the government's intentions are truly aimed at achieving the public benefit, such as maintaining economic stability and protecting workers. However, if this policy is only oriented towards short-term economic profits without paying attention to public health objectives, then the policy is not in line with maqasid sharia. From a fiqh perspective, the government must balance *maslahah* and *mafsadah* through measurable policies, so that this moratorium policy does not cause greater damage in the future.

## 2. Second Rule

اليقين لا يزول بالشك

*“Faith cannot be dispelled by doubt” (As-Suyuthi, 1958, p. 37)*

It should be emphasized that the term *al-yaqīn* (certainty) in this principle refers to a state of certainty, whether based on mature thought or clear evidence. *Asy-syakk* (doubt) is understood as a condition that is not yet certain, namely being between the possibility of the existence or non-existence of a matter, making it difficult to determine which of the two possibilities is stronger.

This principle means that certainty cannot be dispelled by doubt. In the context of public policy, this principle emphasizes that decisions must be based on clear data and evidence (*al-yaqīn*), not unproven assumptions or concerns (*syakk*). One of the certainties and proven facts related to the tobacco industry is that smoking is detrimental to health.

Ministry of Health data shows that cigarette consumption is a major trigger for chronic diseases, including cancer, heart disease, and tuberculosis. The WHO also reports that Indonesia has one of the highest smoking prevalence rates globally, at around 33.5% among adults. This condition contributes to the high burden of healthcare costs, with Social Security Agency for Health spending on smoking-related illnesses reaching tens of trillions of rupiah annually. Meanwhile, the cigarette industry makes a significant economic contribution. By 2024, state revenue from tobacco excise taxes is expected to reach around IDR 230 trillion, and this sector employs millions of workers, from tobacco farmers and factory workers to distributors. Research by the Ministry of Finance indicates that increasing cigarette excise rates has the potential to reduce consumption; each 10%

increase in excise taxes is estimated to reduce consumption by around 2–3%, although the impact is relatively smaller for heavy smokers.

A common reason for the moratorium is the concern among regulators, particularly the government, about mass layoffs. Aggressive excise tax increases will force the cigarette industry to reduce production and trigger massive layoffs. However, data shows that the decline in employment in this sector tends to be gradual, not sudden, as consumers remain, albeit in smaller numbers. Concerns also arise that excise tax increases will increase the circulation of illegal cigarettes. In reality, the problem of illegal cigarettes is more related to weak oversight, not simply to high excise rates. Finally, concerns about inflation stem from cigarettes being a commodity that influences the inflation index, but the proportion is relatively small compared to food items like rice and oil.

The above statement should not be dismissed simply because of uncertain concerns (doubt), such as mass layoffs or a surge in illegal cigarettes. This means that a moratorium policy is inappropriate if it is based solely on unproven concerns, when the dangers of smoking are clearly real and measurable.

### 3. Third Rule

المَشَقَّةُ تَجْلِبُ التَّيْسِيرَ

*"Difficulty brings ease" (As-Suyuthi, 1958, p. 55)*

Allah Subhanahu wa Ta'ala says:

وَمَنْ شَهْرُ رَمَضَانَ الَّذِي أُنزِلَ فِيهِ الْقُرْآنُ هُدًى لِّلنَّاسِ وَبَيِّنَاتٍ مِّنَ الْهُدَى وَالْفُرْقَانِ فَمَنْ شَهِدَ مِنْكُمُ الشَّهْرَ فَلْيَصُمْهُ ۗ  
كَانَ مَرِيضًا أَوْ عَلَى سَفَرٍ فَعِدَّةٌ مِّنْ أَيَّامٍ أُخَرَ يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ وَلِتُكْمِلُوا الْعِدَّةَ وَلِتُكَبِّرُوا اللَّهَ عَلَى  
مَا هَدَاكُمْ وَلَعَلَّكُمْ تَشْكُرُونَ

*"The month of Ramadan is (the month) in which the Qur'an was revealed as guidance for humans and explanations regarding that guidance as well as the distinction (between what is right and what is false). Therefore, whoever among you is present (at his place of residence or is not a traveler) during that month, shall fast it. Whoever is sick or on a journey (and then does not fast), then (must make up for) as many days (which he missed) on other days. Allah desires ease for you and does not desire hardship. You must make the number sufficient and glorify Allah for His guidance given to you so that you will be grateful." (QS. Al-Baqarah (2) :185) (Al-Quran Kementerian Agama RI, 2015)*

Allah Subhanahu wa Ta'ala says:

لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا وُسْعَهَا ۚ لَهَا مَا كَسَبَتْ وَعَلَيْهَا مَا اكْتَسَبَتْ ۗ رَبَّنَا لَا تُؤَاخِذْنَا إِنْ نَسِينَا أَوْ أَخْطَأْنَا ۗ رَبَّنَا وَلَا تَحْمِلْ عَلَيْنَا إصْرًا كَمَا حَمَلْتَهُ ۗ عَلَى الَّذِينَ مِنْ قَبْلِنَا ۗ رَبَّنَا وَلَا تُحْمِلْنَا مَا لَا طَاقَةَ لَنَا بِهِ ۗ وَاعْفُ عَنَّا وَاعْفِرْ لَنَا ۗ وَأَرْحَمْنَا ۗ أَنْتَ مَوْلَانَا فَانصُرْنَا عَلَى الْقَوْمِ الْكَافِرِينَ

*“Allah does not burden a person, except according to his ability. For him there is something (reward) for the (virtue) he strives for and for him there is (also) something (torment) for the (crime) he commits. (They prayed,) “O our Lord, do not punish us if we forget or we are wrong. O our Lord, do not burden us with a heavy burden as You burdened those before us. O our Lord, do not give us what we cannot bear. Forgive us, forgive us, and have mercy on us. You are our protector. So, help us in facing the disbelievers.” (QS. Al Baqarah (2) : 286) (Al-Quran Kementarian Agama RI, 2015)*

In the context of public policy, this principle means that the government may make lighter policies when society or certain sectors face very heavy burdens, as long as the ultimate goal is the public good (maslahah ‘ammah).

Masyaqah (Difficulties) faced if the excise tax increase is carried out without pause, several real difficulties could arise the risk of mass layoffs if companies reduce production due to rising costs, loss of livelihoods for tobacco farmers and factory workers, most of whom are in areas with limited employment opportunities. For the economy of tobacco-producing regions such as Central Java and East Java, they are very dependent on the tobacco industry, so that a decrease in production could cause social and economic turmoil at the local level. For the government and society, the potential for the circulation of illegal cigarettes increases if the price of legal cigarettes is too high, thereby reducing state revenues, drastic increases in excise taxes could trigger inflation, which would aggravate the burden on the poor.

These difficulties are temporary emergencies and require taysir (easements) as a short-term solution. The moratorium on cigarette excise tax increases can be understood as taysir, a temporary easement granted by the government to provide transition time for the industry to adapt to new policies, prevent economic shocks, such as mass layoffs or a surge in illegal cigarettes, and maintain social stability, particularly in regions dependent on the cigarette industry. The fiqh principle of taysir should not be made permanent. If left unchecked for too long, it will actually hinder the objectives of sharia (maqasid sharia), particularly the protection of life (hifz al-nafs) and reason (hifz al-‘aql), which are threatened by cigarette consumption. In the short term, the moratorium provides benefits in the form of economic and social stability. However, in the long

term, if the moratorium is prolonged, the health benefits will become more dominant because cigarette consumption remains high.

#### 4. The fourth rule

الضَّرْرُ يُزَالُ

*“This obstacle must be eliminated.” (As-Suyuthi, 1958, p. 57)*

This rule is taken from the verses of the Qur'an. The Word of Allah SWT. The following:

إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَحُلْمَ الْخِنْزِيرِ وَمَا أَهَلَ بِهِ لِغَيْرِ اللَّهِ ۖ فَمَنِ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَلَا إِثْمَ عَلَيْهِ ۗ إِنَّ اللَّهَ  
عَفُورٌ رَّحِيمٌ

*“Indeed, He has only forbidden you carrion, blood, pork and (meat) of animals slaughtered by (names of) other than Allah. However, whoever is forced (to eat) it, not because he wants it and not (also) beyond the limit, then there is no sin for him. Indeed, Allah is Forgiving, Most Merciful.” (QS. Al-Baqarah (2) : 173) (Al-Quran Kementerian Agama RI, 2015)*

Allah Subhanahu wa Ta'ala says:

قُلْ لَا أَجِدُ فِي مَا أُوحِيَ إِلَيَّ مُحَرَّمًا عَلَى طَاعِمٍ يَطْعَمُهُ ۖ إِلَّا أَنْ يَكُونَ مَيْتَةً أَوْ دَمًا مَسْفُوحًا أَوْ لَحْمَ خِنْزِيرٍ فَإِنَّهُ  
رَجْسٌ أَوْ فَسَقًا أَهَلَ اللَّهُ بِهِ ۖ فَمَنِ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَإِنَّ رَبَّكَ عَفُورٌ رَّحِيمٌ

*“Say, “I do not find in what has been revealed to me anything forbidden for one who desires it, except dead animals, flowing blood, the flesh of swine, because it is impure, or that which has been slaughtered wickedly, mentioning (the name of) other than Allah. But whoever is forced by necessity, neither desiring it nor exceeding (the limits of necessity), then surely your Lord is Oft-Forgiving, Most Merciful.” (QS. Al-An'am (6) : 145) (Al-Quran Kementerian Agama RI, 2015)*

This principle is a fundamental principle in Islamic law, asserting that all forms of danger, damage, or harm to individuals or society must be eliminated. In the context of public policy, this principle requires the government to prioritize policies that minimize the greatest harm and eliminate real dangers to the people. A moratorium to temporarily eliminate economic harm if the government deems that a drastic excise tax increase will trigger mass layoffs, social unrest in tobacco-producing regions, and widespread illegal cigarette circulation. Therefore, a temporary moratorium can be justified as a means of eliminating short-term harm. However, the government is required to prepare a transition strategy, such as training and transferring workers to other sectors, diversifying the economy of tobacco-producing regions, and strengthening oversight of illegal cigarettes.

Moratoriums Perpetuate Health Harms: If the moratorium is implemented indefinitely, it will perpetuate the real harms, including continued high cigarette consumption, the increasing burden on the Social Security Agency (BPJS), and the continued exposure of young people to the dangers of smoking. Under these conditions, the moratorium policy is contrary to the principle, as it does not eliminate the greatest harm that is clearly present. From the perspective of this principle, a moratorium on cigarette excise tax increases should not be a long-term policy, as it would perpetuate even greater harms, namely high cigarette consumption and damage to public health. However, a temporary moratorium can be justified if its purpose is to mitigate short-term economic and social shocks, as long as the government prepares clear steps to gradually reduce cigarette consumption.

#### 5. Fifth Rule

#### العادة محكمة

*“Customs can be established as law.” (As-Suyuthi, 1958, p. 63)*

This principle is taken from the Qur'an. For example, from the Qur'anic verse which reads as follows:

وَلْيَخْشَ الَّذِينَ لَوْ تَرَكَوْا مِنْ خَلْفِهِمْ ذُرِّيَّةً ضِعَفًا خَافُوا عَلَيْهِمْ فَلْيَتَّقُوا اللَّهَ وَلْيَقُولُوا قَوْلًا سَدِيدًا

*“Let them be afraid of those who should (die) leave behind them, weak offspring (whom) they fear. So, fear Allah and speak with the right words (in terms of protecting the rights of your descendants).” (QS. An-Nisa (4) : 19) (Al-Quran Kementerian Agama RI, 2015)*

The Islamic jurisprudence principle of *muhakkamah* (constitutive principle) means that customs or practices that are ingrained and accepted within a society can be used as a basis for legal considerations, as long as they do not conflict with sharia. In the context of the cigarette industry in Indonesia, cigarettes have been part of the culture and customs of society for decades, even hundreds of years. Cigarettes are not only viewed as an economic commodity, but are also closely linked to social life, customs, and even cultural rituals in various regions. From an economic perspective, the cigarette industry plays a significant role in providing employment and contributing to state revenue through excise taxes. The moratorium on cigarette excise tax increases can be seen as a form of recognition of the habits of communities that depend on this industry for their livelihoods, including tobacco farmers, factory workers, traders, and other parties

in the distribution chain. If the excise tax increase policy is implemented drastically, it is feared that it will cause social and economic shocks, especially for those who depend on this sector.

From a benefit-benefit perspective, this habit must also be carefully considered. Cigarettes have a significant negative impact on public health. Ministry of Health data shows that the prevalence of smoking-related diseases, such as lung cancer and heart disease, continues to increase annually, burdening the country's healthcare costs. This is where the government faces a dilemma: whether to maintain a deeply rooted habit that provides economic benefits, or to reduce it to eliminate the health benefits.

The principle of *al-'ādah muhakkamah* does not mean that all habits are justifiable. If a habit leads to greater harm (*mafsadah*), the government is obligated to intervene to redirect it toward good. In this case, the moratorium on cigarette excise tax increases can be seen as a transitional strategy. This policy gives the government time to educate the public, prepare alternative livelihoods for cigarette industry workers, and gradually reduce the community's dependence on cigarettes, so that changes do not occur suddenly and cause social unrest.

Thus, the moratorium on cigarette excise increases aligns with the principle of mutual respect, as long as it respects long-established social customs and practices. However, in the long term, the government remains obligated to direct these practices toward healthier and more beneficial policies, such as through increased health education, the development of alternative industries, and balanced regulation of economic, social, and health aspects.

#### 4. CONCLUSION

This study concludes that the moratorium on cigarette excise tax increases represents a complex policy choice in which short-term economic considerations are prioritized over long-term public welfare. Based on the analysis of empirical data and normative Islamic legal principles, the findings indicate that the economic benefits of the moratorium—such as employment stability, industrial continuity, and sustained state revenue—are real but limited in scope and duration. In contrast, the resulting harms, including increased cigarette affordability, persistent smoking prevalence, and escalating public health burdens, are systemic and long-lasting. From the perspective of *qawā'id fiqhīyah*, such conditions place the policy in tension with the principle that preventing harm must take precedence over pursuing benefit. The moratorium, therefore, cannot be justified as a permanent policy within an Islamic legal framework. Its legitimacy is highly conditional and dependent on the presence of complementary measures to mitigate harm.

The study finds that the moratorium policy is inconsistent with the objectives of *maqāsid al-sharī'ah*, particularly the protection of life and the preservation of human welfare. While economic stability and labor protection are recognized as valid forms of *maṣlahah*, they do not outweigh the collective harm caused by sustained tobacco consumption. The findings reinforce the concern that delaying excise increases weakens the effectiveness of fiscal instruments designed to regulate harmful consumption behavior. Islamic legal principles, especially *al-ḍarar yuzāl* and *dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ*, require the state to actively reduce public harm rather than maintain conditions that enable it. Consequently, any moratorium should only function as a temporary, transitional policy accompanied by clear strategies for economic diversification, labor transition, and public health protection. Without such safeguards, the policy risks contradicting the ethical foundations of Islamic governance.

In terms of scholarly contribution, this research advances Islamic economic and legal studies by extending the application of *qawā'id fiqhīyyah* to contemporary fiscal policy analysis. Unlike previous studies that focused separately on economic impacts, public health outcomes, or the legal status of smoking, this study integrates empirical policy evidence with normative Islamic legal reasoning. It demonstrates that fiscal instruments such as excise taxes are not value-neutral but carry moral and ethical implications within Islamic jurisprudence. By positioning cigarette excise policy within the framework of *siyāsah shar'īyyah*, the study enriches the discourse on Islamic public policy and governance. The findings offer a conceptual model for evaluating other state fiscal policies that involve ethical trade-offs between economic benefit and social harm. Ultimately, this research contributes to a more holistic and normatively grounded approach to policy analysis in Islamic economics and law.

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