

## **Protection of Rights of Consumers in Business Transaction: A Comparative Approach with Special Reference to Islamic Law.**

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***Abstract:** Consumer is weaker party in any business transaction. Islam has played a laudable role for the protection of consumer rights. The Islamic approach to business ethics is centered around criteria that are in common with stakeholder theory such as justice and balance, and includes unique additional criteria, such as, trust and benevolence. This article has given a comprehensive idea on the protection mechanisms of consumer rights in Islam. The promotion and protection of consumer rights are essential and considered as a prerequisite to “right to life” for every citizen. Consumer protection is necessary when markets fail to provide effective protection to the consumers or when there is an imbalance of power between buyers and sellers in a market. This paper examines the evolution of modern instruments and Islamic doctrine, and loopholes of conventional doctrine on consumer protection. Besides, this paper has explored how Islam brings unique benefits to all citizens for the protection of consumer’s rights.*

***Keywords:** Consumer Rights, Consumer Protection, Caveat Emptor, Khiyar al-‘Aib.*

### **1. Introduction**

It is known that Islam is the complete code of life. It is a divine religion which deals with all aspects of human existence such as economical, political, cultural, social etc. As of the complete code, it is

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regarded as the most effective and efficient doctrine of consumer protection. Its values of truth, justice and brotherhood protect consumers in their daily transactions. There are two obligations imposed on mankind by the Creator which are the rights of man (*huqūq al-‘ibād*) which regulate the relationships between two parties according to their wills. The other one is the rights of Allāh (*huqūq Allāh*) in which the law provides duties owed to other persons generally.<sup>1</sup> These two obligations have been outlined in such a way so as to protect the consumers in all occasions whether they are the parties to the transactions or not. However, Islam does not provide a specific area of consumer protection<sup>2</sup> since the consumer’s legal rights derived primarily from the Islamic law of transaction (*mu‘amalāt*) which outlines many principles and sets many ethical standards that provide sufficient protection to consumers regardless whether they are the parties in the transactions or not. For example, Allāh (SWT) imposes obligations honestly on transaction as trust based on the principle of Islamic brotherhoods. He has emphasized this obligation in several Qur’anic verses.<sup>3</sup> It is interesting to note that Qur’ān and Islam addressed the consumer rights about fourteen and half centuries ago. Islam places legitimate business, in its widest sense, among the most beneficial and the noblest of vocation for earning a living and acquiring of wealth. Markets and their performance have always been a focal point in Islamic writings.

Islam sees conducting of business as *Fard Kefaya* i.e. a duty whose performance is obligatory on all Muslims in general. The application of the principle to business implies the achieving of a self-reliant economy. Thus, those joining business fulfill a religious obligation in a significant and risky sector.

## **2. Principles of Consumer Protection in Islam**

### **2.1 Standard weights and measures in business transactions**

Islam imposes a number of obligations on the sellers with regard to measurements, quality of goods, their prices and provisions of information to the buyer.<sup>4</sup> The traders are required to keep standard weights and measures, and use them scrupulously. The standardization of measurements and weights is also addressed in Qur’ān as follows:

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“Give full measure when ye measure, and weigh with a balance that is straight; that is the most fitting and the most advantageous in the final determination.”<sup>5</sup>

It is better to error on the side of giving more while selling and prefer to accept a little less when purchasing to avoid harming the other party, even unknowingly.<sup>6</sup> This concept is based on the following verses of the Holy Qur’ān:

“Woe to *Al-Mutaffifin* [those who give less in measure and weight (decrease the rights of others)], Those who, when they have to receive by measure from men, demand full measure, And when they have to give by measure or weight to men, give less than due.”<sup>7</sup>

In another verse, Allāh (SWT) says:

“... And give full measure and (full) weight, in justice; We do not burden any soul beyond what it can bear ... ..”<sup>8</sup>

Thus, a Muslim is obliged to avoid fraud, deceit and treachery so that his wealth is gained from healthy sources. For example, the Qur’ān orders businessmen:

“Give full measure and be not of those who cause loss to others”<sup>9</sup>;  
“And weigh with an equal balance.”<sup>10</sup>

## **2.2 Commercial Ethics**

Business ethics are highly valued under Islamic law. The society of the Prophet (SAW) himself was based on trade and commerce and the need to be able to deal honestly with business partners was a prerequisite to any workable transaction. Prophet Mohammed's family was a family of merchants and trade was a highly praised and valued activity. Fair competition was promoted in order to guarantee consumers the benefits of better products and appropriate prices. The Prophet is said to have visited markets in his capacity as the head of the state in order to inspect the business practices adopted by his citizen. When the community grew an institution called the *Hisbah* was established and given the power of "*commanding the good and forbidding the evil*"<sup>11</sup> when supervising market practices.<sup>12</sup> Its main functions were enforcing justice and fairness in the market place so as to enhance consumer interest. It has also been said that special marks

were put on certain products to indicate the conformity with accepted quality standards - this is very contemporary and fully consistent with the role of trademarks as guarantors of quality. These practices might be implied to recognize the value of trademarks as indicators of source and the prohibition of unfair competition associated with trademark infringement.

It is evident from the Qur'ān and *hadith* that Islam has laid down an ethical discipline in commercial transactions for the believers or citizens to follow. Dishonest traders who contravene those rules are blameworthy and liable to punishment on the Day of Judgment in addition to the punishment here. In short, Islamic law emphasizes good conduct, decency and ethical standards of law and morality as a part of business contract. These must be molded together to ensure justice to parties, the purchaser and the seller. Only then can the objective of the *Shari'a* be achieved.

Multiple principles defending the sanctity of contracts and the freedom to contract are enshrined in the Qur'an, the most explicit one is:

“Fulfill your undertakings.”<sup>13</sup>

This notion is emphasized continuously throughout the Qur'an and the *Sunnah*. All schools of jurisprudence agree on the fact that all Muslims are to be bound by their stipulations.<sup>14</sup>

### **2.3 Trustworthiness and truthfulness in Business Transactions**

The values of trustworthiness and truthfulness would benefit consumers at large either they are parties in the transactions or merely persons who consume goods and services. What make the *Shari'a* values differ from the man-made obligations are that the former exist with strong foundations; that is the belief in the oneness of Allāh (SWT) and Allāh-consciousness (*al-taqwa*).<sup>15</sup> Without this belief, it is impossible for the mankind to follow whatever obligations and injunctions in the law of transactions which are mostly derived from the divine guidance i.e. the Holy Qur'ān and the *Sunnah* of the Holy prophet (SAW). Allāh's messenger always encouraged the Muslims to do business, as it is considered an aspect of '*ibādah*'. This can be seen from a verse of the Qur'ān:

“And when the prayer ends, disperse in the land and seek of Allāh's bounty, and remember Allāh much, that you may be successful.”<sup>16</sup>

Islam does not tolerate any kinds of cheating, fraud and exploitation. In this regard the Holy Qur'ān declares:

“Do not defraud people of their things, and do not commit corruption in the earth.”<sup>17</sup>

Says the Holy Qur'ān further that:

“O you believers! Do not betray Allāh and the Messenger, nor knowingly, betray your trusts.”<sup>18</sup>

Islam has given instructions to Muslim businessmen that:

“Speak the truth when you talk, keep a promise when you make it, when you are trusted with something fulfill your trust and restrain your hands from injustice.”<sup>19</sup>

In all situations the Muslim must be honest and truthful, holding his faith dearer than any worldly gain. Prophet (SAW) said: *“When you enter into a transaction; there should be no attempt to deceive.”*<sup>20</sup> He also said: *“When you buy something, say (to the seller), No cheating.”*<sup>21</sup>

Islam encourages truthfulness in business transactions and raises the status of a truthful merchant so that he would be honored with the holy warriors and martyrs, in the Hereafter. The Prophet said: *“the truthful trustworthy merchant will be with the Prophets, truthful and martyrs.”*<sup>22</sup> Finally, Prophet (SAW) warned that selfish and dishonest traders would face punishment in the hereafter for undermining the fundamental basis of contracts. Wathilah bin Asqa related that once the Messenger of Allāh came to them and said: *“O you traders, beware of telling lies in (your business) transactions.”*<sup>23</sup>

#### **2.4 Prohibition of profit without effort and labour**

Although the Qur'an provides that *“there is no fault in you that you should seek bounty (honest profit) from your Lord”*<sup>24</sup> disproportionate profits are held not to be honest: *“Woe to every defamer, slanderer, who amasses wealth and hoards it! He thinks that this wealth is going to make him live forever.”*<sup>25</sup> These verses condemn the accumulation of improper wealth. In recognizing the importance of trade and

commerce *Shari'ah* emphasized the notion of balance: gains should be in proportion to the efforts spent in doing something.

### 2.4.1 Interest (*Riba*)

Islam prohibits all transactions involving *riba*. Literally *riba* translates into unjustified increase, which should be avoided according to the Qur'an. As it provides,

“Allāh has allowed trade and prohibited interest (*riba*).”<sup>26</sup>

On the other hand, *riba* is the extra sum the moneylender charges from the borrower for deferred payment. Interest is neither a trade nor a profit. It is a means of exploitation and concentration of wealth. The Holy Qur'ān says:

“Whatever you pay as interest, so that it may increase in the property of (other) men, it does not increase with Allāh.”<sup>27</sup>

“And O you who believe, do not take interest, doubling and quadrupling, and keep your duty to Allāh, so that you may prosper.”<sup>28</sup>

He says, “O you who believe, observe your duty to Allāh and give up what remains (due) from interest, if you are believers. But if you don't do it, then be warned of war from Allāh and His messenger.....”<sup>29</sup>

As regards sanction against interest al Qur'ān provides:

“And their taking of *Riba* (usury) though they were forbidden from taking it and their devouring of men's substance wrongfully (bribery, etc.). And We have prepared for the disbelievers among them a painful torment.”<sup>30</sup>

The interesting fact is that the last verse (in the Qur'ān) revealed to the Prophet was the verse dealing with usury (i.e. *riba*).<sup>31</sup> *Riba* also strictly prohibited by the *Sunnah* of the Prophet (SAW). The Prophet (SAW) said: “*Cursed the accepter of interest and its payer, and one who records it, and the two witnesses; and he said that they are all equal.*”<sup>32</sup> Eventually, I would like to say that earning is legal. But it must not be made without labour or any other legal means which are contrary to Islamic principles.

### **2.4.2 Gambling**

Similarly, gambling is prohibited in Islam because it concerns undeserved 'easy' money and because it involves profit without work.<sup>33</sup> It seems that activities that can potentially yield indefinite and extraordinary profits could constitute a form of deceit. A transaction that involves significant uncertainty and risk is not permitted. So, Allāh (SWT) unambiguously declares in the Holy Qur'ān:

“O you who believe! Intoxication and gambling, dedication of stones, and divination by arrows are an abomination of *Satans* handiwork. Eschew such abomination, that you may prosper.”<sup>34</sup>

This is because in Islam, wealth must be acquired by working and benefiting the society. Gambling does not qualify as a work because it is a game of chance. A lucky person may acquire a massive wealth, while an unlucky person may lose all his wealth. Accordingly, gambling redistributes wealth on the basis of pure chance.

Gambling also involves social dangers since it can be addictive. A gambler who achieves a big profit on one occasion may be tempted to play repeatedly to earn money without expending much effort. Similarly, a gambler who loses money may feel compelled to do so again to recoup his losses.

### **2.5 Sale involving uncertainty**

In order to avoid unfair risk to buyers or consumers, the sale of an item which is not available and whose delivery is doubtful is prohibited. It means that the elements of ambiguities (*gharar*) must be avoided in all contracts in Islamic law as its presence would cause defects to the contract and turned it null and void. Generally speaking, *gharar* denotes excessive and undue risk. *Gharar* transactions comprise those transactions where either parties or either of the parties to the contract becomes a victim of excessive ignorance with regard to the existence, acquisition, quality, and other necessary attributes of the subject-matter. Such ignorance and uncertainty may lead to quarrel and litigation among the parties. It also includes uncertainty and lack of knowledge about the material terms of the contract. Transactions comprising an element of uncertainty relating to the object of sale, its price, or the delay allowed for delivery of the goods, are considered by the moralists to be tainted by *gharar* and so to be prohibited by

*Shari'a*.<sup>35</sup> As for examples these include selling fish in the river or selling agricultural products before the plant becomes viable and takes roots are void. In this regard the Prophet (SAW) said: “*Forbade selling the fresh fruits of his orchard (for dry fruits) or, if it is fresh dates, for dry dates with a measure, or if it is grapes for raisins or if it is corn in the field for dry corn with a measure.*”<sup>36</sup> Besides, Allāh's Apostle forbade the sale of date fruits till they were ripe<sup>37</sup> in a good condition<sup>38</sup> or till they were red or yellow and fit for eating.<sup>39</sup> This means that both contracting parties must have perfect knowledge of what is being exchanged in their transaction. So we can say that all type of sale involving uncertainty is declared invalid because it harms the rights of consumers.

## 2.6 Hoarding

Freedom for individual and natural competition in the marketplace is guaranteed by Islam. However, hoarding is strictly prohibited in Islam. Hoarding means the withholding supplies of essential goods and services with a view to raising prices. The *Shari'a* severely condemns any attempt at raising prices by creating artificial scarcities. Islam also condemns those who, driven by ambition and greed, accumulate wealth at the expense of others and become rich by manipulating the prices of food and other necessities. This is why the Prophet (SAW) denounced hoarders in very strong words, saying, “*If anyone withholds grain for 40 days out of the desire for a high price, Allāh will renounce him.*”<sup>40</sup> In another *hadith* Prophet (SAW) said: “*No one hoards but the sinner.*”<sup>41</sup> He also said: “*Spend and do not calculate, (for) Allāh would calculate in your case; and do not hoard, otherwise Allāh would be withholding from you.*”<sup>42</sup> On the basis of the text and content of these foregoing *hadith*, scholars have deduced that hoarding is prohibited under two conditions. Such as, hoarding at a given time is injurious to the people of that country, and that the hoarder's aim is to force the price up in order to make more profit.<sup>43</sup> During Caliphate, *Umar ibn al-Khattab* had issued a stern warning against hoarding of any marketable commodities. Nobody was allowed to spend his wealth on purchasing food grains with the intention of hoarding.<sup>44</sup> Finally it is to be said that Islamic ethics constitute the foundation for unfair competition rules and forbid any unjust or unscrupulous business practices.



## **2.7 Stolen Property**

In order to eliminate the crime and criminal from the society, Islam has prohibited the Muslim to sale or purchase any article which he knows to have been usurped, stolen or taken unjustly from its owner. That means that the stolen items are neither to be bought nor sold by those who know the reality. Prophet (SAW) rightly said: *“He who buys the stolen property, with the knowledge that it was stolen, shares in the sin and shame of stealing.”*<sup>45</sup> He also said: *“In dealing with Muslims one should not sell them sick (animals) or bad things or stolen things.”*<sup>46</sup> Besides, unlawful items for trading include intoxicants, prostitution and stolen goods are prohibited in *Shari‘a*.<sup>47</sup> In addition to the above guidelines, the Muslim businessman must not knowingly purchase stolen property either for himself or for resale and must not give it others as gift.

## **2.8 Price Manipulation**

In all transactions, traders and buyers are prohibited from interfering with the free market system. Islam prohibits price manipulation by a handful of buyers or sellers who have become dominant in the market. The market system is free in Islam, and is allowed to respond to supply and demand.<sup>48</sup> But under specific circumstances, the Government can fix price of commodities to ensure public interest. Prophet (SAW) condemned monopoly practice since it caused injury to both the consumers and traders. In case of price fixation, consumers cannot make any bargain for buying goods and at the same time traders are compelled to sell goods at a fixed price. When the prices became high in the Prophet’s time and people asked him to fix prices for them, he replied: *“Allāh is the one Who fixes price, Who withholds, Who gives lavishly, and Who provides, and I hope that when I meet Him none of your will have a claim against me for any injustice with regard to blood or property.”*<sup>49</sup> However, if a trader adopts unfair means, charges unjust prices with a view to doing harm to the smaller traders, consumers; in such situation, Government has to take initiative in order to prevent exploitation and other unjust practices in the market. They can and should take steps to fix or control the prices so as to eliminate injustice from the market and allow the trader to earn reasonable profit and the consumer to pay a just and equitable price.<sup>50</sup> And it is the duty of every Muslim trader’s charges for a commodity should not be more than what rules the market follow. It is to be noted that fixation of price might have cause deficit to be given from public trust.

### 3. Doctrine of *Khiyar al-‘Aib*

The doctrine of *Khiyar al-‘aib* is one of the legal methods in Islamic commercial transactions which protect the rights of consumers from purchasing defective products. Under Islamic Commercial Law, the seller, in a sale and purchase agreement, is under the obligation to allow the consumer to inspect or examine the fitness of the goods to be sold not only before the conclusion of the agreement but also after it. If there is any defect in the goods, regardless of whether this defect is discovered before or after the conclusion of the agreement, Islam grants the option (*khiyar*) to the consumer either to continue with the agreement or to rescind.

#### 3.1 The Legislative Rules of the Doctrine of *Khiyar al-‘Aib*

Under Islamic law, several conditions need to be fulfilled before exercising an option of defect known as *khiyar al-‘aib*. These conditions are as follows:

- i. The existence of the defects on the goods should be existing before or at the delivery of the goods.<sup>51</sup>
- ii. The consumer should not have been aware of the defects at the time of the agreement;<sup>52</sup>
- iii. There should not be any stipulation by the seller for waiving the liability of the seller for the defects.<sup>53</sup> If such a condition exists, the consumer has no option.<sup>54</sup>
- iv. The defects must have existed and been proven at the time when the consumer wishes to exercise the option (either to accept the goods or reject them);<sup>55</sup>
- v. There should not be any agreement by the consumer in taking all the responsibilities for the defects of the goods, thus, exempting the seller from any liability arising from those defects.<sup>56</sup>

All schools of *fiqh* agreed that concealment of a defect is a prohibited act (*harām*) and will cause the contract to be voidable.<sup>57</sup> Mālik School of Law, however, added the qualification that the defect must be serious, but according to the other schools, it is enough to prove the existence of any defect, regardless of whether it is severe or not.<sup>58</sup> This is based upon the apparent meaning of a *hadith* reported by Wathilah ibn al-Asqa that he heard the Messenger of Allāh (SAW) saying, “Anyone who sells

a defective item without informing (the purchaser) about its defect will remain forever under the anger of Allāh.”<sup>59</sup>

### **3.2 The Doctrine of *Khiyar al-‘Aib*: Its Impact on Consumer Protection**

This doctrine not only safeguards the consumer from the implications of the sale of defective products before the agreement is being concluded, but it also guarantees similar protection after the conclusion of the sale agreement. Under this doctrine, the consumer then has the right to exercise his right of option (of either continuing with the contract of sale or not) upon the discovery of the defect on the goods, regardless of whether the discovery takes place before or after the conclusion of the said agreement.

The vital role played by this doctrine in the protection of society from the effects of the sale of defective products is summed up as follows:

- i. The consumer has the implied right to inspect the goods prior to an agreement and confirm whether the goods to be purchased are free from unknown defects;<sup>60</sup>
- ii. After the delivery of the goods by the seller, if the consumer (purchaser) discovers any defect in the good which existed while it was in the hands of the seller, the consumer has the right of option to reject the item purchased or to take it at the agreed price.<sup>61</sup>
- iii. If the seller put an exemption clause of no responsibility for any defect in the goods while the defects were known to him or concealed by him purposely, the exemption clause in the situation has no effect and, thus, the consumer is not bound by the exemption clause and has the right of option to reject the goods or to take them.

Under the practical application of this doctrine, we find that the rights and interests of the consumer are really preserved and protected.

### **3.3 The Doctrine of *Khiyar al-‘Aib*: Its Impact on Defective Products**

It is an implied term that any goods sold should be free from defects unknown to the buyer.<sup>62</sup> Relying on this provision, the consumer has a legal right to protect himself from receiving a defective product.

*Khiyar al-‘aib* plays a vital role in protecting the rights of consumer from being deceived by defective products in the following manners:<sup>63</sup>

- i. The consumer has a right to inspect the goods (to be purchased) prior to an agreement and to confirm whether the goods are free from any defects.<sup>64</sup>
- ii. It is a legal duty of the seller or manufacturer to notify the buyer of the goods before the conclusion of the sale and purchase agreement. As the Prophet (SAW) said: *“It is illegal for one (seller) to sell a thing one (seller) knows that is has a defect unless one (seller) informs the buyer of that defect.”*<sup>65</sup>
- iii. If the buyer discovers, after the conclusion of the agreement, the defect of the goods and proves that the defect occurred in the hand of the seller (or manufacturer), the buyer has the right of option either to reject the defective goods or to take it for the agreed price.<sup>66</sup>
- iv. If the seller (or manufacturer) stipulates to the buyer an exemption clause prior to the agreement exempts him from any liability for defects of the goods to be sold, while knowing about the defects and concealing them purposely, that exemption clause will not exempt the seller from liability. As Imam Mālik clarified this point:  
  
who sells with an exemption clause himself (the seller) from liability, of any defect of the goods will not responsible for that defect unless he knew about it and concealed it. If the seller knew and concealed the defect, such an exemption clause will not exempt him from the liability of such defective products.<sup>67</sup>
- v. For the sake of further protection of the consumer’s rights and interests against the problems of the sale of defective goods and products, it is also the duty of the seller to tell the truth and not to conceal whether any defect the goods might have. The Prophet (SAW) said: *“if they (the seller or the buyer) tell a lie and conceal anything (in the transaction) the blessing on their transaction will be blotted out.”*<sup>68</sup>

Such is the vital role that the Islamic doctrine of *khiyar al-‘aib* plays in sheltering society from the problems arising from the sale of defective goods and products.

#### **4. Islamic Jurisprudential Response to the Doctrine of *Caveat Emptor***

The maxim of *caveat emptor* means “let the buyer beware.” The nature of the common law doctrine of *caveat emptor* is that the buyer is allowed to examine and inspect the goods to be purchased before entering into a sale and purchase agreement so as to confirm that the goods are free from any unknown defect. The general rule of that principle also states that the seller is not bound to disclose any known defect in the goods to the buyer.<sup>69</sup> Under Islamic law, the doctrine of *caveat emptor* cannot be accepted because it is contrary to the principle of Islam. This is because *caveat emptor* places the burden of proof regarding any deceitful element upon the buyer. On the other hand, in Islam, both the buyer and seller have the responsibility to honestly declare all information relevant to the contract before its conclusion. In fact, there is an implied warranty in Islamic law that the thing sold should be free from defect.<sup>70</sup>

#### **5. Responsibilities of Muslim *Ummah* for the Protection of Consumer Rights**

In Islam, the entire life of a person represents a series of activities for which he/she is responsible and will be accountable for his action to Allāh (SWT). Given that commercial transactions are part and parcel of people's daily lives. In a business transaction, as in any other sphere of life, the principle of an individual's responsibility is very important. Everyone is personally held responsible for any undertaking or transaction made by him both in this world and in the Hereafter. Responsibility and accountability are considered a pre-requisite in fulfilling one's moral obligation under Islamic law. Within an Islamic framework, commercial responsibilities can be divided into two categories. First is one's responsibility towards Allāh (SWT), who creates human beings and provides them with resources to utilize to earn their livelihoods. Second is one's responsibility towards society which implies preservation of consumers' rights and products' safety. In other words, the Islamic moral code applies to all stakeholders of a Muslim business equally. The Prophet (SAW) said, “*A Muslim is the brother of a Muslim. It is not permissible for a Muslim to sell a commodity that contains some defect in it except that he describes that (defect) to him (the buyer).*”<sup>71</sup>

With regard Allāh (SWT) declares in the Holy Qur'ān:

“Verily, this is My way, leading straight: follow it: follow not (other) paths: they will scatter you about from His (great) path: thus doth He command you that ye may be righteous.”<sup>72</sup>

Thus every Muslim is bound to obey the teachings of Qur'ān and *Sunnah* and struggle for their practical implementation in all spheres of life.

### **Conclusion**

By now the world economic giants have enacted a series of laws on different heading to meet the contemporary global demand on economic progress in one side and protection of the consumers from unfair, misleading and aggressive business propoganda on the other. But they frequently failed to provide comprehensive law relating to consumer rights throughout the world. However, as the complete way of life which establishes a consumer friendly environment in the markets and to regulate trade in the best interests of the society. Islam is the way of life, not just a religion. As a result, business ethics cannot be separated from ethics in the other aspects of a Muslim's daily life. The Islamic ethical system is balanced, fair, just, and benevolent, and seeks to respect the rights of consumer without allowing for exploitation, nepotism and other human ills. This principle is in agreement with one of the objectives of the law of Islam that is the protection of property.

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- <sup>33</sup> MOHAMMED, Noor, *Principles of Islamic Contract Law*, 6 Journal of Law and Religion (1989), p.121.
- <sup>34</sup> Al Qur'ān, Surah al-Maidah, 5:90.
- <sup>35</sup> COMAIR-OBEID N., *The Law of Business Contracts in the Arab Middle East*, Kluwer Law International, 1996, p.57.
- <sup>36</sup> *Muslim, Sahîh*, Book 10, *Hadith* no. 3699 (narrated by Abdullah b. Umar).
- <sup>37</sup> *Bukhârî, Sahîh*, Book 3, Vol. 34, *Hadith* no. 400 (narrated by Anas); *Sahih Muslim*, Book 10, *Hadith* no. 3711 (narrated by Jabir b. Abdullah).
- <sup>38</sup> *Muslim, Sahîh*, Book 10, *Hadith* no. 3672 (narrated by Jabir).
- <sup>39</sup> *Bukhârî, Sahîh*, Book 3, Vol. 34, *Hadith* no. 401(narrated Jabir bin 'Abdullah).
- <sup>40</sup> Reported by Ahmed, Al-Hakim, Ibn Abu Shaybah and Al-Bazzar.
- <sup>41</sup> *Muslim, Sahîh*, Book 10, *Hadith* no. 3910 & 3911(narrated by Ma'mar b. Abdullah).
- <sup>42</sup> *Muslim, Sahîh*, Book 5, *Hadith* no. 2244 (narrated by Asma).
- <sup>43</sup> Ahamuduzzaman and Syeda Shamsia Husain, *Consumer Protection Law: Bangladesh and International Perspectives*, Law Book Company, Dhaka, 2<sup>nd</sup> Edition (2011), p.219.



- <sup>44</sup> AHMAD, Mushtaq, *Business Ethics in Islam*, International Institute of Islamic Thought, Islamabad, 1995, p.121.
- <sup>45</sup> Al-Bayhaqi.
- <sup>46</sup> *Bukhârî, Sahîh*, Book 9, Vol. 86, *Hadith* no. 109 (narrated by Abu 'Abdullah).
- <sup>47</sup> ABDUL-HEMEED, Muhammad, *Sunan Abu Dawood*, Vol. 3, Hadith 3485, p. 279.
- <sup>48</sup> Al-Qaradawi, Yusuf (1995), *Dawr Al-Qiyam Wal-Akhlāq Fi Al-Iqtisaaad Al-Islami* (Maktabat Wahbah), p.255–257.
- <sup>49</sup> Abu Dawood, Book 23, *Hadith* no. 3443 & 3444 (narrated Abu Hurayrah and Anas ibn Malik); Tirmidhi, *Hadith* No. 1235.
- <sup>50</sup> KHAN, Muhammad Akbar, Consumer Protection and the Islamic Law of Contract, <http://ssrn.com/abstract=1961912>; accessed on 15 January 2012.
- <sup>51</sup> See Neil D.E. Bailie, *The Mohammadan Law of Sale* (India: Delhi Law House, n.d.), p.99.
- <sup>52</sup> *The Mejella*, Art. 340.
- <sup>53</sup> Ibid.
- <sup>54</sup> Baharum, *Misrepresentation: A Study of English and Islamic Contracts*, p. 118.
- <sup>55</sup> RAYNER, S.E., *The Theory of Contract in Islamic Law*, (London: Graham & Trotman, 1991), p.331.
- <sup>56</sup> Ibid.
- <sup>57</sup> Baharum, op.cit, p. 118.
- <sup>58</sup> Ibid, p. 121.
- <sup>59</sup> Muhammad ibn Yazid Ibn Majah, *Sunan Ibn Majah* (Beirut: Dar al-Fiqh, n.d.), vol. 2, p. 755, hadith no. 2247.
- <sup>60</sup> *The Mejella*, Art. 336.
- <sup>61</sup> *The Hedeya*, p. 406.
- <sup>62</sup> See *The Mejella*, Art. 336.
- <sup>63</sup> BILLAH, Muhammad Masum, *Caveat Emptor vs Khiyar al-'Ayb*, *The American Journal of Islamic Social Sciences*, p.208-230.
- <sup>64</sup> See *The Mejella*, Art. 336.

- <sup>65</sup> *Bukhârî, Sahîh, Hadith* no. 292, p. 166 (narrated by Uqaba bin Amir).
- <sup>66</sup> *The Hedeya*, p. 406.
- <sup>67</sup> *Al-Muwatta*, no. 31.4, p. 249.
- <sup>68</sup> *Muslim, Sahîh*, no. 3661, p. 805.
- <sup>69</sup> Except in cases such as when the defects are purposely concealed by the seller, or when the seller is requested by the buyer to disclose the defects of the goods, or when there is a fiduciary relationship between the seller and the buyer.
- <sup>70</sup> *The Mejella*, at Art. 226.
- <sup>71</sup> *Bukhârî, Sahîh*, Book 3, Vol. 43, *Hadith* no. 622 (narrated by Abdullah bin Umar).
- <sup>72</sup> Al Qur'ân, Surah al-Anam, 6:153.