

The Role of Islamic State in Consumer Protection

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Abstract

Consumers, by definition, include us all. Human beings are consumers by default as consumption is basic to human survival and endurance. Today almost all the developed countries have promulgated laws related to the protection of consumers. Consumer policy and legislation in any country is considered to be the government's commitment towards protection of consumer interests. It is important therefore to understand about the role that can be played by Islamic State in the cause of consumer protection. The research paper is aimed to explore the role of Islamic State and its institution in consumer protection. This paper traces the importance of consumer protection in an Islamic State. It also analysis the efficacy and effectiveness of the Institution of Hisba in the protection of consumers` rights and prevention of unfair trade practices.

Keywords: Islamic State, Consumer Rights, Consumer Protection, *Hisba*.

A. Introduction:

THE Islamic state is united under the leadership of one ruler known as *khalifa* or *Amir al-Muminin* in compliance with the clear injunctions of the *Qur`an* and the *Sunnah*. Absolute, real, or legal sovereignty belongs to Allah (S.W.T.). It is reposed in the will of Allah (S.W.T.) as understood from the *Shariah*. The *Shariah*, politically, is the ideal constitution of the Islamic State. The Muslim community-represented by the consensus of the people (*Ijma` al-Ummah*)-accepts the position of Allah (S.W.T.)'s vicegerent (*khilafa*) on earth. In this derivative sense it enjoys the attributes of sovereignty and self determination. The vicegerency of Muslim community entrusts them the responsibility to identify the *Shariah* from its sources and implement it empirically. The *Shariah*, as the repository of actual sovereignty and the ideal constitution, is inviolable. The Islamic substantive law (*fiqh*)-comprising the legislation, administrative rules and judicial interpretations should not contravene the *Shariah* constitution and statutory codes.¹ Decision-making in all communal affairs shall be made by mutual consultation and consensus. The aim of Islam is social justice 'by establishing what is right and forbidding what is wrong'.² But who wills the end must will the means. As Imam Ibn Taimiyya (d. AH 728/AD 1328) pointed out: 'To govern the affairs of men is

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¹ A.A.Maudoodi, *History of Muslim Philosophy*, 1:191-4

² Qur`an, 3:103, 109, 113; 9:71,112; 22:41; 31:17.

one of the most important requirements of the Religion that is Islam, nay, without it religion cannot endure. The duty of commanding good and forbidding the evil cannot be completely discharged without power and authority.³ Without the Islamic state, it is not possible to realize the ideals of Islamic socio-political and economic justice; implement Islamic law; establish the Islamic system of education; and defend Islamic civilization against domestic perversions and foreign aggression.

Islam's promises as the guide for man's happiness in this world and the Hereafter would not be true. The Islamic state is, therefore, 'an effort to realize the spiritual in human organization'.⁴ It was applied during the administration of the first four successors of the Prophet Muhammad, appropriately called the rightly guided Caliphs. For example, Caliph Umar (AH 13-23/AD 634-644) inaugurated a universal social insurance scheme on the basis of a regular population census taken by a specially created government department.⁵ From the very beginning of the Muslim state, great care was taken to see that merchants and dealers used proper weights and measures. Of all the pious *Khalifahs`* Ali was most particular about it. He used to go around the market of *al -Kufah*, whip in hand, to see that proper weights and measures were used and no one cheated anyone else. Under the Umayyads police officers were in charge of the supervision of weights and measures.⁶ It is also duty of the Islamic state to dispense justice free of cost. Hence it is not supposed to impose any stamp duty or court fee on those who seek to redress the injustice done to them through the courts.⁷ It may be added that the Islamic state is subject to the same code of law and morality as the public at large. Therefore it should not do anything which is not compatible with the spirit of Islam, including its economic guidelines. It should not leave the state -lands uncultivated or the state funds to lay idle i.e. without being invested in trade and commerce .Umer ibn al Khattab was very particular about these matters.⁸ It is not our concern to discuss here the form of government that Islam has advocated but the role of Islamic State in the protection of consumers` interests.

³ E.I.J. Rosenthal, *Political Thought in Medieval Islam* (Cambridge:Cambridge Univ.Press, 1958), p.53; cf. Ibn Khalun, *Muqaddimah*, 1:322-27; See also S.Waqar Ahmad Husaini, *Islamic Enviromental Systems Engineering*,p.92.

⁴ Waqar Ahmad Husaini, *Islamic Enviromental Systems Engineering*, p.92

⁵ S.Outb, *Social Justice in Islam*, pp.175-97, 87-99

⁶ S.Abdul Qadir Hussaini, *Arab Administration* (Lahore: Sh.Muhammad Ashraf, 1966), p.101

⁷ S.M.Yusuf, *Economic Justice in Islam*,p.68; See also Mushtaq Ahmad, *Business Ethics in Islam*,p.133

⁸ Mushtaq Ahmad, *Business Ethics in Islam*,p.133

B. Islamic State and Consumer Protection

The Muslim legal philosophers have emphasized the following fundamental freedoms or rights in respect of every individual. These are: Preservation and Protection of religion, human life, and progeny, human honor or dignity (*ird*), Intellect, and wealth.⁹ Thus, everything which helps realize these objectives is necessity (*daruriah*). It has been made an obligatory duty of the Islamic State to protect all these rights or freedoms. The following duties can be seen:

1. Every Muslim community must establish *Din* in accordance with the first purpose of the *Shariah*.
2. It must ensure the safety and welfare of all human beings under its governance. This is done by providing all means of sustenance and shelter in accordance with the second purpose of *Shariah*.
3. The state must establish conditions for a sound family system in accordance with the dictates of the *Shariah* and requirements of the third objective.
4. It is the duty of the state to provide conditions for the growth of healthy minds. The only way this can be done is by providing freedom of expression and a sound and universal education. This is how the fourth objective will be attained.
5. Finally, the state must also ensure the economic well being of the community as a whole. In addition to this, the wealth of the community is to be used to implement the first four goals.

All these duties must be accomplished in the listed order of priority, as required by the structure of the *Maqasid*.¹⁰ Here, we shall mention some of the duties of the Islamic state relating to protection of the right of acquisition and ownership of wealth and property.

1. An individual's right against his society is to provide him with the opportunity to work. Therefore, the foremost duty of the Islamic State is to provide employment to every able-bodied and willing person.
2. The foremost duties of the Islamic state is to establish and enforce the system of zakat as it was during the period of the prophet (s.a.w.s) and the *Rashidun* Caliphs.¹¹
3. The *Qur'an* has enjoined the duty of *ai-amr bi al-ma ruf wa al-nahy 'an al-munkar* (enjoining of good and prohibition of evil). This duty is to be carried out by the state officials as well as by the competent persons from the general public.

⁹ Shatibi, *Al-Muwafaqat*, vol.2, pp.4-5

¹⁰ Nyazee, Imran Ahsan Khan, *Outlines of Islamic Jurisprudence*, 232-33.

¹¹ Jassas, *Ahkam ul Quran*, v.3, p.190 On the basis of Qur`anic injunctions contain in verse 22:41; See also Mushtaq Ahmad, *Business Ethics in Islam*, p.131

4. The Prophet (s.a.w.s) used to supervise and investigate the dealings of his governors and other officials. Therefore, it is the duty of the Islamic state to supervise and investigate the dealings of the government officials.
5. The imperatives in the *Qur`an* and the practice of the Prophet (s.a.w.s) made it abundantly clear that an Islamic state is duty bound to establish an elaborate and effective system of *hisbah*.
6. One of the most important duties of the state is to wage an extensive war against those who insist on retaining the institution of *riba*.¹² This is to ensure the economic justice in the society.
7. Also the state is responsible for breaking monopolies, hoardings, corner markets, and all other malpractices in the conduct of the business. In the hours of need the state itself must take initiative and arrange for the supply of abundant and cheap goods on the market. Umer Ibn al Khattab had arranged for the supplies to be bought from Egypt during the period when famine had hit Medina and there was an acute shortage of food grains.¹³
8. Another duty of the Islamic state is to dispense justice free of cost. Hence it is not supposed to impose any stamp duty or court fee on those who seek to redress the injustice done to them through the courts it may be added that the Islamic state is subject to the same code of law and morality as the public at large.¹⁴
9. To fulfill needs of the consumers, it is the duty of the Islamic State to cultivate barren lands of the state and to invest the state funds in trade and commerce. It will make consumer goods easily available on low cost, and their demand will be fulfilled.
10. Islamic state has to ensure essential supplies. "It may also be that people are in need of the industry of certain individuals: e.g. the public need forming, wearing and building, for people cannot go without food to eat, clothes to wear, and dwellings to live in. Unless sufficient clothing is imported-as it used to be imported in to the *Hijaz* in the days of Messenger of God, on him be peace, when clothing was imported from *al-Yaman*, Egypt and Syria- unless the citizens import sufficient for their needs they will require someone to weave their clothes for them. They will require food whether it to be imported from outside or obtained from local agriculture, which is more usual. Likewise, their need for houses to live in will create demand for

¹² This is what the *Qur`an* and the *Sunnah* of the Prophet on him peace, demand of any Imam (leader) of the Islamic society. Sayyid Outb insist that the Imam must fight against such people even if they proclaim to be Muslims, just as Abu Baker had fought against the withholders of *zakat* despite their declaration of Islam and their establishment of *Salat*.

¹³ Ahmad, Mushtaq, *Business Ethics in Islam*, p.133

¹⁴ Federal *Shariat* Court of Pakistan has also declared court fees against the injunctions of *Shariah*.

builders. Therefore several scholars have held that these industries are a collective obligation, since the public welfare is incomplete when they are not practiced, in the same way as the Holy War is a collective obligation unless it becomes a personal duty, binding on individuals, as when the enemy threatens a town or the ruler (*Imam*) summon someone to enlist.¹⁵

C. Justification of State Interference in Business:

To establish or restore economic justice and protect rights of the consumers, the Islamic state is fully authorized to interfere or use force.¹⁶ The interference of the state is justified in trade related matters in the following circumstances:

1. Sheikh-al-Islam Imam Ibn Taymiyyah hold that if the public is in need of commodity and some members among the public are in possession of surplus stock of the same, the ruler can force these individuals to sell their surplus stock for an equivalent price (*qimat al mithl*) and they will not be permitted to exploit the situation by charging inflated prices.¹⁷ Imam Ibn Taymia says; "Now, if people refuse to sell what they are under an obligation to sell, in this case they are ordered to perform and punished for non-compliance. Likewise when someone is under obligation to sell at the fair price and refuses to sell except for a higher sum, in such cases he is ordered to perform and punished for non-compliance. Of this there is no doubt."¹⁸ According to Muhammad al Ghazali the state has the right to restrict the economic freedom of a man in order to protect the society from harm. Provided that the right of interference with the individual's personal property will be limited to the extent required by the general welfare of the society.¹⁹ The Muslim jurists have formulated the following *Shariah* Maxim;" A private injury is tolerated in order to ward off a public injury".²⁰
2. In the case of necessity the Islamic state has the power to impose taxes in addition to zakat. Imam Abu Yusuf maintains that taxation by the state is

¹⁵ Imam Ibn Taymia, *Public Duties in Islam*, pp.37-38

¹⁶ Al-Mubarak, Muhammad, *Nizam al-Iqtisadi al-Islami: Mabadi wa Quwaid Amma*, p.106. Al Mubarak mentions on the Qur`anic verses: 57: 25 / We sent aforetime Our apostles with clear Signs and sent down with them the Book and the Balance (of Right and Wrong), that men may stand forth in justice; and We sent down Iron, in which is (material for) might war, as well as many benefits for mankind, that God may test who is that will help, unseen, Him and His apostles: for God is Full of Strength, Exalted in Might (and able to enforce His Will)

¹⁷ Ahmad, Mushtaq, *Business Ethics in Islam*, p.134

¹⁸ Imam Ibn Taymia, *Public Duties in Islam*, p.50

¹⁹ Al-Ghazali, Muhammad, *Al-Islam wal-Awda` al-Iqtisadi*, p.137.

²⁰ Muhammad Tahir Mansuri, *Shariah Maxims on Financial Matters*, Art.25, p.225

permissible within limits especially for the discharge of the state obligations. Maolana Mawdudi says, if the state is in need of funds for carrying out other essential projects, it can ask the public to contribute and render financial help for the purpose. This help would be designated as donations or loans, if given voluntarily; as taxes, if realized by force.²¹

3. According to Abd al Qadir `Awdah, if a wealthy person refuse to fulfill the need of the poor, the state is obligated to interfere and extract from the wealth of such a person whatever is essential to fulfill the need of that poor. Failure to do so would not only be a violation of Allah's injunction on the part of the state, but also deprive the poor of their due right granted to them by Allah. Any person does not have enough to meet his needs is enough to qualify him as needy; and the state must interfere to get them their right.²²
4. The state can control the price when it involves just dealing between people. It is relevant to quote here Anas (R.A.), who related: The market price rose in the time of the Messenger of God, on him be peace, and they said to him: "Messenger of God, if only you would fix the prices!" But he replied: "God is the taker, the Disposer, the Scourers and the Controller of prices. I very much hope that when I meet God no one claims against me for an injury I have caused him in blood or property". It is apparent that a given price may be an impermissible wrong, particularly if it involves injury to people and forcing them without justification to sell at a price not agreeable to them, then it is illegal. But if it involves just dealing between people., as when they are compelled to do their duty by exchanging for a fair price, and preventing them from doing what is unlawful for them in taking more than a fair consideration, then it is not merely permissible but indeed obligatory. In order to protect social and collective interest of the society these rights are given to the state.²³
5. Moreover when a group who buy or sell a certain type of commodity conspire to depreciate what they buy and so buy for less than the customary fair price while promoting what they sell above the customary price, and to malign what they buy, this is a graver injustice than intercepting goods, than the townsman's selling for the nomad, and than the device of having an accomplice bid up the price (*rajash*). They will have conspired to wrong people so that they would have to sell their goods (for less) and to buy for more than fair price, people being in need of buying and selling those goods. What the general public needs s to buy and sell

²¹ Maudoodi, *Mu`ashiat-e-Islam*, p.371

²² Ahmad, Mushtaq, *Business Ethics in Islam*, p.134

²³ Imam Ibn Taymia , *Public Duties in Islam*, p.35-37

must be sold only at the fair price when the need of buying and selling it is universal.²⁴

6. The Islamic state is authorized by *shariah* to inflict punishment for omission of duties and commission of alligators. The ordaining of what is fitting and the proscription of the improper is completed only by mean of the legal penalties. In order to protect objectives of *Shariah*, Islamic law has described the various types of punishments. In order to understand the gravity of offences and penalties related to the issues of consumers, we need to have a general look on offences and penalties. The offences for which specified penalties are provided are called *Hudud*. Those in which *Qisas* or reparation is provided are called *Jinayat*. Punishments that are at the discretion of the judge when the offence is related to a private injury are called *ta`zir*. Offences that are mainly directed against the system and society or where the pure right of the state is affected are called *siyasa* penalties. Some offences that are corrected by acts of personal penance are called *kaffarat* (expiation).²⁵ Thus, it is clear that Islamic law allows the Islamic state to ordain punishments for the protection of community interest under the concepts of *Taz`ir* and *Siyasa*. Here we shall highlight some of the characteristics of *Tazir*. *Taz`ir* punishments vary in both quantity and quality according to the seriousness of the offence. To protect the interests of the consumers, Islamic state may inflict punishments for omission of duties and commission of alligators. A comparable case is the action of the *Umer ibn Khattab* who on seeing that a man had diluted his milk with water punished him by spilling it away. One group of the jurists who uphold this principle have given this ruling, for it is reported of the Prophet, on him be peace, that he prescribed the watering down of milk for sale—though not for drinking purposes – because if the milk is diluted the buyer does not know the relative quantities of milk and water, and for this reason ` *Umer* destroyed it.

D. Limits of State –Interference

Islamic Law advocates freedom and discourages unnecessary restrictions, particularly in matters of trade and commerce. Therefore, the state's role in this connection must be limited to the establishment of justice. If the public observes the prescribed norms of the *Shari`ah* in their dealings, there need not be any restriction on them. The state should and must interfere only when the dictates of the *Shari`ah* are violated. It is the duty of an Islamic state to enforce the *Shari`ah* (law) through the system of *Qada* (judiciary) and *Ijra* (execution of the court`s verdict).

²⁴ Imam Ibn Taymia , *Public Duties in Islam*,p.35-37

²⁵ Nyazee,Imran Ahsan Khan, *Outlines of Islamic Jurisprudence*, p. 243

The state should not cross the following limits:

- (a) It is immoral on the part of the state to use its power and privilege to make monopolistic gains or to tax the common people indirectly for replenishing the exchequer thereby.²⁶
- (b) There is no room in Islam for custom barriers, restrictive tariffs or exchange control. The Islamic state therefore must not resort to them²⁷.
- (c) It is illegitimate and unlawful for the state to tax directly or indirectly the general body of the consumers and to give "protection" to the interests of a class of producers in the name of industrialization.²⁸
- (d) Since it is the duty of the state to dispense justice free of charge, therefore there must not be any court fee, revenue stamps or fees of any kind for the transaction of any official business.
- (e) There must not be any "income" tax as such. Besides curbing the initiative it assumes illegitimacy of the income of the rich. The state should levy, if need be, a proportional tax on the pattern of *zakat* on the accumulated wealth of the capable tax-payers.
- (f) The state should not resort to indirect taxation. If the state has to tax, then, it should do so directly so that the taxes represent a conscious contribution of the people to the cause of public interest.

Thus the state has a definite and vital role to play in respect of implementing the injunctions of the *Shari`ah*.²⁹ Now let us see what *hisbah* has to offer in this reg

E. The Role Of *Hisbah* in Consumer Protection

The word *hisba* has been derived from the root *h.s.b.* and means "arithmetical problem"; "sum"; or "reward". The verb *hasaba yahsabu* means "to compute"; "to measure". The verbal form *ihtasaba* means "to take into consideration"; "to anticipate a reward in the Hereafter by adding a pious deed to ones account with Allah (S.W.T)".³⁰ The noun *hisba* connotes the state institution to promote what is proper and forbid what is improper. According to Abd al Hadi the institution of *hisbah* is a system that "ensures the righteousness of the individuals in their conducts". In other words, it is an institution of checks and balances.³¹ Abu Yusuf describes the function of *hisbah* in regard to commerce and industry as follows: On the spot checking of weights and measures, qualities of the commodities offered for sale, honesty in dealings and the observance of modesty and courtesy in salesmanship and in general behavior of the people. The importance of the

²⁶ S.M. Yusuf, *Economic justice in Islam*, p.96

²⁷ Ibid. p.68-101

²⁸ Ibid. p.9-10

²⁹ Ahmad, Mushtaq, *Business Ethics in Islam*, p.136

³⁰ Cowan, M., *A dictionary of Modern written Arabic*, Beirut: Librairi du Liban, 1974.

³¹ Mushtaq Ahmad, *Business Ethics*, p.136, 1995 IIIT

institution of the *hisbah* is evident from the fact that Muslims scholars have written about thirty books on this very subject. Only twelve of these books are published while seventeen are still in manuscript form."³²

1. Evidence For The Institution of *Hisba*

There are more than one evidence, both textual and historical, for the institution of *hisbah*. The *Qu`ran* itself has provided, in principle, for such an institution by entrusting to the Muslim community as a whole the duty of enjoining the good and forbidding the evil.³³ This duty is to be carried both by the state officials known as "*al-Muhtasib*" and by other competent persons from the general public.³⁴ The distinction of the Muslims as the best "*Ummah*" is tied up precisely with the condition that they enjoin good and forbid evil." Ye are the best of peoples, raised for mankind, enjoining what is right, forbidding what is wrong, and believing in Allah (S.W.T).³⁵ It was in compliance with such *Qur`anic* injunctions that the Prophet (s.a.w.s) as well as Caliphs instituted *hisbah* and appointed reliable persons as market inspectors. The Prophet (s.a.w.s) has appointed *Sa`id ibn al As ibn Ummayyah* as the controller of the markets in *Makah*.

In the light of such evidence we can understand why al Mawardi regarded *hisbah* as one of the rules of religious significance and why Ibn Khaldun regarded it as a religious office. Ibn Tamayyah too, regarded *hisbah* as one of the religious offices similar to that of the Qadi (judge). *Al-Muhtasib* writes ibn Tamiyyah, is responsible for carrying out the job of enjoining good and forbidding evil which, generally speaking is beyond the purview of official duties assigned to the judges and governors.³⁶

2. Appointment and Duties of *Muhtasib*

Islamic law has described special procedure and qualification for the appointment of a *Muhtasib*. The *Muhtasib* is to be a free Muslim male with a high degree of integrity, insight, reverence and social status. He is supposed to be a scholar of the *Shariah* (most often competent for *Ijtihad*) with a high degree of in- depth knowledge in the social customs and moors. Of qualities of *Muhtasib* knowledge, kindness and patience are considered to be of prime importance. *Hisba* is an important institution. It can investigate matters which affect the morality of the public.

³² Mushtaq Ahmad, *Business Ethics*, p.136, 1995 IIIT

³³ Qur`an, 3:104. 110.114; 9:71, 112; 31:17.

³⁴ Abd al Hadi, Hamdi Amin. *Al-fikrah al-Idariyyah al-Islamiyyah wa al-Muqaranah*. Cairo: dar al Fikr al-Arabi, 1969.

³⁵ Qur`an, 3:110.

³⁶ Ahmad, Mushtaq, *Business Ethics in Islam*, p.137

Hisba is an independent and impartial institution. It performs quasi-judicial functions but does not form part of the judiciary. As we know that the institution of *hisbah* embraces all aspects of life, whether worldly or religious. It covers individual moral, social values and commercial dealings. A *Muhtasib* is supposed to supervise the whole economic enterprise.³⁷ Islamic Law has assigned many duties to *Muhtasib*; following are some of these duties:

1. To command the fulfillment of trusts;
2. To prohibit all evils and misdemeanor, particularly lying and dishonesty. His job is to make sure that there is no dishonesty with regard to weights and measures, manufactured goods, credit transactions and trade in general;³⁸
3. He must keep a check on the practice of hoarding. It is his duty to stop hoarding especially of such commodities that people is usually in need of. Since the practice of hoarding is condemned by the Prophet (s.a.w.s), writes Abd al Hadi, the hoarder will be forced by the *Muhtasib* to sell stock for an equivalent price;
4. A *Muhtasib* is also required to prevent the instances of fraud in all sorts of transactions by laying down specific and detailed rules for different traders.
5. It is the duty of a *Muhtasib* to check all evils which include all such practices and tendencies as are condemned and prohibited by Allah and His Messenger.
6. The *Muhtasib* must keep an eye on all trades, and he must make sure that those who work in a trade are well qualified for the job and know the rules of the *Shari`ah* regarding their respective trades. `Umer ibn al- Khattab is reported to have declared: "No one trades in our markets unless he is well-versed in religion.
7. Also the *Muhtasib* to ensure that all the needs of people are taken care of. If the people are in need of the skills and services of the certain group, the *Muhtasib* can force this group to make their services and skills available for an equivalent compensation. While he must not allow them to charge more than the just wages, he must also see that people do pay their due without diminution.
8. It must be noted, however, that the *Muhtasib* is not authorized to prescribe unjust prices. To force the merchants without any justification to sell their merchandise for a price to which they do not agree, or to stop them from doing what Allah has made permissible, is haram for the *Muhtasib*. If the prices have risen because of either a scarcity of commodity or an increase in the number of buyers. Then the *Muhtasib* is not allowed to force the traders to sell the commodity for a prescribed price. He can force them to sell it for an equivalent price only in case they sell a needed commodity for more than the known market value.

³⁷ Ahmad, Mushtaq, *Business Ethics in Islam*, p.138

³⁸ Ibid.

9. Moreover, it is incumbent upon the *Muhtasib* to keep an eye on the conduct and honesty of those merchants who deal with lady customers. If he sees any indecency in their conduct he may warn them or to stop them from dealing with women. Furthermore the muhtasib must ensure that the slaves, if there be any, are given their rights and they are treated justly by their masters and are not burdened with a task beyond their capacity.³⁹
10. It is the duty of the *Muhtasib* to check business frauds and adopt policy for its eradication. In the *Sahih* of Muslim we learn from Abu Hurayra that the Messenger of Allah, (s.a.w.s) came upon a stack of food. He inserted his hand and his fingers reached something moist. "What is this, food-Merchant?" said he "It has been affected by the weather, Messenger of Allah." "Then why not put it on top of the stack so that people can see it? He who defrauds us is not of us." Thus, the Prophet, (s.a.w.s) made it known that the fraudulent is excluded from the meaning of the expression "People of religion and faith, just as he said" The thief cannot thieve and be a believer. The wine drinker cannot drink wine and be a believer." He thereby denied him that true faith which entitles to the attainment of reward and salvation from punishment, even though he has the essence of faith which distinguishes him from the infidel and rescues him from the fire. Fraud enters to the sale with the concealment of defect and the misrepresentation of goods, as when the exterior of the article is better than the inside, like the case which the Prophet (s.a.w.s) encountered and disapproved. It may also occurs in industries, e.g. among those concerned with the preparation of food such as bread, cooked stuff, lentils, grilled meat, etc., or among those who follow some other craft. All must be restrained from fraud, deceit and unlawful concealment.⁴⁰
11. It is the duty of the *Muhtasib*, in order to protect interest of the consumers and public at large, to take notice of other market imperfections such as: The practice of intercepting of goods before they reach the market. This was proscribed by the Prophet (s.a.w.s) because of the risk to the seller: since he does not know the regular price his goods may be purchased for the less than their value. For this reason the Prophet (s.a.w.s) established his right of option on reaching the market. The doctrine of Malik, Ahmad and others accords the right of option in the case of deception to the *mustarsil*, i.e. the easy-going customer who does not bargain, or to those who are ignorant of the regular price. This is a disreputable commercial practice, mention in the *hadith*: "To cheat the easy going customer constitute illicit gain (*riba*)." It is in the same category as the interpretation of goods. The new comer being ignorant of the regular price. For this very reason the Prophet (s.a.w.s) forbade the townsman

³⁹ Ahmad, Mushtaq, *Business Ethics in Islam*,p.138-139

⁴⁰ Imam Ibn Taymia , *Public Duties in Islam*,p.29-30

to sell for the nomad, and said: Leave people alone and God will see that they provide for one another."⁴¹

3. The Role of *Muhtasib* in Market Mechanism

The institution of *Hisba* is to protect all interests of the consumers on behalf of the Islamic state. The traders are also required to take care of the interests of the consumers. The famous Muslim scholar Ibn al -ukhuwwa says: "Traders must not set out seats or benches beyond the line of pillars supporting the roof of the *Suq* so as to obstruct the way for passers-by. The prolongation of party-walls (porches) and side buildings and the planting of trees are forbidden, the ways (through the *Suq*) being common property through which the public has the right to pass. So also the tethering of animals is forbidden except as required for alighting and mounting. Sweeping refuse into the passage-way, scattering melon-skins and sprinkling water which may cause slipperiness there are all forbidden. Water-spouts may not be allowed to project from walls so as to cause defilement of the clothes of passers-by and obstruct the streets. Rain-water and mud must be swept away from the streets and it is the duty of the *Muhtasib* to appoint persons to have care of such matters. He must also prevent the carriage through the *Suqs* of loads of wood, bales of straw, water-skins, baskets of dung, etc., reeds or thorn-bushes which may do damage to the clothes of the public and which must go by wider streets if these are available. If not, then as public necessities they must be permitted to pass. Heavy loads must be removed from the backs of the pack-animals standing in courtyards, in order to prevent cruelty and is the *Muhtasib's* duty to order this to be done. He must see to it, further, that the occupants of *Suqs* maintain them in cleanliness."⁴² The institution of *Hisba* can or must interfere in different trades in order to ensure the protection of consumer interests.

In a nutshell, the institution of *Hisba* is fully authorized to take cognizance in any type of commercial activity when it violates basic rights of the consumers and public at large. The institution of *Hisba* is responsible for the regulation of business and economic life of the people according to the injunctions of Islam. In order to stop violation of the basic rights of the consumers and ensure quality of the products, the institution of *Hisba* is authorized to prevent hoarding, control official mint and adopt preventive mechanism to close the way of all types of malpractices in trade.

F. The Role Of Islamic *Ummah* in Consumer Protection

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

⁴¹ Ibid. pp.31-32

⁴² Ibn al-Ukhuwwa, *Ma'alim Al-qurba Fi Ahkam al-hisbaq*, English Translation by Levy, op.cit.,p.26

responsible for any undertaking or transaction made by him. This Qur'anic principle acts as a dependable deterrent against any irresponsible behavior since everyone is answerable both in this world and in the Hereafter. The role of individuals and that of Islamic *Ummah* as a whole cannot be denied in the successful implementation of law. Therefore Islamic law has assigned the duty of ordaining right and repelling evil to every member of the Muslim society. It has mentioned guidelines for both i.e. individuals and the state to realize the concept of rational consumption and protection of consumer's interests. It is the duty of the Islamic welfare state to arrange supervision of commercial transactions to prevent violations of basic consumer rights, as it is the duty of each and every individual living in an Islamic state. Islam has settled standards about every field of life, whether it is individual or collective, materialistic or spiritual, and all these commandments were revealed to the heart of the Holy prophet (s.a.w.s). The following teachings of the Holy Qur'an are significant in this regard; *O people of the Book! There hath come to you our Messenger, revealing to you much that ye used to hide in the Book, and passing over much (that is now unnecessary). There hath come to you from Allah a (new) light and a perspicuous Book*⁴³ *Wherewith Allah guideth all who seek His good pleasure to ways of peace and safety, and leadeth them out of darkness, by His will, unto the light,- guideth them to a path that is straight.*⁴⁴

*"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.*⁴⁵

Thus every Muslim is bound to obey the teachings of *Qur'an* and *Sunnah* and struggle for their practical implementation in all spheres of life. In fact, the individuals obedience to the injunctions of *Qur'an* & *Sunnah* regarding commercial activities is firstly secure his happiness and of the whole society as it is the foundation for the whole Muslim community especially today when all the people have become materialistic the return to the online revelation of *Qur'an* and *Sunnah* has become unavoidable bring the Allah from the darkness to the light.

G. Conclusion:

The Islamic State is under an obligation to establish a consumer friendly environment in the markets and to regulate trade in the best interests of the society. The state is fully authorized to interfere in the matters of business to run it smoothly and according to the principles of social justice. The state has the authority to declare an act affecting public at large as an offence, and provide punishments appropriate to that, particularly in matters where no specific

⁴³ Qur'an; 5: 15

⁴⁴ Qur'an; 5: 16

⁴⁵ Qur'an; 6:153

provision is contemplated in *Shariah*. The duty of regulating trade in the markets properly and in accordance with the principles of *Shariah* is assigned to the institution of *Hisba*. Islam also encourages that the consumer disputes should be settled in short span of time, therefore *Hisba* is authorized to solve the matters as quickly as possible. The institution of *Hisba* is fully authorized to take cognizance in any type of commercial activity when it violates basic rights of the consumers and public at large. In order to stop violation of the basic rights of the consumers and ensure quality of the products, the institution of *Hisba* is authorized to prevent hoarding, control official mint and adopt preventive mechanism to close the way of all types of malpractices in trade. Most importantly, all the citizens of the Islamic State must cooperate with the State in the protection of consumers rights.