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Consumer Rights Protection from Islamic Overview

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Abstract

Undeniable that the trend of modern human thought currently has produced a variety of creativity and the latest technology creations in the marketplace that attract desire and consumer needs. Modern technologies are increasingly living in a user trading environment has triggered a new phenomenon for the future of consumer protection especially in Malaysia when traders took advantage of consumers. However, the topic of consumer rights protection is not as easy as been described by many individuals because specific legislations related to nutrition, equipment, and measurement have been sufficient to protect consumer rights and inadequate to counterpart the rapid development and circulation of immobilization of boundless technology. This paper examines ways to protect consumer rights as outlined by Islamic legislation by considering the impact of globalization, trade liberalization, and sustainable use. In addition, this paper aims to ensure that any laws related to consumers contain a provision that guarantees welfare and user prosperity. This study finds that the development of technology needs to be taken off by government bodies and other institutions to watch and protect accordingly consumers as well as study all legal provisions and likewise.

Keywords: Consumer Rights, Protection, Laws and Regulations, Islamic Legislation.

Introduction

Every human being generally is a consumer. They cannot avoid from using what is in the world. This refers to the dependent human nature and relies on each other to ensure the continuity of their living (Al-Razi, 1995, vol. 1, p. 66). However, in economic context, the word of consumer refers to everyone who gets a goods as well as services for themselves and their families. Consumer in the Malay language refers to using and wearing something either good, industry output, food and others (Noresah et al., 2002, p. 418). Consumer or in Arabic language called "*al-Mustahlik*" means a person who is spending either his own property or otherwise (Anis et al., 1961, vol. 2, p. 991).

According to Malaysian law it means, "Everyone who purchases a product aims to use it" (Consumer Protection Act, 1999) or "a person who (a) acquires or uses goods or services of a kind ordinarily acquired for personal, domestic or household purpose, use or consumption; and (b) does not acquire or use the goods, or services, or hold himself out as acquiring or

using the goods or services, primarily for the purpose of – (i) resupplying them in trade; (ii) consuming them in the course of a manufacturing process; or (iii) in the case of goods, repairing or treating, in trade, other goods or fixtures on land (Consumer Protection Act 1999 ACT 599). Another definition, “A person who determines an activity according to the law to achieve property or services for his necessity individually or family (Anwar, 1993, p. 2-4).

Researcher did not find the definition of consumer according to Islamic jurisprudence term as it is a new term, but there is a definition been found, “Using goods or a product and artificial goods for individual necessity to fulfill the needs and interests.” (Islamic Economics Journal, Dubai, 232). This definition not contrary with what being said by law practitioner and economist and researcher choose the precise definition of consumer, “An individual purchases a goods or service to fulfill his needs individually or family or employment necessity.” Each person in this world is considered as consumer could be myself, you, my children and your children, producer, buyer, seller, judge, offender, ruler, citizen, and all humans on this earth are consumer. Including all age levels since born till death.

Protection (*al-Himayah*) according to the Arabic language means monitoring, watching, and maintaining (Al Razi, 1995, vol. 1, p. 66). Means here is to protect consumer by giving security completely namely: securing himself, his asset, his resident environment or giving security on everything that he is dealing with. In Dewan dictionary protecting means cover, patronage, to help or save (Noresah etl., 2002, p. 418). The field of protection is extremely extensive, including preservation of its surrounding, goods supervision, price, distribution. In the field of services such as quality, earned service programs and expense or incurred cost. Thus, we may conclude that consumer protection means: “Guarantee on an outcome that earned by someone on the goods or services within the high quality and reasonable price or accordingly to fulfill his needs, maintaining his life and to achieve luxury.” (Anwar, 1993, p. 2-4).

Protecting consumer from the greed and grip of traders on consumers just to satisfy their desire and interest by doing fraud, lies, tricks, swindles, and others. Hence, an obligation to maintain and giving protection to the consumer through laws, management, judiciary, and community. From the law perspective is to create draft of consumer law and law enforcement through government side. From the management perspective is monitoring goods, foods, quality and giving full assurance to consumer and strict rules to entrepreneurs and traders through executor bodies in a country. From the judiciary perspective is to sentence accordingly to the group of unlawful and monopolize the goods through the judicial system. From the science and community perspective are provide a healthy rivalry space, an appropriate advertisement according to the pureness and beauty of Islamic perspective by avoiding deception. Also, give an understanding to the consumers about truthfulness of information and clarification on items from health point of view, safety and alike. This can be implemented by authorities such as ministry of consumer affairs, ministry of science and technology, ministry of health, ministry of information and others (Anwar, 1993, p. 2-4).

Consumer Education

Nowadays, already existed an awareness on the importance of society being exposed to the consumerism started at the school level. This is to ensure the enthusiasm of the capitalists in the era of globalization from exploiting innocent consumer can be controlled. Consumer should give an awareness that they have eight fundamentals of rights, namely: right to gain basic needs, right for security and protection, right to get compensation, right to

make choices, voice right, right to get consumer education and right to live in healthy environment (<http://www.fomca.org.my/hak.htm>).

The Consumer Protection Bulletin (no. 12/2000) listing seven basic principles of consumer education, namely:

- i. Critical Awareness: Educate consumer to be critical toward quality of goods and services as well as quality of surrounding environment. Henceforth, educate about production practices and its relation to the environment. Encourage consumer to question on consumerism to be knowledgeable and hard to be deceived.
- ii. Objective: Train consumer to make wise choice. Not easily influenced by advertisements and sales tactics.
- iii. Value: Forming life values also give benefits to consumer. Not quick in imitate inappropriate values. Also, change the belief that expensive products or services or often advertised exactly more quality comparing with cheap price or not advertised.
- iv. Attitude: Build positive and responsible attitude. Brave in acting and make a complain when been cheated or got unsatisfactory product or service. Change negative attitude like stalking neighbor or friend that has more luxurious life. Also, eliminate selfishness instead of nurturing sense of social responsibility and cooperative and unity.
- v. Law: Introduce law that protecting consumer. Give deep understanding about law so that consumer proficiently uses it when necessary. Encourage consumer to ensure that consumer protection law fully enforced effectively. If there is flexibility or weakness in the law, government must be urged to tighten it. When necessary, urge the government to enact new law or to amend existing law to be more effective.
- vi. Information: Information means power. Train consumer on how to gain, use and evaluate various information so that consumer skills on purchase and use can be enhanced. Information also gives consumer a wider option as well as protect us from dangerous products and bad practices.
- vii. Economy and ecology: Explain about national economic system so that consumer can use this knowledge to protect the interest of consumer. Also, encourage consumer to be thrifty in daily spending. Educate consumer also about ecology to love the environment.
- viii. Plan: Educate consumer to plan in their actions. For an example, create a list of goods to purchase before going to a store or a market. By doing that, can avoid buying in hurry that usually bring disadvantage on consumer. Educated consumer is a king as planning in every single activity and knowing their rights as a consumer. A planned consumer is a smart consumer and hard to be deceived or regret afterward.

(http://www.kpdnhq.gov.my/homepage/hep/BPD/12_2000/12_2000_7.htm).

Generally, objectives and basis in the consumer education is not contrary with Islamic teaching. It needs to be understood and practiced by consumer either Muslim or non-Muslim. By understanding the consumer education, a little bit can help to establish understanding the consumer rights according to the concept of real Islam. Consumer right protection closely related with consumer education. Just, it more detailing the matters that need to be thought and enhancement by Muslim before spending or using something so that matching with *tasawwur* (conception) framework about life.

Consumer Concept According to Islamic Perspective

According to Islam, the creation of nature aims for overall human prosperity. This is in line with the word of Allah. This is in line with the word of Allah s.w.t. (The Most Glorified,

The Highest) in the chapter al-Baqarah (The Cow), verse 29: "It is He who created for you all of that which is on the earth." The granting rights of nature use for human is clearly described and repeated in the al-Quran by using the utterance "*Sakhrara lakum*" which means "simplified for you (human) to use."

In summary, the whole of nature content, whether small or big, well-known, or not yet, each of them is the infrastructures that has been granted by Allah s.w.t. (The Most Glorified, The Highest) since the beginning for human convenience. However, it should be reminded that the rights to use the nature as the infrastructure of their life in the world is not absolute. In fact, they must be realized on other matters that has connection with asset ownership, namely: (i)origin of all matters are allowed for human, (ii)human is just a representative to manage contents of nature. The ownership is not absolute only in lending feature. (iii)owned wealth is in the form of *wasilah* (instrument) to make welfare, and it is not for a life goal. (iv)the granted wealth is not to be proud of its quantity, but it must be distributed in economic cycle to ensure the prosperity and distribution in a country and (v)Human will be accounted in the hereafter on over what they used or spent in this world.

Islamic Concept in Protecting Consumer Right

First: The concept of supervision by Allah s.w.t. (The Most Glorified, The Highest) and fear of His punishments: Allah s.w.t. (The Most Glorified, The Highest) said: O you who have believed, do not betray Allah and the Messenger, or betray your trusts while you know [the consequence]. (Al-Anfal, 8:27). The verse above means Allah s.w.t. (The Most Glorified, The Highest) knows action of His servants. Whoever fears Allah s.w.t. (The Most Glorified, The Highest) by striving in his occupation and his business with what He pleasant, then he will gain goodness of Allah s.w.t. (The Most Glorified, The Highest) and anyone who deceives, lies, reduce scales, measurement, and others then he will receive a severe punishment. He said again: So, whoever does an atom's weight of good will see it, and whoever does an atom's weight of evil will see it. (Al-Zalzalah, 99:7-8). The Verse above clearly shows that making a living must be from good and halal (*permissible*) and self-proclaimed from *haram* (forbidden) and not allowed by Islamic jurisprudence because of Allah s.w.t. (The Most Glorified, The Highest), "Allah s.w.t. (The Most Glorified, The Highest) is good and does not accept unless good." Entrepreneurs and traders must also always have intended to fulfill the obligation from many of *kifayah* (duty of the sufficiency) in all aspects of manufacturing and business. This matter is very important, and they must do it with the best.

Second: Always in accordance with virtue and manner that has been determined by Islam in dealing business. Among the concepts of value and moral that need to be applied to monitor and protect consumer rights are: (i)honesty in business. Producer and trader should speak the truth in providing information and quality of the goods. From Abi Said (May Allah be pleased with him) from Prophet (PBUH) said: The truthful, trustworthy merchant is with the Prophets, the truthful, and the martyrs (Al-Tirmidhi, 1998, vol. 2, p. 7). A Muslim is a brother of another Muslim, and it is not permissible for a Muslim to sell his brother goods in which there is a defect, without pointing that out to him (Al-Bukhari, 1987, vol. 2, p. 731), (ii)tolerance and provide convenience in selling and buying matter, (iii)always maintain the contract of purchase, (iv)Eyewitness and log, (iv)Not easily make swearing even on the right side, (v)Avoiding from purchase things that prohibited by Islamic jurisprudence, (vi) careful inspection on goods, multiply the charity, always maintain the good manners in market, remember Allah s.w.t. (The Most Glorified, The Highest), not raise the voice, take care on

cleanliness, cheerfulness, and local customs, not forget the obligation of prayers at the beginning of time and not recite al-Quran.

Third: Monitor marketplace and inspection continuously and periodically. It is an obligation to the government to monitor marketplace like shops, supermarkets, and others so that will not happen unhealthy practice such as fraud, lies on goods and services. By monitor continuously will make consumers always under protection and they no need to worries about the purchase. Prophet (PBUH) appointed Said bin al-'Asr to monitor a market in Mecca (Al Barr, 1980, vol. 2, p. 555). This practice also continues during in the era of *Khulafa' al-Rashidin* (Rightly Guided Caliphs) has been practiced by *Sayyidina* (Our master) 'Umar by appointing a woman named al-Syifa' binti Abdul Rahman al-Adawiyyah to protect and monitor a market in Madina and she was respected by all merchants in the market because of her elderly person (Ibn Hazm, 1992, vol. 9, p. 78).

Fourth: Concern on scales, measurements as well as constantly monitor it. Since the beginning, Islam gives high emphasis on scales and managements system to ensure satisfaction and willingness between seller and buyer. In the al-Quran also, Allah s.w.t. (The Most Glorified, The Highest) also gives threats and heavy punishment to those who reduce the scales and managements. Among the wisdoms of scales and measurements monitoring to the consumer are: build trust in the heart of consumer and give sense of security with the accuracy of measurement on what they need, maintain human assets from perish and in vain, provide guarantee to the consumer to acquire the goods with measurements that been asked, provide service to national economic and ease to everyone, spread good character in society, especially among traders, a guarantee with the existence of appointed authority by government in the event of dispute over this matter as well as a reference source and prevent fraud on consumer.

Fifth: Determination and price coordination. Islam allowed to determine price on a certain good according to the certain conditions to avoid monopolize and harm to the consumer due to lack of goods or certain items in a market. Among the conditions of determination and coordination's are: (Al-Wunsyuraisi, 1981, vol. 5, p. 85) have general need for whole mankind, must be willingly and tolerance between government or market supervisor and seller, price coordination aims to prevent monopoly or profit to a single party, must get the consensus by having discussion and meeting with expert, fair government, not because of high prices causing lack of goods and excessive demand, must be the most needed items only including assets and field work, must not because of certain situation like crowded people and less sellers (Ibn Taimiyyah 2002, vol. 28, p. 76), and aim for general public interest such as blocking black market, smuggling goods, monopolizing goods and others.

Sixth: Examine all advertisements and product information to protect consumer rights. Nowadays, academicians and scholars stated that advertisements activities and goods promotion contain dangerous harm such as: extremely obsession in promoting goods, information fraud as well as lies, sensual elements as well as extreme tendencies, create certain feelings in flyers or advertising material, increasing prices of goods because of advertising costs, impact to the value of society by using extremely sensual or exploiting women or indirect sexual and others. Previous scholars learned on how to advertise a certain good with the term, "call-to-action." (Ibn Qudamah 1985, vol. 5, p. 32). Ibn al-Haj has explained the advertisement of goods by stating: "Some people in this era praise their goods by deceiving and mentioning a name of someone unknown and some of them saying their goods has benefits, advantages that has been made-up." (Ibn al-Haj al-Abdariy 1972, vol. 4, p. 106 and p. 429). Give an explanation on merchandise by using variety of methods that

allowed by Islamic jurisprudence and it will be rewarded if fulfill the following three conditions: (i) The intention of the advertisement is facilitating consumers for business dealings as stated by the Prophet (PBUH): Allah s.w.t. (The Most Glorified, The Highest) giving grace to someone who facilitates sales (Al-Haithamy 1987, vol. 9, p. 18). (ii) Must have an intention in consumer services by providing information about their needs and simplifying them. This is included in the meaning of advising to the consumers. (iii) Must have courtesy and tolerance on consumer needs and look at the hard ones rather than the easy ones among them. Islam has determined appropriate ways for an industry or entrepreneur on how to advertise on their merchandise to be marketed to protect the public interest in advertising, seller, and consumer. Namely: always provide real information on the merchandise features, avoid from giving false information and deception as well as false oath, advertisement must be appropriate related with goods, do not advertise goods by hiding the deficiency, do not praise and adore the goods, no trick elements and deceitful attempts, prevent various form of goods advertisement or services which forbidden, not harming others and other's goods, not raising the desire and sensual and provide an explanation to a large number of consumers and respect them.

Seventh: Maintain and protect human health as well as guaranteeing its safety. This concept needs to be taken seriously to protect consumer rights based on the following matters:

7.1: Compulsory to maintain universal human health and monitoring them from various diseases. Health is a favor from Allah s.w.t. (The Most Glorified, The Highest) to his servants and Allah s.w.t. (The Most Glorified, The Highest) has commands mankind to maintain it and prevent them from eating and drinking banned beverages. Hence, Islam forbids alcohol and bad food. Foods and beverages are the basic goods to every individual to continue living. Entrepreneurs need to explain in detail the ingredients or food content that been marketed as well as put the expiry dates of use. The reality that happening today, we find that this concept is always been neglected by them and for the sake of consumer right protection, author suggests that this issue need to be studied and investigated closely. Most of genetic research in food engineering led to fulfill the commercial food processing industry requirement and groceries, rather than fulfill the consumer nutritional needs. Therefore, consumers need to be cautious toward the peculiar genes in their diet. Most scientists remind that genetically modified food can cause serious damage to health and environment (Mohideen, 2005, p. 71-83). The importance of health screening and food surveillance. Humans are born in natural condition where foods and the drinks are pure fluid not contaminated by any pollution. When the development of human life and the process of mankind modernization create various kind of foods and drinks as well as methods of storage. Various methods are designed for food preparation such as frozen, instant and others with different packaging method. Islam cares about human life.

7.2: Role of a state in protecting consumer health. (i) provide guidelines and laws to monitor factories and food entrepreneur by conducting laboratory research on marketed food to meet the benchmarks or established policy. Regular checks on stores and markets that sell food, medicines, to ensure they are safe to be used as well as water source that they are using it, (ii) health Agency in every area should do sudden check-up at hotels, restaurants, bakeries to ensure they comply with the stipulated conditions as well as provide quality certificates to them. This also concluded the equipment as well as workers that they use at the workplaces, (iii) conduct inspections on animals that been slaughtered before and after to ensure cleanliness and *halal* (permissible) to consume, (iv) inspection at places and food storage and ensuring the level of food safety in the places. Also, make sure the tenant and owner adhere

to the appropriate ways to protect and storing the materials, (v)inspection and monitoring on food and beverage factories as well as ensuring them to comply with the prescribed policies, (vi)sampling every type of food and beverage either local made or abroad to be used as study material in laboratory for consumer care and (vii)execute strict legal action on those who does not comply with the prescribed terms and conditions as well as that what being practice worldwide.

7.3: Give an effective explanation and clarification on ways to provide foods and beverages that healthy and safety to consumer. This can be done by asking involved bodies to conduct seminars, workshops, and continuous research to maintain the quality of the food preparation process. Apart from that, they also need to know about pollution and disease that affects humans.

7.4: Advice and guidance on the importance of healthy diet to consumer. Consumers must also concern about safety and health assurance by taking the following steps: (1) Avoid from buying food and beverage that already opened or occupied by flies or dust as those are easy to be infected and cause illness. (2) Purchase essential items at places that have been given licensed and business qualification certificate. (3) Do not buy from unknown seller about their origin and dubious source of the goods. (4) Read and thorough labels or explanations that attached on the food packaging or merchandise and knowing the contents and expiration date of the goods. (5) Avoid from buying goods that has deficiency or clear defect such as opened, torn or dams on the outside or inside. (6) Goods that too cheap normally has poor quality or not follow the outlined standards. (7) Do not use black plastic bags for food as it contains carbon that harming human health. (8) Do not use newspaper to wrap food because of the ink has dangerous toxic. (9) Cook the food in the best ways. (10) Eat food immediately after cooked. (11) Keep cooked food in the best ways and perfect. (12) Keep kitchen clean as well as cooking tools. (13) Monitor food ingredients from insects such as cockroaches, lizards, mice, and others. (14) Use clean water when preparing foods and drinks.

7.5: Sanitation of food environment. Contaminated food increases day by day especially in the developing countries due to environmental pollution that endanger consumers. Thus, concerning on environmental hygiene is very important and it is an obligation on the ministry of health particularly to ensure the food is safe to be eaten from bacterial or chemical and others contamination.

7.6: The impact of food monitoring on consumer. Protect and maintain consumer from various illness is very important for human being. This effort can be done by monitoring Muslim consumer from taking food and beverage which are prohibited by Islam or laws such as pork meat and fat, non-slaughtered meat and chicken, alcoholic beverages, and others. Among the other ways are given trust to consumer on merchandise in the market, control consumer safety from danger, aware of food ingredient fraud, encourage development of food production in accordance with established benchmark and protect national economic from loss due to fraudulent practices, lies, poisonous food, pollution, and non-compliance rules.

Conclusion

As a conclusion, the protection of consumer rights is a lawsuit of Islamic jurisprudence that has been long discussed by Islamic scholars. It is a form of preservation to every individual who needs to be understood and applied comprehensively by Muslims. Its special principles need to be supported and made as strategies by Muslims either individually or collectively especially in facing the diversity of tricks in this era of globalization. This task should not let it

be to every consumer individually even need to be incorporated by authoritative bodies that act by combining the expertise of *ummah* (community) from all fields. All these aspects will have a direct impact on all Muslims, it is hoped that there will be a continuation study to study these aspects with objectives of the shariah and its implications that have a significant impact on consumers.

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