

**JOURNAL  
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**Photograph of the Nile Bank Near the Great Pyramids of Giza,  
with a Group of Arabs and a Camel in the Foreground (Ca. 1880)**

The photographers were Zangaki brothers who were born on the Greek island of Milos. It is not known where they learned photography but soon after their arrival in Egypt they became established photographers. Their photographs are very commonly found in tourists' albums assembled in the Middle East in the latter part of the 19th century. From their Port Said studio, they were in an ideal position to sell to those on the Grand Tour. (Jacobson K.: *Odalisques and Arabesques. Orientalist Photography, 1839-1925*, London, 2007, p. 277).

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The *JOAS* is an international academic organ, which claims to be an independent and pluralist review for the promotion of Asian and African studies. Contributions of scholars and scientists from all over the world are invited.

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MURITALA KEWUYEMI KAREEM & KHALID ISHOLA BELLO

## MARKET PRACTICES IN ISLAM

### Introduction

The contributions of market to a healthy economy cannot be quantified. It facilitates the movements of goods and services from the surplus unit of the economy to the deficit unit. This principle of exchange through market has been accepted from the beginning of human civilization as a major and exchange means through which goods and services one needs are obtained. Through market institution, people give and take, thereby, leading to resources distribution among people. This was why the Prophet of Islam prescribed some rules of fair dealings in market. To show the importance of market, he visited the market in Madinah immediately he entered the city. He noticed some un-Islamic practices such as heavy taxes and unlawful charges paid by the sellers. He later established another market wherein he demonstrated how market should be operated in an Islamic economy.

Human beings need a number of essentials to survive. According to Maslow and John Burton, these essentials go beyond just food, water, and shelter. They include both physical and non-physical elements needed for human growth and development, as well as all those things humans are innately driven to attain. Those needs are hierarchical in nature. That is, each need has a specific ranking or order of attainment. Maslow's needs pyramid starts with the basic items of food, water, and shelter. These are followed by the need for safety and security, then belonging or love, self-esteem, and finally, personal fulfillment. Having adopted Maslow's ideas to conflict theory, Burton, however, perceives human needs in a different way as an emergent collection of human development essentials. Furthermore, they contend that needs do not have a hierarchical order. Rather, needs are sought simultaneously in an intense and relentless manner<sup>1</sup>.

Human needs are a powerful source of explanation of human behaviour and social interaction. All individuals strive to satisfy their needs by any means available to them. To this end, many and different systems have come

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1. J. Rothman, *Resolving Identity-Based Conflict in Nations, Organizations, and Communities*, San Francisco, CA: Jossey-Bass Publishers, 1997.

to stage such as capitalism, socialism and mixed economy. Experiences have shown that these systems are not but with one shortcoming or the other. Considering the problems attached to those systems, monasticism prefers abstinence from all worldly materials<sup>2</sup>.

Contrary to monasticism, Islam does not ignore human needs. Nor does Islam ask people to ignore or oppose them. Islam considers the way and means of meeting such needs as divine blessings and fulfilling them with good intentions as worship or service to God. Islam has regulated and defined limits for meeting these needs so that all dimensions of a human being are considered and his capabilities are protected; otherwise, God has created all creatures on earth for human beings and rejects the inhibition of ornaments and the *halal* (permitted) sustenance which He has created for them<sup>3</sup>.

Islam attempts to establish harmony between the moral and the material needs of human beings and the actualization of socio-economic justice and brotherhood in human society<sup>4</sup>. As a result, it leaves no stone unturned on every activity of men to achieve their needs. On commercial practices, for example, laws are formulated to guide their engagements in a way that will enhance their well-being in this world and beyond. It bans accumulation of wealth through corruption and approves ethical trade (4:29)<sup>5</sup>. Uprightness in the use of scale and measurement in the trade are to be observed without any form of balance deficiency (55:7-9, 83:1-3). Prohibition of *riba* (usury) is highly emphasized (2:278-279). To avoid fraud and exploitation in business deals, the Prophet declared that: "It is not permissible to sell an article without making everything clear nor is it permissible for any one who knows (about its defects) to refrain from mentioning them"<sup>6</sup>. These and many other rules discussed preoccupy the minds of Muslim scholars of every generation. They provide solutions, using Islamic rules, to many questions relating to trade and economy generally.

The Islamic analysis of market reached the level of economic science by the time of the great fourteenth century historian, Ibn Khalidun. He rejected the utopianism of the Greek influenced philosophers. To him, the fact that polices mandated by God could be scien-

2. J. Burton, *Conflict Resolution and Prevention*, New York: St. Martins Press, 1990.

3. R.A. Coate and J.A. Rosati, 'Preface' in R.A. Coate and J.A. Rosati (eds), *The Power of Human Needs in World Society*, Boulder, CO: Lynne Rienner Publishers, 1988.

4. M.U. Chapra, *Towards a Just Monetary System*, London: Dotesios Limited, 1985, p. 9.

5. T. A. Muhammad and M. K. Muhammad, *Translation of the Meaning of the Noble Qur'an in the English Language*, Madinah: King Fahd Complex for Printing of the Holy Qur'an, 1996.

6. A. Hambali, *Musnad Imam Ahmad bn Hambali*, Riyadh, Darus-Salam, 1999.



tifically demonstrated as the best social policies was the natural consequence of the fact that the laws of economics and the laws of good living had the same Creator. His understanding of the harmfulness of the command economy can be seen from the titles of the section headings in his magnum opus, the *Muqaddimah* (introduction of History) e.g. 'Commercial activities on the part of the rulers as harmful to his subjects and ruinous to the tax revenue'<sup>7</sup>.

### Meaning and Origin of Market

The contributions of market to a healthy economy cannot be quantified. It facilitates the movements of goods and services from the surplus unit of the economy to the deficit unit. This principle of exchange through market has been accepted from the beginning of human civilization as a major and exchange means through which goods and services one needs are obtained. Through market institution, people give and take, thereby, leading to resources distribution among people. This was why the Prophet of Islam prescribed some rules of fair dealings in market. To show the importance of market, he visited the market in Madinah immediately he entered the city. He noticed some un-Islamic practices such as heavy taxes and unlawful charges paid by the sellers. He later established another market wherein he demonstrated how market should be operated in an Islamic economy. In this article all these were discussed in details. We also discussed some major rules of fair business in an Islamic environment. In Islam, one should not 'eat' people's property wrongly. There should be equal access to information for all parties. For instance, Farm producers should be allowed to reach the market place in order to be familiar with what is going on there. We also discussed some prohibitions in relations to market practices in Islam such as monopoly, oligopoly, uncertainty (gharar), interest (riba) and gambling (maysir) According to Advance Learner's Dictionary, the word-market-is defined as an open area or building where people meet to buy and sell goods<sup>8</sup>. Peter and Joseph define market in the most literal and immediate sense as places where things are bought and sold<sup>9</sup>. However, the above definitions have been refined by modern economists to include the abstract con-

7. A. A. Imad, *Islam and Markets*. Retrieved May.12, 2008 from [www.islamic-research.com](http://www.islamic-research.com), 2003.

8. A. S. Hornby, *Oxford Advanced Learner's Dictionary*, 6th edition. New York: Oxford University Press, 2001.

9. B.N. Peter, and J.E. Joseph, "Market" in *The New Encyclopedia Britannica*. Chicago: 509.

cept of the interaction of buyers and sellers. Peter and Joseph further assert that:

Economists understand, by the term market, not any particular market place in which things are bought and sold, but the whole of any region in which buyers and sellers are in such free intercourse with one another that the prices of the same goods tend to equality easily and quickly<sup>10</sup>.

Altvater opines that the concept of a market is any structure that allows buyers and sellers to exchange any type of goods, services and information<sup>11</sup>. Adetayo and Ajayi consider it as "a consensus of minds over buying and selling of valuable item(s)"<sup>12</sup>. Ande simply puts it as "a point of contact, place or any means of communication whereby sellers and buyers can communicate with one another to exchange goods and services at prices determined by the market forces"<sup>13</sup>.

Therefore, market may be any of a variety of different systems, institutions, procedures, social relations and infrastructures whereby people trade, and goods and services are exchanged, forming part of the economy. Markets vary in size, range, geographical scale, location as well as the types of goods and services traded. Some examples include local farmers' markets held in town square or parking lots, shopping centers, international currency and commodity markets, legally created market such as market for pollution permits, and illegal markets such as the market for illicit drugs.

In general, the function of markets is to collect products from scattered sources and channel them to scattered outlets. From the point of view of the sellers, dealers channel the demand for their products. To the buyers, on the other hand, they (dealers) bring supplies within their reach. Markets of varying types can spontaneously arise whenever a party has interest in a good or service that some other parties can provide.

There are three points of origin for the market according to Peter and Joseph. The first was in rural affairs. A typical cultivator who might have fed his family and paid the landlord and the money lender from his chief crop, had sidelines that provided saleable products, and also had needs that he could not satisfy at home. It was therefore convenient for him to go to a

10. Ibid.

11. E. Altvater, *The Future of the Market; an Essay on the Regulation of Money and Nature after the collapse of "Actually Existing Socialism"*, Verso. Retrieved Sept.14, 2008 from <http://www.worldsocialism.org>, 1993.

12. O.A. Ajayi, and T.A.Odetayo, *Financial Management*, Ibadan: Bash-Moses Printing Company, 2001, p. 45.

13. C.E. Ande, *Essential Economics*. Lagos: Tonad Publisher Limited, 2005, p. 55.

market where many could meet to sell and buy. The second point was a service to the landlords. Rent, essentially, was paid in grain; even when it was translated into money, sales of grain were necessary to supply the cultivator with funds to meet his dues. Payment of rent was a one-way transaction, imposed by the landlord. In turn, the landlord used the rents to maintain his warriors, clients, and artisans, and this led to the growth of towns as centre of trade and production. The third and most influential origin of markets was in international trade. From early times, merchant adventurers (the Phoenicians and the Arabs) risked their lives and their capital in carrying their products from one region to another<sup>14</sup>.

### Concept of Market Practice

The major practice in the markets is exchange of goods and services for money or its equivalent. The participants in the markets consist of all the buyers and sellers of goods and services who influence their prices. This influence which is a major study in economics has given rise to several theories and models concerning the basic market forces of supply and demand. Thus, those theories and models have one way or the other influenced the market practices of different nations. For instance, a 'market economy' is a realized social system based on division of labour in which the prices of goods and services are determined in a free price system set by supply and demand<sup>15</sup>. Although no country has ever had within its border an economy in which all markets were absolutely free; the term typically is not used in an absolute sense. Many states which are said to have a market economy only have a high level of market freedom. The term 'market economy' is identical to capitalism where a corporation hires workers as labour commodities to produce material wealth and boost shareholder' profits<sup>16</sup>.

Capitalism generally refers to an economic system in which the means of production are all or mostly privately owned and operated for profit; and in which investments, distribution of income, production and pricing of goods and services are determined through the operation of a market economy. It is usually considered to involve the right of individuals and groups of individuals acting as 'legal persons' or corporations to trade capital goods,

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14. B.N. Peter, and J.E. Joseph, *op. cit.*

15. T. B. Tucker, *Macroeconomics for Today*. New York: West Publishing, 1999, p. 84.

16. *Ibid.*

labour, land and money. In capitalist system, there is no central planning authority but the prices are decided by the demand-supply scale<sup>17</sup>.

Laissez-Faire is synonymous with what was referred to as 'strict capitalist free market economy' during the early and mid-19<sup>th</sup> century as an ideal to be achieved. It is generally understood that the necessary components for the functioning of an idealized free market include the complete absence of government regulation, subsidies, artificial price procedures and government granted monopolies (usually classified as coercive monopoly by free market advocate) and no taxes or tariffs other than what is necessary for the government to provide protection from coercion and theft and to maintain peace and property right<sup>18</sup>.

The above view can be considered not satisfying true idea of capitalist system as government always involves in one way or the other in the system. Improvement on the system gave rise to 'Anarcho-capitalism'. In Anarcho-capitalism, market anarchism advocates an absolute free market like laissez-faire and in addition the complete elimination of the government apparatus. The provision of law enforcement, courts, national defense and all other security services ought to be made by voluntarily funded competitors in a free market rather than through compulsory taxation, the complete deregulation of non intrusive personal and economic activities and a self-regulated market. Examples of nations practising 'free market economy' are United States of America, Japan, France, Italy and Australia<sup>19</sup>.

Another model that has influenced market practices in some other nations is a 'planned economy' in which a central government determines the price of goods and services using a fixed price system. This is also identical to socialism in which the government owns the economic institutions or major industries but operates them according to the rules of supply and demand. In a traditional market of socialist economy, prices are determined by a government planning ministry and enterprises are either state-owned or cooperatively-owned and managed by their employers. Libertarian socialists and left-anarchists often promote a form of market socialism in which enterprises are owned and managed collectively by the workers, but compete with each other in the same way private companies compete in a capitalist market. The People's Republic of China currently has a form of market socialism referred to as 'the socialist market economy' in which most of the industries are state

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17. A. Weiss, *A Comparison of Economic Democracy and Participatory Economy*, ZMag. Retrieved from <http://econometheory.com> on June.26, 2008.

18. Ibid.

19. C.E. Ande, op. cit.

owned, but prices are not set by the government<sup>20</sup>. Countries that practise 'planned economy' are Ethiopia, Angola, Burkina Faso, Mozambique etc.<sup>21</sup>

Another and most widely practised market model is a 'mixed economy' where price system is not entirely free but to some extent under government controls; but it is not extensive enough to constitute 'planned economy'. This system contains both private-owned and state-owned enterprises, combining elements of capitalism and socialism and mixing the characteristics of 'market economy' and 'a planned economy'. Thus, almost all economies in the world today are mixed economy with varying degrees of free market and planned economy traits<sup>22</sup>.

### Market Practices in Islam

When prophet Muhammad got to Madinah in the year 622 C.E., He established a market that would serve as a model for people who want to involve in commercial dealings with one another. He inspected it from time to time till his death so as to make sure the practices there are in line with the dictates of Islamic Law of transactions. Market Practices were alien to Arab before the coming of Islam in the 7<sup>th</sup> century. In the pre-Islamic Arabia, from the early middle age, market practice was unique economic institutions where demand and supply of goods and services centralized, and played a very important role in socio-economic life of Arab. *Suq* (pl. *aswaq*) is a place in which commerce is carried on; it is a place of articles of merchandise where exchange of good and services are done. Originally, *aswaq* may have been formed to dispose of, by barter, the products of a particular tribe like the frankincense of south Arabia, the dates harvest of Yathrib, the grapes of Ta'if or the fine livestock of Khaibar. The members of the same tribe or clan rarely transacted business among themselves<sup>23</sup>.

Both local and foreign markets form the greater part of the Arab trade. There were regional markets which scattered all over the peninsular. They were held at a particular place and in a particular season, usually at the time of the pilgrimage when different tribes took their products for sales where the pilgrims assembled. According to Al-Mazruqi, two types of market exist in Arabia. Markets held in the four sacred months and those that were organ-

20. A.F. Hayek, '*The Fatal Conceit*' in *The Errors of Socialism*. Chicago: Chicago University Press. 1991, p. 79.

21. C.E. Ande, 2005, op cit.

22. E. Altvater, op. cit.

23. A. Rahim, *Islamic History Lagos*: Islamic Publications Bureau 2001, p. 7.

ised during the rest of the year. This implies that marketing activities of the Arabs were not confined only to the sacred months but continued<sup>24</sup>.

The rise of Islam did not change, nor did it seek to change, the trade and commerce activities in the Arabia. On contrary, the establishment of commercial laws, extension of property right to women, prohibition of fraud, call for the establishment of clear standards of weights and measures were put in place. This, however, pushed the Islamic civilization to the front of the world's economic stage and made Muslim world the defining force in international trade for over eight centuries<sup>25</sup>.

As Messenger of Allah (pbuh) whose mission was to guide man to have faith in Allah and to live excellent and honourable life, the Prophet concerned himself with commercial activities of his people. He did not only believe in and preach economic ideals but also participated actively in the market practices. Reports show that he involved in business transactions before and after his appointment as the Messenger of God. He was an entrepreneur, a partner and an agent in business. At the time of his maturity, he joined his uncle-Abu-t-Talib in his trade who later introduced him to Khadijah bint Khuwailid<sup>26</sup>. Al-Mazruqi cited by Raheemson said that the uncle was reported to have addressed the Prophet in the follow words:

As you know, I am a man of meagre resources and in fact time is hard on me. A Caravan of your tribe is going to Syria shortly and Khadijah bint Khuwailid needs the services of people of our tribe to look after her trading goods. If you wish to go on this business trip, she would be willing to take you. Muhammad replied: 'as you wish'<sup>27</sup>.

Khadijah immediately agreed due to previous information reached her about the honesty and truthfulness of Muhammad; and even promised to give him twice what she would give other people. He undertook commercial journeys for Khadijah to Habasha, Syria, Jorash and Bahrain before his prophethood.

At Madinah, many laws were promulgated for Muslims regarding their involvement in the market practices. Duties of good and punishment of wicked merchants as well as prohibitions of certain transactions were explic-

24. Ziaul Haq, *Inter-religion and International Trade in Pre-Islamic Arabia*, 2000, p. 63.

25. I. A. Ahmad 1996, "Islam, Market Economy and the Rule of Law," (Second International Symposium on Liberalism in Ankara 18-19 May 1996).

26. M.O. Raheemson, *Ethics of Trade Transaction in Islam and its Relevant in Contemporary Time*, Unpublished PhD Thesis submitted to the Department of Arabic and Islamic Studies, University of Ibadan, Ibadan, 2003.

27. Ibid.

itly spelled out. Things which are not included among commodities of sales were highlighted. These include the following:

- i. Those that are completely excluded from legal traffic, such as animals not ritually slaughtered (*maittah*) and blood, the lost or seized items.
- ii. Those in which there is no ownership such as property of endowment (*waqfu*)
- iii. Those that ritually impure, like wine and pig and other things without market value.

A bargain made concerning an object of this kind is not valid<sup>28</sup>.

There are some other practices which were banned by the Prophet on account of uncertainty in them. They include: *bai'u-l-urban* (a sale in which an earnest-money is given which belongs to the vendor if the transaction is not carried through), *bai'u-l-muzabanah* (a sale of any goods weight, size or number of which is not known in bulk for a definite measure, weight or number of another commodity), *bai'u-l-mu'awamah* (a sale of the yield of palm-trees for two or three years in advance. This is similar to sale of things which are not yet in existence at the time of the contract), *bai'u-l-munabadha* (a sale irrevocably concluded by the two parties handling over the goods without seeing or testing them before hand), *bai'u-l-gharar* (such as sale of plants before harvest, sale of fish in the river and many other)<sup>29</sup>

In contrast to socialism<sup>30</sup>, Islam enshrines private property as sacred trust. Everything belongs to God, and it is man that He has created as His *khalifah* (agent) on earth. Each person is individually responsible directly to God for the faithful execution of the trust. Therefore, the concept of private property well established among the Semitic peoples is taken by Islam. Islam does not only modify it but also specifies the terms for its wholesome and just enjoyment and employment; it should neither be used wastefully nor in a way that will deprive others of their justly acquired property. When one holds the property of others in trust, for example for orphans, one should not divert it to his personal benefit, and he should not turn over his own property to those incapable of managing it<sup>30</sup>.

Freedom of trade and operation of market forces are allowed in Islamic economic system subject to the limits set by *Shari'ah*. It, however, condemns hoarding to make high profit at the expense of public interest. It does

28. H.A.R. Gibb, and J.H. Kramers, *Bai' in Shorter Encyclopedia of Islam*, Netherlands: Leiden E.J. Brill. 1974, pp. 98-99.

29. A.J. Houtsma, and H.A.R. Gibb, *The Encyclopedia of Islam*. London: Leiden Printers. 1934, pp. 325-326.

30. I.A. Ahmad, *Islam, Market Economy and the Rule of Law*, op. cit.

not allow making profit by withholding the commodity from the market so that it becomes scarce. The law prescribes measures to prevent manipulation of market, exploitation of seller or buyer and fraud. The Prophet (pbuh) prohibited people from going out of town to buy merchandise which was on its way to city market<sup>31</sup>. This is to allow forces of demand and supply to determine the prices in the market place. In the situation of buying on the way to market, the seller may not know the real market price and he may be deprived of legitimate price.

For market to set just prices, the Prophet limited his interferences to the prohibition of practices that unjustly affect public interest. He prohibited the fixation of a price by a handful of buyers or sellers who have become dominant in the market. During his days, a small group of merchants used to meet agricultural producers outside the city and bought the entire crop, thereby gaining monopoly over the market. The produce was later sold at a higher price within the city. The Prophet condemned this practice since it caused injury both to the producers (who in the absence of numerous customers were forced to sell goods at a lower price) and the inhabitants of Medina<sup>32</sup>.

The above mentioned reports are also used to justify the argument that the Islamic market practice is characterized by free information. Producers and consumers should not be denied information on demand and supply conditions. Producers are expected to inform consumers of the quality and quantity of goods they claim to sell. Some scholars hold that if an inexperienced buyer is swayed by the seller, the consumer may nullify the transaction upon realizing the seller's unfair treatment and discriminatory means of transaction<sup>33</sup>.

However, Government interference in the market is justified in exceptional circumstances, such as the protection of public interest. Under normal circumstances, government non-interference should be upheld. When the Prophet was asked to set the price of goods in a market he responded, "I will not set such a precedent, let the people carry on with their activities and benefit mutually"<sup>34</sup>. Government intervention is, therefore, tolerated under specific circumstances. During the early *Umayyad* dynasty, many civil administrators had departed from the Prophet's practices. The Caliph, Umar bn Abdulaziz, however, ordered his governors to allow forces of demand and

31. I.I. Bukhari, *As-Sahihul-Jami'*, Beirut, Darul-Fikr,

32. A. Shah, *Islamic Laws Regarding Business*, Retrieved May.12, 2008 from [www.islamic/research.com](http://www.islamic/research.com), 2004.

33. A.J. Abubakr, *Minhajul-Muslim*, Beirut: Darul-Fikr Publication, 1999.

34. Ibid.



supply to determine the prices of goods and services in the market places in the following advice:

God has made land and water for seeking His bounties, so let traders travel between them without any intervention. How can you intervene between them and their livelihood?<sup>35</sup>

However, Islam has laid down some rules to guide commercial activities of people in the market places for the actualization of socio-economic justice and brotherhood in human society. Some of these rules are highlighted below.

#### 1. *Validity of Contract*

Islam accepts markets as the basic coordinating mechanism of the economic system. Islamic teaching holds that the market, through perfect competition, allows consumers to obtain desired goods and producers to sell their goods, at a mutually acceptable price. Hence, no one should be coercively brought in or forced out of the market practice through overt or covert system. This is on base that every contract is valid provided it does not contradict any of Islamic ethics. Allah commands the believers to fulfill their obligations (5:1). He bans accumulation of wealth through corruption and approves ethical trade (4:29). Any system that would disallow other potential marketers to freely and willingly partake in the market practice is abominable.

#### 2. *Validity of Contractual Condition mutually agreed upon*

Mutual agreement on every sale is a significant factor to be considered. As a result, both the seller and buyer must be allowed to freely make their choice from available alternatives. The sellers are to give the true picture of their goods to the buyers who are expected to accept or reject based on their knowledge (of the goods) and satisfaction. If one of the two parties makes a condition for a fixed time to allow the option to accept or reject the deal and they agreed to that, then both of them hold the option until the time expires. This is according to the Prophet's statement: "المسلمون على شروطهم" "Muslims are bound to their contractual conditions"<sup>36</sup>. None of the two parties is not to be conditioned by the other in any way over the use of the item of sales (money or goods) after the sales has been concluded. This is in line to the

35. M. O. Raheemson, *op. cit.*

36. Abu Dawud, S.A. *Sunan Abi Dawud*, Beirut, Daru kitabi-l-'Arabi. (nd) vol. 4.

tradition below: "Whoever makes a condition which is not in the book of Allah; it is invalid even if there are hundred conditions"<sup>37</sup>.

However, if it was discovered that a seller cheated a buyer with a value of one-third or more, the buyer has the right to cancel the deal or pay a known market price. The Prophet (pbuh) was reported to have instructed a feebleminded man who was always cheated in his transaction that: "من بايعت من بايعت" "when you make a bargain say: 'No deception'<sup>38</sup>. Thus the term 'No deception' signifies that the conclusion is conditional. Whenever it becomes clear that the buyer has been cheated, he returns to the seller and demands that the excessive price be returned to him or the deal may be cancelled. If the seller makes the quality of his goods apparent and hides its defect, the buyer has the right, in the *shari'ah*, to cancel or confirm the deal.

In addition, if any deficiency is found in the sold goods that the buyer was not aware of and he was satisfied at the time of bargaining, he has the right to either confirm the deal or cancel it. The Prophet (pbuh) had the following to say in this regard: "لايحل لمسلم باع من أخيه بيعا فيه عيب إلا بينه له" "It is not allowed for a Muslim to sell to his brother goods which are defective, except that he explains it to him"<sup>39</sup>. He also said: "من غشنا فليس منا" "whoever cheats us is not one of us"<sup>40</sup>.

In addition, if the seller and the buyer dispute over the value or description of the goods, each of the parties would be required to swear an oath. Thereafter the two have the right to confirm or cancel the deal. The Prophet (pbuh) was reported to say that: "إذا اختلف المتبايعان والسلعة قائمة ولا بينه لأحدهما" "When the seller and the buyer disagree, and the goods are existing and neither of them has any proof, both of them should swear an Oath"<sup>41</sup>.

### 3. Avoidance of *Zulmu*

*Zulmu* is generic term for all kinds of injustice. Giving right of God to other than Him is considered injustice (Q:X); penetrating what could be injurious to one's life, property and integrity is another form of injustice (Q:X); while doing similar to fellow human being whether he knows or not is also considered form of *dhulmu* (Q31:13). As a result, any practice in which injustice is done to other is condemned. For example, Allah bars accumula-

37. I.I. Bukhari, *As-Sahihu-l-Jami'*, op. cit.

38. H.A. Muslim, *Sahih Muslim*, Beirut, Daru Ihya'u-t-Turathi-l-Arabi, 1999.

39. Ibn Majah, M.Y. *Sunan Ibn Majah*, Beirut, Daru-l-Fikr (verified by Muhammad Fuhad) (nd) vol. 2.

40. Ibid.

41. H.A. Muslim, *Sahih Muslim*, op.cit.

tion of wealth through unethical transactions (4:29) and He calls for uprightness in the use of scale and measurement in the trade (55:7-9) and declares woe to *Al-Mutaffifin*, (those who give less in measure and weight) (83:1-3). The Prophet ordered the merchants to make every defect about the articles of sale (if there is any) clear. In addition, to sell goods under negotiation by one customer to another is frowned at in Islamic law of transaction according to the following tradition: "لا يبيع بعضكم على بيع بعض" "You should not make sales against each other"<sup>42</sup>. Islam also disallows act of mixing up standard and sub-standard items or by quoting false price. This is condemned in the tradition bellow: "ولا تفتأ جشوا" "And do not make artificial inflation by overbidding"<sup>43</sup>. Another transaction commonly operated in the markets is "two transactions combined in one deal" or selling in double standard. For instance, Mr. A may sell an item at the rate of ₦500 to Mr. B who will, in turn, sell his goods to Mr. A at the rate of ₦300. Each transaction should be made separately to avoid confusion and injustice.

#### 4. Avoidance of *Gharar*

Simply put, *Gharar* means deceit. However, in its technical usage, it denotes the presence of uncertainty, ignorance or unnecessary risk on the subject matter of a sale, its terms and/or conditions<sup>44</sup>. Imam *Nawawi* observed that the prohibition of this kind of sale is one of the fundamentals of *Shari'ah* under which are a number of issues and concepts<sup>45</sup>. *Gharar* includes any business transaction in which there is room for dispute as a result of the presence of ignorance or uncertainty in the subject of sale or a deceit that could lead to conflict between the parties involved or one party cheating the other. However, to eliminate injustice, unfairness and inequity among mankind in their transactions the following dealings are forbidden:

- i. The transaction that is determined by throwing stones.
- ii. The sale of what is in the womb of an animal.
- iii. Sale of good before its possession
- iv. The sale of fruits before their benefit is evident.
- v. The sale of dried dates for fresh ones that are still on the trees.
- vi. Sale of vegetables before their benefit is evident.

42. Ibid.

43. Ibid.

44. B. Sikirullahi, *An Examination of the Islamic Economic System as Practised by Islamic Cooperative Societies in Ilorin*, Unpublished M.A. Dissertation of the Department of Religions, University of Ilorin, 2011.

45. S. Sabiq, *Fiqh-us-Sunnah* Cairo, Dar Misra lit-Tibāah. ND vol. III, p. 102.

vii. The sale of wheat in ears for pure wheat.

viii. Two transactions combined in one (e.g. the seller fixes two prices for a single article: one for cash payment and the other for credit purchase)<sup>46</sup>.

*Ibn Taymiyyah* summarized these sales and their likes and put them under three major causes viz: non existence, inability to deliver and ignorance of the essence and variety (ies) of the items<sup>47</sup>.

##### 5. Avoidance of Riba

*Riba* is the excess made in the exchange of some specific items as well as the excess charged on a loan for an extension in its maturity<sup>48</sup>. Broadly speaking, *riba* can be grouped into two viz: (i) *Riba* in loans and (ii) *Riba* in sales. *Riba* in loans, simply put, is a situation where something is loaned on the condition of a benefit. On the other hand, *riba* in sales is further divided to *riba-l-fadl* which is an exchange of an object for the same kind of an object, with an increase in quantity and *riba-n-nasā'* which is an exchange of an object for the same or for a different object with increase in measurement in return for the deferment of the delivery<sup>49</sup>. Though forbiddance of *riba* was a gradual process which took place in four stages, however, total condemnation was given on it in the following verses:

O you who believe! Be afraid of Allah and gave up what remains (due to you) from *Riba* (Usury) (from now onward), if you are (really) believers. And if you do not do it, then take a notice of war from Allah and His messenger, but if you repent, you shall have your capital sum deal not unjustly (by asking more than your capital sums) and you shall not be dealt with unjustly (by receiving less than your capital sums) (2:278-279).

More so, there are quite a number of *ahādīth* prohibiting *riba* and all *riba* based transactions. Here are some of them:

Narrated *Jābir* (may Allah be pleased with him): Allah's Messenger (pbuh) cursed the one who accepts usury, the one who gives it,

46. M. A. M. Ibn Rushd, *Bidāyat-ul-Mujtahid wa Nihāyat-ul-Muqtasid*, Beirut Dar El Fikr Publishers (Special edition verified by Khālīd al-Attār) 2008 vol.ii, pp. 119 – 121. And 'S. Sābiq, p. 103.

47. A. A. Ibn Taymiyyah, *Majmū'āt-ul-Fatāwa Al-Mansurah*, Dar-ul-Wafā', vol. xv 1997, p. 17.

48. U. A. Al-Matruk *Ar-Riba wal Mu'āmalāt*, Riyadh, Dar al-Āsimah 1418 AH 3<sup>rd</sup> edition P. 37. and M. al-Qusi, p. 43.

49. K. S. Abu Mālik, *Sahīhu Fiqh -us- Sunnah* Cairo, Al-Tawfikia Bookshop ND Vol. iv, p. 291.

the one who records it and the two witnesses to it, saying, "they are all the same"<sup>50</sup>.

Al-Jazairi highlights the following points as parts of wisdoms surrounding the prohibition of *riba*:

- i. To safeguard the wealth of the Muslims from being devoured through false sources.
- ii. Guiding them to invest his wealth in the appropriate ways of earning that are noble and free from any fraud or cheating.
- iii. Closing the ways that can lead to enmity and hatred among themselves.
- iv. Keeping them away from whatever may lead to their destruction.
- v. Creating the opportunities of righteousness for them so that they may prepare for Hereafter<sup>51</sup>.

Considering the rationale behind the prohibition of *riba*, it could be discovered that the institution of *riba* encourages idleness and unjustifiable concentration of wealth in the hands of few individuals and consumption of another person's property without moral justification<sup>52</sup>.

#### 6. Avoidance of *Maysir*

*Maysir* (gamble or gambling) is derived from the word '*Yusr*' which means ease<sup>53</sup>. Hence it denotes earning without toil<sup>54</sup>. Originally it has to do with game. However, it becomes economic since it is a way through which people accumulate wealth. In other words, it shares a fundamental element of trade which is the concept of gain and loss. It is one of the leading practices during *Jāhiliyyah*. People were so engrossed in it to the extent that its prohibition had to be gradual just like the case of interest and alcohol. Allah first declares in the Qur'ān (2:219) that its harm outweighs its benefit serving as a kind of gesticulation towards its final prohibition which eventually came up in Qur'ān (5:90-91). The criterion usually used by scholars to dis-

50. Dar-us-Salam Publication, (TR) "Attainment of the Objective" in I. H. Al-Asqalāni, *Bulūghul-Marām*, Saudi Arabia, Dar-us-Salam Publication ND, P. 290. Note: the text of this hadith is originally taken from Sahihu-Muslim.

51. A. J. Al-Jazairi, op. cit.

52. B. Sikirullahi, op. cit.

53. *The Bilingual Dictionary Arabic – English, English – Arabic* Lebanon, Dar al-Kotob Al-Ilmiyyah, 2006, p. 699.

54. S. M. A. Al-Darir *Al-Gharar wa Athāruhu fi-l-ʿuqūd fi -l- Fiqh-il-Islami Dirāsatan Muqāranah* Beirut, Dar -ul- Jil 1990 2<sup>nd</sup> edition p. 622.

tinguish forbidden *Maysir* from other transactions is that, in gamble each of the two parties involved must either lose or gain<sup>55</sup>.

The fact that Islam is always against injustice and unjustified enrichment, makes it forbid gambling and speculation business because they are both games of chance with the intent of making easy profit. More so, they are means by which people devour one another's properties illegally, acts which the Muslims are seriously warned not to do under any circumstance. *Yūsuf, Al-Qardāwi* explains that Islam expects a Muslim to reach an end through its legal means. That is to say wealth or richness should be sought through its known, permissible means rather than looking for chances and opportunities without toil<sup>56</sup>. This is the more reason why hoarding of commodities needed by people in order to maximize one's profit in multiple folds is forbidden in Islam.

#### 7. Ensuring Honest and Trustfulness

Islam also teaches that market practice should be the platform of honest and trustfulness. This is based on various verses of the Qur'an and *ahadith*. Allah says: "Then if one of you entrust the other, let the one who is entrusted discharge his trust (faithfully), (Q2: 283). Ha also says: 'Verily! Allah commands that you should render back the trusts to those, to whom they are due; and that when you judge between men, you judge with justice. Verily, how excellent is the teaching which He (Allah) gives you! Truly, Allah is ever All Hearer, All Seer' (Q4:58). The Prophet was on record to have said that:

'Both parties in a business transaction have the right to accept or reject the deal as long as they have not separated. If they tell the truth and make everything clear to each other, their transaction will be blessed. If they conceal anything and lie to each other, the blessing of their transaction will be eliminated'<sup>57</sup>.

He also stresses this when he mentioned among those that would be devoured access to the blessings of Allah on the Last Day<sup>58</sup>.

#### 8. Blocking means to Frauds and Injustice

*Saddu* literally means blocking while *al-Dhari'a* (sg. *Dhariah*) signifies the means to obtaining a certain end. *Saddu-dh-Dhara'i* thus implies blocking the means to an end which is likely to materialize towards evil. The con-

55. Ibid.

56. Y. Al-Qaradawi *Al-Halāl wal-Harām fi-l-Islām*, Al-Baydā, Dar-ul-Ma'rifah 1985, p. 296.

57. I.I. Bukhari, *As-Sahihū-l-Jami'*, op.cit.

58. Ibid.

cept of *Saddu-dh-Dhara'i* is founded in the idea of prevention an evil before it actually materializes<sup>59</sup>. Islam, however, rules that every means that could lead to frauds and injustice in market practice should be blocked. For instance, the Prophet forbade a creditor from taking a gift from his debtor lest it becomes a substitute to usury. The Prophet said: كل قرض جري نفعاً فهو ربا "every loan which leads to a benefit is usury"<sup>60</sup>. Another example is selling of weapon during warfare to enemy of Islam or selling grapes to a winemaker. Abu Zahrah noted that it is only the Maliki and Hambali scholars who have considered these transactions (i.e sales of weapon and grapes) to be forbidden as they are not likely to lead to evil. In their opinion, a dominant probability is generally accepted as a valid basis for the *Shari'a* injunctions<sup>61</sup>.

### Conclusion

Contrary to an opinion that confines religion to the four corners of places of worship, Islam, however, stands out as a complete and balanced system that caters for human affairs in all ramifications (social, spiritual and economic). This, however, shows the moderate of Islamic teachings on just economic system and its applicability to the contemporary economic issues. Islamic economic system allows freedom of trade and operation of market forces with certain limits set by *Shari'ah*. No one should be coercively brought in or forced out of the market through any means provided he/she does not openly contradict any of Islamic teaching. Freedom of choice is given to both seller and buyer to accept or reject a contract. The two parties are expected to deal justly with one another; however, if one was discovered to have cheated the other, the defaulter must be brought to order. In addition, if they dispute over the value or description of the goods, each of the parties would be required to swear an oath.

Ignorance and uncertainty in the subject of sale are that could lead to injustice, unfairness and inequity are not allowed. As a result, it banes some transactions on the account of uncertainty such as: *bai'u-l-urban*, *bai'u-l-muzabanah*, *bai'u-l-mu'awamah*, *bai'u-l-munabadha* and *bai'u-l-gharar*. It does not allow making profit by with holding the commodity from the market so that it becomes scarce and hoarding to make high profit at cost of pub-

59. M.H. Al-Burhaniy, *Saddu-dh-Dhara'i' fi-Sh-Shari'ati-l-Islamiyyah*, Damascus, Daru-l-Fikr, 1995, p. 56.

60. A. N. As-Sa'diy *Al-Qawā'id wal-Usūl -ul- Jāmi'ah*, Cairo, Makatabat -us-Sunnah (verified by A. Ayman) 2002, p. 117.

61. Ibid.

lic interest. Among other things that are condemned are practices of *Riba*. This is the excess made in the exchange of some specific items as well as the excess charged on a loan for an extension in its maturity. Gambling – game of chance is not allowed as legitimate business. All means that can lead means to Frauds and Injustice are blocked under the rule of *Saddu-dh-Dhara'i*.

#### SUMMARY

The contributions of market to a healthy economy cannot be quantified. It facilitates the movements of goods and services from the surplus unit of the economy to the deficit unit. This principle of exchange through market has been accepted from the beginning of human civilization as a major and exchange means through which goods and services one needs are obtained. Through market institution, people give and take, thereby, leading to resources distribution among people. This was why the Prophet of Islam prescribed some rules of fair dealings in market. To show the importance of market, he visited the market in Madinah immediately he entered the city. He noticed some un-Islamic practices such as heavy taxes and unlawful charges paid by the sellers buyers. He later established another market wherein he demonstrated how market should be operated in an Islamic economy. In this article all these were discussed in details. We also discussed some major rules of fair business in an Islamic environment. In Islam, one should not 'eat' people's property wrongly. There should be equal access to information for all parties. For instance, Farm producers should be allowed to reach the market place in order to be familiar with what is going on there. We also discussed some prohibitions in relations to market practices in Islam such as monopoly, oligopoly, uncertainty (*gharar*), interest (*riba*) and gambling (*maysir*).

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