UNIT-13 Islamic Business Ethics

Learning Outcomes

By the end of this unit the learner will be able to:

- ✓ Understand the term ' ethics'
- ✓ Explore different Features of Islamic Business Ethics

Unit 13

Islamic Business Ethics

What is Ethics?

Ethics may be defined as the set of moral principles that distinguish what is right from what is wrong. The two objectives of ethics are somewhat similar to each other: it judges human practices by considering the moral values and it may give authoritarian advice on how to act morally in a given situation. As a result, the aim of ethics is to study both moral and immoral behaviour in order to make logical judgments and to arrive at enough references. Many people consider that ethics and morality are synonyms, which are different words with same meanings. A morally right action is also an ethical one. Codes of morality are called ethical codes, likely, business ethics can also be defined as business morality.

Business Ethics

Business Ethics is a branch of ethics that deals with ethical rules and principles within a commercial situation; the various moral or ethical problems that can arise in a business setting; and any special duties or jobs that apply to persons working in commerce. In general, business ethics is a controlling exercise, whereby specific ethical values are planned and then applied. Ethics helps us to make specific judgments about what is right or wrong, which is to say, it makes claims about what *ought* to be done or what *ought not* to be done. In common terms, it deals with the study of what is good and bad, right and wrong, and just and unjust in business.

In all aspects of human life Islam has laid great emphasis on ethical values. There are detailed uncountable verses of the Holy *Qur'an* and the teachings of the Prophet (PBUH) regarding Ethical codes and values. Islamic teachings strongly stress the performance of ethical and moral code in human behaviour. Moral principles and codes of ethics are again and again stressed in the Holy *Qur'an*. Besides, there are many teachings of the Prophet (PBUH) as well regarding moral and ethical values and principles. Says the Holy *Qur'an*:

> You are the best nation that has been raised up for mankind; You enjoin right conduct, forbid evil and believe in Allah. (3:110)

The Prophet (PBUH) also says:

> I have been sent for the purpose of perfecting good morals. (*Ibn Hambal*, No: 8595)

There is a general agreement among human beings about certain basic ethical values. However, the Islamic ethical system is largely different from the worldly ethical systems and also from the moral code recommended by other religions and societies. In the Islamic method of things, 1 % *Iman* (faith) consists of obedience to moral code and ethical behaviour. According to the Islamic teachings, Muslims have to carefully guard their behaviour, deeds, words, thoughts, feelings and intentions. Islam asks its believers to practice some norms and moral codes in their family affairs; in dealings with relatives, with neighbours and friends; in their business dealings; in their social matters, in all parts of personal and public life.

There is a separate value-based ethical system for business dealings in Islam and it has certain specific guidelines for leading business ethics. It (i) lists all the general ethical rules of performing business, (ii) tells ethically acceptable forms of business, and, (iii) specifies the unacceptable ways of dealings.

In addition to the major prohibitions, including Riba, Gharar and gambling, the Islamic

Shar¯ı´ah has enunciated a set of principles that provide a basic framework for the conduct of economic activities in general, and financial and commercial transactions in particular. The Holy Qur'¯an and the Sunnah refer to a number of norms and principles which govern the rights and obligations of parties to the contracts. Principles enunciating justice, mutual help, free consent and honesty on the part of the parties to a contract, avoiding fraud, misrepresentation and misstatement of facts and negation of injustice or exploitation provide grounds for valid contracts.

These norms are related to the accountability of human beings before Allah (SWT) and therefore have different implications from those of the norms of mainstream business ethics. Islam teaches belief in the Hereafter, which requires that man should not usurp anyone's rights. It is a principle of Shar¯ı´ah that while Allah (SWT) may pardon the faults committed against His rights (neglect of worship, for example), he does not pardon the harm done by a man to fellow beings or even to other creatures. So, giving people their due right is the cardinal principle of the Islamic system of ethics. Some encouragements like benevolence, purification of income, proper transparency and disclosures, documentation of transactions leading to precision about the rights and liabilities of the parties and comprehensive ethics requiring care for others are also part of the Islamic framework of business norms. Below, we briefly give some important norms.

Islamic ethics and moral codes are very wide ranged topics and it would not be possible to explain the subject in this paper. In the pages below, we have limited our discussion to some specific principles of business ethics in Islam.

Freedom of Enterprise

Islam gives complete freedom to economic project. Each individual in an Islamic society enjoys complete freedom in the earning of his livelihood. He can start, manage and organize any kind of business project within the limits set by the Islamic Shari'ah. However, freedom does not and must not work without a sense of duty. An individual is free to continue with his economic activities provided he respects the moral codes that are set the profession, which clearly means doing only lawful things and shunning all the unlawful matters. The verses of the Holy Qur'an and the teachings of the Prophet (PBUH) helps us to distinguish between the lawful and the unlawful ways of earning, and to prohibit all the actions that are either morally wrong or socially unacceptable.

All the activities which may harm either the traders or the consumers in the market are prohibited in the Islamic principles. It encourages the occurrence of free market where everyone earns his food without government interference. However, there are few limitations in order to remove injustice and to check mismanagement and unlawful working. In other words, Islamic market is free from any state involvement. However, an Islamic state will try hard to organize the market dealings on Islamic principles if the people do not follow the guidelines from the Holy *Qur'an* in matters relating to business dealings. Therefore, freedom of project in an Islamic market is done under the (i) verses of the Holy *Qur'an* and the teachings of the Prophet Muhammad (PBUH) and (ii) the orders of the worldly authority. During the rise of Islam, this function was mainly performed by the institution of *Muhasbah* (headed by a *Muhtasib* or market inspector). The functions that this vital institution performed were international and different; the main aim was keeping an eye on the unlawful practices in the market and the society and checking the incidence of injustice and mismanagement in the market.

Islamic Tenets Concerning Business Transactions

Islam asks the economic agents – the consumers and the producers- to observe a certain kind of behaviour. The behaviour stated for the economic units of the society are so designed as to lead to a happy state of affairs, which is the vital aim of Islam. An Islamic market is represented by few norms that take care of the interests of both the buyer and the seller. There are a number of ethical rules in Islamic business dealings without which business contracts are not complete in terms of good manners, decency and ethical excellence. Some of these tenets are as follows:

Keenness to Earn Legitimate (Halal) Earnings

Islam has greatly focused on the lawful and unlawful earnings in business dealings. Many *Qur'anic* verses reject the illegal taking of the property.

Says the Holy *Qur'an*:

Do not devour one another's property wrongfully, nor throw it before the judges in order to devour a portion of other's property sinfully and knowingly. (2:188)

Do not devour another's property wrongfully – unless it be by trade based on mutual consent. (4:29)

The above verses prohibit the believers to devour the property of others by illegal means in hidden words. The Prophet (PBUH) stated the importance of legitimate ways of earning in the following words:

Asked 'what form of gain is the best? [the Prophet] said, 'A man's work with his hands, and every legitimate sale'. (*Ahmad*, No: 1576)

From the above it is clear that a Muslim trader must only earn through legal means. He should not only avoid illegal ways of earning his bread and butter but also distance himself from any matters that are doubtful or have any hidden conditions. The Prophet (PBUH) is also reported to have said:

Leave what makes you doubt for things that do not make you doubt. (*Tirmidhi*, No: 2442)

Islam has clearly stated the difference between lawful and unlawful and, in between them, is doubtful things, which should be avoided. in order to keep clear in regard to his faith and his honour a true Muslim businessman should be cautious of the doubtful while making deals because doubtful matters lead to unlawful (*Haram*) earnings. A tradition of the Prophet (PBUH) states:

A time will come upon the people when one will not care as to how he gets his money whether legally or illegally. (*Bukhari*, No: 1941)

Riba is the main prohibited practice in Islam among the other unacceptable business dealings. *Riba* (interest), by definition, is the extra sum the moneylender charges from the borrower for deferred payment. Islam has forbidden all forms of *Riba* since it involves both cruelty and misuse. Islam is against the form of business dealings that involve riba and disapprove it strictly in the following words. The Holy *Qur'an* says:

Allah has permitted trading and forbidden *Riba* (usury). (2:275)

Devour not *Riba* doubled and re-doubled. (3:130)

And again:

O you who believe! fear Allah and give up what remains of your demand for usury if you are indeed believers. If you do it not, take notice of war from Allah and his Apostle: but if you turn back you shall have your capital sums; deal not unjustly and you shall not be dealt with unjustly. (2:278)

The *Sunnah*is equally forceful in disapproving *Riba*. The Prophet (PBUH) is reported to have said:

May Allah send down His curse on the one who devours *Riba* and the one who pays it and on the two witnesses and on the person writing it. (*Ahmad*, No: 624)

These and many other verses of the *Qur'an* and teachings of the Prophet (PBUH) clearly state that all those business dealings which involve interest in one form or other, are unlawful in Islam. According to the *Qur'anic* teachings there is a clear difference between actual business profits and interest, while these profits are acceptable but interest is unacceptable.

Justice and Fair Dealing

Justice is the main rule under which all economic activities re to be carried out, which means fair dealing with all and keeping a balance. Justice keeps the sky and the earth in their right places and is the cementing force between various segments in a society. The Holy Qur'an says:

"_ _ _ And let not the enmity and hatred of others make you avoid justice. Be just; that is nearest to piety _ _ _ " (5: 8). Stressing this point, the Qur'an further says: "You who believe stand steadfast before Allah as witness for (truth and) fair play" (4: 135). This makes the point clear that whoever believes in God has to be just with everyone – even with enemies.

In another place, the Qur'an says: "And eat up not one another's property unjustly (in any illegal way, e.g. stealing, robbing, deceiving, etc.) nor give bribery to the rulers that you may knowingly eat up a part of the property of others sinfully" (2: 188). Islam thus requires that the rights and obligations of any person are neither greater nor lesser in any way than the rights and obligations of other people. Business rules are equally applicable to all. No one can take the property of others wrongfully. In his celebrated speech at the time of the last pilgrimage, the Holy Prophet (PBUH) declared the inviolability of the rights of human beings in all the three categories of person, property and honour.

In the early Islamic era and subsequently up to the Middle Ages, a lot of emphasis was given to the character building of the masses to ensure justice, fair play with one another and the resultant harmony in society. Many remarkable events of justice and equity are recorded in Islamic history. It was through this deep sense of true justice and equality that Islam played a remarkable role in the development of human society. A number of norms and good practices stem from the overall principles of fair play and justice. These are briefly discussed below.

Honesty and Gentleness

Honesty, truthfulness and care for others are the basic lessons taught to Muslims by the *Shari'ah*, with relatively more emphasis in respect of business transactions. The Holy Prophet (PBUH) has said: "The truthful and honest merchant shall be with the Prophets, the truthful and the martyrs on the day of Resurrection." He also said: "It is not lawful for a Muslim to sell to his brother something defective without pointing out the defect". Cheating others and telling lies is considered a great sin. Allah's Apostle used to invoke Allah in the prayer saying: "O Allah, I seek refuge with you from all sins, and from being in debt."

Someone said: “O Allah’s Apostle! You very often seek refuge with Allah from being in debt”. He replied: “If a person is in debt, he tells lies when he speaks, and breaks his promise when he promises.”

This does not mean that taking a loan is prohibited; the Holy Prophet (PBUH) borrowed for himself and also for the Islamic State, as is discussed earlier. The emphasis is on honesty and speaking the truth and avoiding the sinful act of telling lies; so loans should be taken out only in the case of severe personal or genuine business need. Ibn Umar (Gbpwh) narrates: “A man came to the Prophet (PBUH) and said: ‘I am often betrayed in bargaining.’ The Prophet advised him: ‘When you buy something, say (to the seller): “No deception”.’ The man used to say so afterwards”. In the case of deception one is entitled to rescind the contract. Similarly, Ghaban, which means misappropriation or defrauding others in respect of specifications of the goods and their prices, is prohibited with the purpose of ensuring that the seller gives the commodity as per its known and apparent characteristics and charges the fair price. The Holy Qur’an says: “Fill the measure when you measure, and weigh with a perfectly right balance.” (17: 35; also verses 86: 1–6).

Another feature of a good businessman is that he avoids harshness and is gentle with other parties and stakeholders. As reported by Imam Bukhari, Allah’s Apostle said: “May Allah have mercy on a person who is gentle when he sells, when he buys and when he demands his rights.” The person who is liable to pay or undertake any liability is duty bound not to react even if the person who has some right to receive becomes aggressive in demanding his right. Creditors have also been encouraged to be gentle and even give more time if the debtor is really in trouble.

The Holy Prophet once said: “Whoever takes the money of the people with the intention of repaying it, Allah would (arrange to) repay it on his behalf, and whoever takes it in order to spoil it, then Allah would spoil him.” A man demanded his debts (in the form of a camel) from the Holy Prophet in such a rude manner that his Companions intended to harm him, but the Prophet said: “Leave him, no doubt, for he (the creditor) has the right to demand it (harshly). Buy a camel and give it to him.” They said: “The camel that is available is older/better than the camel he demands.” The Prophet said: “Buy it and give it to him, for the best among you are those who repay their debts handsomely.”

It is important to observe, however, that the nature of treatment in the institutional set-up of business is different from any individual-to-individual business relationship. If someone waives the debt payable by any destitute or a person with a genuine problem, he is doing a noble job, as per the instructions of the Holy Qur’¯an. But institutions like banks, which manage public money as a trust, cannot and should not give a free hand to those who willfully default in fulfilling their obligations. That is why all Islamic banks have been allowed by their *Shari’ah* boards to impose fines on defaulters with the objective of disciplining their clients and as a deterrent against wilful default. Abu Huraira narrates: “Allah’s Apostle said, ‘Procrastination (delay) in repaying debts by a wealthy person is injustice’.” The amount of fine or penalty is used for charitable purposes and is not credited to the P & L Account of the banks.

Prohibition of Najash

Bidding up the price without an intention to take delivery of the commodity is termed "Najash" and is not permissible. The Prophet (PBUH) has said: "A N¯ajish (one who serves as an agent to bid up the price in an auction) is a cursed taker of Riba." As reported by Hakim in his Sahih, the Prophet said: "If anyone interferes in the market to create a rise in prices, God has right to cast him face down in Hell." This practice is not only unethical, but also harmful for society, as it creates distortions in the market.

Prohibition of Khalabah (Misleading Marketing)

Khalabah means misleading, like pursuing unaware and simple clients by over projecting the quality of a commodity. It is prohibited due to being unethical: one presents his product in such a way that factually it is not so. Accordingly, manipulation and excessive marketing not based on facts about the wares are prohibited. As reported by Imam Muslim in his Sahih, the Holy Prophet said: "Refrain from swearing much while selling or doing business, for it may increase business (in the beginning) but brings destruction (ultimately)." Misleading advertising is covered under this prohibition.

Disclosure, Transparency and Facilitating Inspection

The *Shari'ah* attaches great importance to the role of information in the market. One must give ample opportunity to the client to see and check the commodity that he is going to buy.

Inaccurate or deceptive information is forbidden and considered a sin. The Holy Prophet said: "Deceiving a Mustarsal (an unknowing entrant into the market) is Riba". The concealment of any information vital for the contract is tantamount to a violation of the Islamic norms of business and the informationally disadvantaged party in a contract has the right to rescind the contract.

A number of traditions of the Holy Prophet (PBUH) stress the need for proper information and disclosure and prohibit such practices that may hinder information about the value and quality of the commodities to the buyers and the sellers. Keeping silent and not letting the buyer know of any defect that is in the knowledge of the seller is considered dishonesty.

The Holy Prophet (PBUH) once passed by a man who was selling grain. He asked him: "How are you selling it?" The man then informed him. The Prophet (PBUH) then put his hand in the heap of grain and found it wet inside. Then he said: "He who deceives other people is not one of us."

At the time of the Holy Prophet (PBUH), when market information was not available to the people of far-flung tribes who used to bring their produce for sale to the towns, the Holy Prophet said: "Do not go in advance to meet Rukb¯an (grain dealers coming to the town to sell goods) to buy their goods, nor should one of you sell over the head of another nor increase the price to excite another to buy Najash" (Sahih Bukhari). This tenet of the Holy Prophet means that the grain dealers should come to the town's market and sell their wares at a price determined by the forces of demand and supply. All parties in the market must have enough information about the quality, value of the product, purchasing power of the clients and demand for the product. The wares being sold should be capable of inspection to enable both parties to reasonably know the benefits in case the contract is finalized. For the purpose of transparency, therefore, transactions should be executed within the market or the place where people are aware of the demand and supply situation and are in a position to trade taking into account all relevant information.

Holding any value-related information or structuring a contract in such a way that parties to the contract are not aware of the specifications of the subject matter or its counter value amounts to Gharar and Jahl, which are prohibited as discussed earlier. Hence, the Islamic ethical system requires that all information relevant to valuation of the assets should be equally accessible to all investors in the market. It is consistent with the parties' right to have necessary information and freedom from misrepresentation.

Fulfilling the Covenants and Paying Liabilities

Out of twelve commandments given to Muslims by the HolyQur'an in Surah Bani Israel, a few relate to fulfilling covenants and not usurping the wealth of the weak in society. "And keep the covenant. Lo! Of the covenant it will be asked" (17: 34). Business and financial contracts result in rights and liabilities of the parties and the liable party must fulfil the liability as per the agreement or the contract. *Shari'ah* emphasizes fulfillment not only of contracts but also promises or unilateral agreements. One of the symbols of hypocrites indicated by the *Shari'ah* is that they do not fulfil their promises. We shall discuss this aspect in detail in Chapter 5. It is pertinent to indicate briefly that contemporary scholars unanimously consider promises binding. In Islamic finance, the concept of promise is invoked in *Murabaha* to Purchase Orderer, leasing, Diminishing *Musharakah*, etc. In all these arrangements, if the promisor does not fulfill the promise, the promisee has the right to recover the actual loss incurred by him due to the breach of promise.

Mutual Cooperation and Removal of Hardship

Mutual help, solidarity and joint indemnification of losses and harm are other important norms of the Islamic economic framework compared to the conventional economic structure, where cut-throat competition causes a number of unethical practices like fraud and forgery. Islam cherishes that a person helps others in times of need and prohibits any such action that may cause any loss or harm to others. The Holy Qur'an says: "Assist one another in the doing of good and righteousness. Assist not one another in sin and transgression, and keep your duty to Allah" (5: 2). The Holy Prophet has encouraged mutual assistance by saying: "The Believers, in their affection, mercy and sympathy towards each other are like one human body – if one of its organs suffers and complains, the entire body responds with insomnia and fever" (Sahih Muslim).

Accordingly, a number of practices or schemes of mutual help like 'A¯ qilah, Dhama¯n Khatr al-Tariq, etc. that were prevalent in the pre-Islam period were validated by Islam. 'A¯ qilah (kin or persons of relationship) was a custom in some tribes at the time of the Holy Prophet (PBUH) that worked on the principle of shared responsibility and mutual help. In case of natural calamity, everybody used to contribute something until the disaster was relieved. Similarly, this principle was used in respect of a blood money payment, which was made by the whole tribe. In this way, the burden and the losses were distributed. Under Dham¯an Khatr al-Tariq, losses suffered by traders during journeys due to hazards on trade routes were indemnified from jointly created funds. Islam accepted this principle of reciprocal compensation and joint responsibility. This principle is the foundation of the institution of "Takaful" – an alternative to conventional insurance in Islamic finance.

Free Marketing and Fair Pricing

Islam provides a basic freedom to enter into any type of Halal business or transaction. However, this does not imply unbridled freedom to contract. Exchange is permitted only when undertaken in permissible commodities and according to the rules and principles laid down by the *Shari'ah* in respect of various types of transactions like Bai', Ijarah and services.

Islam envisages a free market where fair prices are determined by the forces of demand and supply. Prices will be considered fair only if they are the outcome of genuinely free functioning of market forces. There should be no interference in the free play of the forces of demand and supply, so as to avoid injustice on behalf of suppliers of goods and consumers. The Holy Prophet has prohibited Ghaban-e-Fahish, which means selling something at a higher price and giving the impression to the client that he is being charged according to the market rate.

The price of any commodity is determined by keeping in mind the input and production costs, storage, transportation and other costs, if any, and the profit margin of the trader. If a person starts selling his goods in the market at less than the cost price out of his piety and philanthropy, he will be creating problems for others, as a result of which the supply of that commodity may suffer in the future and ultimately people may suffer. That is why the second Caliph of Islam, Umar (Gbpwh), asked a trader who was selling at less than the market price to raise the rate to the market level or leave the market. Islam cherishes philanthropy, but requires that it must not create problems for genuine businesses.

However, if parties with vested interests hinder the proper functioning of market forces or indulge in hoarding for creating artificial scarcity, the State or the regulators are duty bound to take proper steps to ensure that the forces of demand and supply work genuinely and there is no artificial manipulation. Therefore, to safeguard the interests of all stakeholders, the Islamic state should not allow the creation of distortions.46 However, permission to interfere is subject to the condition that it is intended to remove market anomalies caused by impairing the conditions of free competition. Islamic banks will have to follow the rules prescribed by the *Shari'ah* for trading and other business. With regard to principles concerning operations in the market, the Jeddah-based Council of the Islamic Fiqh Academy of the OIC in its fifth session (10–15th December, 1988) held that:

1. The basic principle in the Qur'anand the Sunnah of the Holy Prophet (PBUH) is that a person should be free to buy and sell and dispose of his possessions and money, within the framework of the Islamic *Shari'ah* in accordance with the divine Command: ("O you who believe! Consume not each other's property in vanities, unless there is trade based on mutual acceptance").
2. There is no restriction on the percentage of profit which a trader may make in his transactions. It is generally left to the merchants themselves, the business environment and the nature of the

merchant and of the goods. Care should be given, however, to ethics recommended by *Shari'ah*, such as moderation, contentment and leniency.

3. *Shari'ah* texts have spelt out the necessity to keep the transactions away from illicit acts like fraud, cheating, deceit, forgery, concealment of actual features and benefits which are detrimental to the well-being of society and individuals.
4. Government should not be involved in fixing prices except only when obvious pitfalls are noticed within the market and prices due to artificial factors. In this case, the government should intervene by applying adequate means to get rid of these factors, the causes of defects, excessive price increases and fraud.

Freedom from Dharar (Detriment)

This refers to saving others from any harm due to a contract between two parties. The concept of rights and liabilities is there in Islam like other systems. Of course, the rights are much more strongly enforced in the Islamic framework, with a provision of right/option for the informationally disadvantaged party to reverse its position. The State and regulators are duty bound to ensure fair play and justice for all and that the forces with vested interests do not create hardship for the masses.

If the regulators come to the conclusion that the majority of investors are naïve and irrational, they can take a paternal approach to protect them from the unhealthy practices of any of the market players. They also need to provide the general public necessary information about the nature of business activities. Even if relevant information is available to them, they may lack the ability to properly analyse that information, and may take irrational investment decisions. Investors may also over-react to any disinformation and behave in an irrational way. In such cases, the State needs to take proper steps to guide the general investors so as to protect them from losses that could be possible due to unhealthy practices in the market.

If a contract between two parties executed with their mutual consent is detrimental to the interests of a third party, the latter may enjoy certain rights and options. A case in point is the pre-emptive right (Shuf'ah) of a partner in joint ownership. This pre-emptive right may be extended by analogy to a situation where existing minority shareholders in joint stock companies could be adversely affected by any decision of the controlling shareholders, such as selling additional stocks to the public, effecting a change in management, mergers and acquisitions, etc.

Further Reading:

- ✓ ***Business Ethics in Islam By Abbas J. Ali***
- ✓ ***Business Ethics By HARTMAN***