



REGULATION OF ECONOMIC LIFE IN ḤISBAH
LITERATURE – 9TH TO 14TH CENTURY C. E.

BY

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ABSTRACT

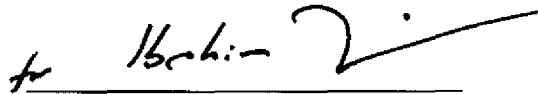
This dissertation investigates the nature of economic regulation as mirrored in *hisbah* treatises that were composed, during the ninth to the fourteenth century C. E., as administrative manuals or operational handbooks of *al-Hisbah*. *Al-Hisbah* was the institution of Islamic governance for the official performance of *ihtisāb*. The most notable function of it was regulation and supervision of economic activities. *Hisbah* treatises facilitated the *muhtasib*, the person-in-charge of *al-Hisbah*, in his practical supervision of various crafts, trades and professions. Towards revealing the nature of the *hisbaic* economic regulation, this dissertation first looks into theoretical-historical context of economic regulation. It discusses the conceptual rationale behind the regulation from both modern and Islamic perspectives, and describes the train of major historical events and issues relating to the supervision of economic activities in Islam. The dissertation then engages in a long investigation of the nature of the *hisbaic* economic regulation. Using *Ghazalian* four-component frame of *ihtisāb* (*al-muhtasib*, *al-muhtasab ‘alayhi*, *al-muhtasab fihi* and *naḥs al-ihtisāb*), it explicates four broader aspects of economic regulation, namely (1) economic regulators, (2) economic actors, (3) issues of regulation and (4) modes of regulation. The findings of this investigation run counter to the usually conceived image of the *muhtasib* as the one who was invariably occupied with hunting down *munkar*. Insofar as the regulation and supervision of economic activities was concerned, he was preponderantly concerned with *amr bi al-ma‘rūf*, not *nahy ‘an al-munkar*, and hence his predominant approach to regulation had been preventive, not punitive. Inseparably tied with these findings is the distinct status of the economic actors. They were automatically treated as *muhtasab ‘alayhi* because of their engagement in economic activities; commitment of *munkar* was not the typical reason for their exposure to *hisbaic* measures. Another significant, but mostly concealed, aspect of the regulation is economic standards. Following an inductive reading of *hisbah* treatises and putting aside the overwhelming and overshadowing presence of the *muhtasib* in them, the dissertation brings to the forefront a set of economic standards that is considered a concomitant development, as well as a corollary, of historical endeavour of *al-Hisbah* toward regulation of economic life. The dissertation, thus, develops a detailed and systematic exposition of the *hisbaic* economic regulation, which will advance our understanding of why and how economic regulation was carried out by *al-Hisbah* in the Islamic society.

ملخص البحث


تناول هذه الرسالة طبيعة التنظيم الاقتصادي كما انعكست في رسائل الحسبة التي أُلِّفت خلال القرن التاسع إلى الرابع عشر الميلادي، بوصفها الدلائل الإدارية أو كتيبات التشغيل للاحتساب. والمؤسسة المسؤولة عن تأدية الاحتساب الرسمي في الحكومة الإسلامية عُرفت باسم "الحسبة"، والمحتسب هو الذي قام بهذه المهام، ومن أهم وظائفه تنظيم الأعمال الاقتصادية والإشراف عليها. ورسائل الحسبة سهلت المحتسب في الإشراف على الحرف والصناعات والمهن. وفي سبيل الكشف عن طبيعة التنظيم، فإن هذه الرسالة تناول في أول الأمر السياقين النظري والتاريخي للتنظيم الاقتصادي، ولذلك تبحث الرسالة في المفاهيم المنطقية للتنظيم الاقتصادي من وجهتي النظر الحديثة والإسلامية، كما أن الرسالة تصوّر أعظم الحوادث والقضايا التاريخية التي تتعلق بالإشراف على الأعمال الاقتصادية في الإسلام. ثم تبحث بعد ذلك في فحص طويل للتنظيم الاقتصادي الاحتسابي. لأجل ذلك تستخدم هذه الرسالة الإطار الغزالي الذي يتكون من الأركان الأربعة في الاحتساب (المحتسب، والمحتسب عليه، والمحتسب فيه ونفس الاحتساب) و تناول الأبعاد الأربعة الواسعة للتنظيم الاقتصادي وهي: (أ) المنظم الاقتصادي (2) التجار أو رجال الأعمال (3) قضايا التنظيم الاقتصادي (4) أساليب التنظيم الاقتصادي. ورفضت نتائج هذه الرسالة التصور السائد للمحتسب بحيث أنه هو الذي كان يقوم دائماً بالنهاي عن المنكر. وطالما هذا التنظيم يتعلق بالاقتصاد، فكان المحتسب في الغالب قد قام بالأمر بالمعروف وليس بالنهاي عن المنكر. ومن أجل ذلك قد كان منهجه السائد وقائياً وليس عقابياً. الأمر الذي لا انفصال له من هذه الملاحظة هو درجة رجال الأعمال الاقتصادية الخاصة والمميزة، حيث أصبحوا كلهم محتسب عليهم بمجرد انشغالهم بالأعمال الاقتصادية، وليس المنكر هو السبب الرئيس في تعرضهم للاحتساب. من أبعاد التنظيم المهمة الأخرى التي اختفت غالباً هي المقاييس الاقتصادية. وباستخدام منهج الاستقراء لرسائل الحسبة وتجاهل حضور المحتسب المسيطر فيها، فإن الدراسة تكشف عن بعض المقاييس الاقتصادية التي تعتبر النتائج الطبيعية والتنموية المصاحبة للتنظيم التاريخي للحياة الاقتصادية. وهكذا توصلت هذه الرسالة إلى هدفها المهم نحو وضع شرح مفصّل ومرتبٍ لتنظيم الحياة الاقتصادية الذي قامت به "الحسبة" في المجتمع الإسلامي في الماضي. وهذا الشرح يمكن أن يزيد من أفهامنا عن مقصود هذا التنظيم وطريقة تنفيذه.

APPROVAL PAGE

The dissertation of Abu Saim Md. Shahabuddin has been approved by the following:




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DECLARATION

I hereby declare that this dissertation is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Abu Saim Md. Shahabuddin

Signature..........

Date.....09. 06. 2009.....

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– 9TH TO 14TH CENTURY C. E.**

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Dedicated to
the *traders* whose trade
by God's leave grows into a goodly tree
that bears temporal and eternal fruits.

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All praise be to Allah (*'azza wa jalla*) Who has created man, taught him the use of pen and speech, and Who grants wisdom (*hikmah*) to whom he pleases. Peace and Blessings of Allah be upon His Prophet Muhammad (*sallallāhu 'alaihi wa sallam*) who delivered to humanity *the* Truth, more importantly, demonstrated how to live the Truth and why it is significant to live so.

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TRANSLITERATION TABLE

b = ب	z = ز	f = ف
t = ت	s = س	q = ق
th = ث	sh = ش	k = ك
j = ج	ṣ = ص	l = ل
ḥ = ح	ḍ = ض	m = م
kh = خ	ṭ = ط	n = ن
d = د	ẓ = ظ	h = ه
dh = ذ	‘ = ع	w = و
r = ر	gh = غ	y = ي

Short: a = ا ; i = ي ; u = و

Long: ā = آ ; ī = إ ; ū = و

Diphthong: ay = آي ; aw = او

CHAPTER ONE

INTRODUCTION

BACKGROUND OF THE STUDY

People in the modern era are more or less familiar with concepts such as human rights, human dignity, the common good, liberty, democracy, and consumer rights. Justice appears to be an underlying concept in all these, and it occupies a central place in discourses of all kinds – intellectual, political-legal, socio-cultural, religious and economic – in the current world. Indeed, justice has been a universal concern for all human beings since time immemorial. This universal concern is, in a sense, a confirmation of the reprehensible but perennial natural tendency in any human society towards inequality and privilege as opposed to equality and justice for the ordinary members of a society.

Laws and legal systems exist in human societies to keep detrimental human tendencies in control and ensure justice. Complete absence of laws and legal orders is inconceivable in any human society – be it highly liberal or highly conservative. Every society develops codes of conduct for various aspects of life, and simultaneously requires and encourages its members to observe these codes. In addition, society devises supervisory mechanisms to ensure that people adhere to these codes or standards of behaviour and the deviations from these standards are within the limit of tolerance or acceptability. This general social-legal phenomenon implies that a systematic regulation of human activities and behaviour for the sake of common good is a necessity. Since economy is a part of a society, economic activities are necessarily subject to regulation. This applies to all human societies, although the

forms of regulation and their extent usually vary from society to society, time to time.

Economic life in Islamic society during the middle ages was not an exception to the general rule of regulation. Considerably rich literary production on *ḥisbah* in that time is an indication of this fact. The institution that was in charge of the supervision of moral behaviour in general, and economic or market supervision in particular, was known as *al-Ḥisbah*. The chief of *al-Ḥisbah* was called the *muḥtasib*. Some works on *ḥisbah* deal in a general way with its theoretical and philosophical issues, while other works deal with practical and technical details of supervision of the crafts, trades and professions. The latter works were primarily devised to facilitate the *muḥtasib* in his work in a particular time and place.¹ Thus, *ḥisbah* literature is a useful source for the study of the nature and development of economic regulation in the Muslim world during the middle ages. The present dissertation under the title “*Regulation of Economic Life in Ḥisbah Literature – 9th to 14th century C. E.*” studies the economic regulation in the Islamic society during this period based on *ḥisbah* literature.

HISBAH AND ITS LITERATURE

The locution in the title of the dissertation, viz. *ḥisbah* literature, in fact, sets the major parameter of our study; hence, it needs some clarification and elaboration.

¹ See the section written by Cl. Cahen and M. Talbi on the sources, origin and duties of *ḥisba* in *Encyclopaedia of Islam*, 2nd edition, “*Ḥisba*.” For similar classification of *al-Ḥisbah* literature, see Sabri Orman, “Sources of the History of Islamic Economic Thought,” *Al-Shajarah*, vol. 3, no. 2 (1998):2-3. See also Muhammad Akram Khan, “*Al-Ḥisbah* and the Islamic economy” in Taqī al-Dīn Aḥmad Ibn Taymīya, *Public Duties of Islam: The Institution of the Ḥisba*, trans. M. Holland (Leicester: The Islamic Foundation, 1992), 139. Arabic title of Ibn Taymīya’s work is *al-Ḥisbah fī al-Islām*.

Meaning of *Ḥisbah*

A common useful way to try to understand the meaning of a word is to look at its linguistic root. *Ḥisbah*, being an Arabic word, is more amenable to root-based analysis of its meaning. As is clear from the word, three letters, *ḥā'-sīn-bā'* form its verbal root *ḥasaba* which means, among others, to compute; to count; to measure; to reckon. *Ḥisbah*, a noun derived from this root, literally means, among others, arithmetical problem; sum; reward; recompense. Another noun, derived from a verbal form (*iḥtasaba*) of the same *ḥā'-sīn-bā'* root, is *iḥtisāb* that appears in *ḥisbah* literature as a handy substitute term for *ḥisbah*. *Iḥtasaba* means, among others, to take into account; to disapprove; to anticipate a reward in the Hereafter by adding a pious deed to one's account with God.² Having this brief account of literal meanings, we turn to al-Sunāmī who in his *Niṣāb al-Iḥtisāb*³ discusses the meaning of both *iḥtisāb* and *ḥisbah* at some length and reveals a thread that holds the two terms together tightly. His discussion offers us intriguing insights into the connection between the literal and the terminological meanings of the terms, and points to functional imports of the term *ḥisbah*.

Al-Sunāmī at first mentions a pair of general meanings of each of the terms; then he particularizes the meanings by way of an explication, and thereby shows the way to explore conceptual-functional connection between the two. As regards *iḥtisāb*, the first meaning is *counting or reckoning something* and the second is *disapproving of something*. These general meanings take particular-contextual significations when *something* is particularized. Predictably, the *something* in the second meaning of

² See, for example, The Hans Wehr Dictionary of Modern Written Arabic (New York: Spoken Language Services, Inc., 3rd edn., 1976), 176.

³ 'Umar ibn Muḥammad al-Sunāmī, *Niṣāb al-Iḥtisāb*, ed. Mu'īl Yūsuf 'Izz al-Dīn (Riyād: Dār al-'Ulūm, 1982), 12-13; for English translation, see David H. Partington, "The Niṣāb al-Iḥtisāb: An Arabic Religio-Legal Text," (Ph.D. dissertation, Princeton University, 1961), 42-43.

iḥtisāb is abandonment of a good and/or commitment of an evil. The act of disapprobation (*iḥtisāb*) of something is thus ordering the *suppression of abandonment* when good is abandoned, and ordering the *suppression of doing* when disapproved act is done. Obviously, *iḥtisāb* is then the other name of commanding right and forbidding wrong. For al-Sunāmī, therefore, the second meaning of *iḥtisāb* is as if naming the effect by the cause – the cause being the act of disapprobation (*iḥtisāb*) and the effect being the suppression of the abandonment of a good and/or the suppression of the doing of an evil. Now having this conceptualization of the act of disapproving of something, the *something* in the first meaning logically purports to be an outcome of the act – a transcendental outcome, a reward with God. In this way, the first general meaning takes a specialized import: one who performs *iḥtisāb* “he reckons, by ordering the good and prohibiting the bad, a reward with God.”

Similarly, the word *ḥisbah* has two meanings. Whatever has been said of the first meaning of *iḥtisāb* equally applies to the first meaning of *ḥisbah*. The second meaning, showing an exact correspondence to the second meaning of *iḥtisāb*, signifies a general *regulatory action* (*tadbīr*) directed towards *something*. When this *something* is particularized by the same meaning as before, this general regulation turns to be a regulatory action of specialized import, which intends to uphold the ‘sacred law’ in a Muslim society. The table (1.1) below may be helpful to have a glance at overlaps and interlinks of the meanings of *iḥtisāb* and *ḥisbah*. Note that through the second meanings of these terms, it is possible to explore a functional interconnection of them, i.e. *ḥisbah* is the agent of the act of disapprobation. To put it slightly differently, *ḥisbah* is a functional platform from where regulatory actions are issued to produce the desired effects of *iḥtisāb*.