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**AL-HISBA IN THE THOUGHT OF
IBN AL-UKHUWAH**

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This is to certify that ~~Dr.~~/Sis. Azah Abd. Rahman (8807)
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AL -HISBA IN THE THOUGHT OF IBN AL -UKHUWWAH

under my supervision. The relevant comments made on the
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I have pleasure in recommending that the Graduate Committee
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AL-HISBA IN THE THOUGHT OF IBN AL-UKHUNNAH

CONTENTS OF THE PAPER

INTRODUCTION	page no.
I. Meaning of Hisba	5 - 9
II. Ibn al-Ukhuwah - the Scholar	9
III. Objectives and Scope of the Paper	10
 SECTION ONE: MA'ALIM AL-QURBA FI AHKAM AL-HISBA	
I. The Perspective.	11 - 29
II. Philosophical foundation of the thought.	12
A Basic Islamic creed	
B Values and their economic impact	13
III. The market distortions.	16
IV. The economics of public welfare.	20
V. Selected economic views:	
A. Riba (interest)	23
B. Consumer protection	25
C. Importance of education, knowledge and experience for skilled workers and professionalism.	27
D. Maintenance of justice for free and fair play of market forces.	28

SECTION TWO : APPLICABILITY AND TRUST OF THE IDEAS

- I. Justice in market economy. 30
- II. Public interest.
- III. Preventive measures.

CONCLUSION 32

REFERENCES 36

INTRODUCTION

Theories about market distortions are always associated with perfect allocative equilibrium in an exchange economy.¹ There are two fundamental requirements for the attainment of this perfect equilibrium situation. The first is that there should not be any monopoly power in which the firms could set their prices. They are the price-takers and only market mechanisms can determine such prices. Secondly all the economic units must have sufficient, if not perfect, information about the market. If these two conditions are fulfilled the markets are said to be in an ideal condition. Further the economic agents are said to behave rationally by pursuing their self-interest which will ultimately benefit the society as a whole.²

Although the market mechanism can theoretically be said to be guided by the invisible hand but it is not uncommon in real life to see that economic agents, motivated by their self-interests, would sometimes use their market power or an opportunity to take advantage of a certain weakness of other

¹See any microeconomics text, for instance, Mansfield, Edwin, **Micro-economics: Theory & Applications**, (New York & London: W.W.Norton & Company, 1982) p.411-417. Gerard, Bill, **Theory of the Capitalist Economy: Towards a Post-Classical Synthesis**, (London: Basil Blackwell, 1989) p.26-36.

²Hollander, S., Adam Smith and the Self-interest Axiom, in **Adam Smith: Critical Assessments**, edited by John Cunningham Wood, (London & Canberra: Croom Helm, 1984) p.546-560.

economic agents. It may be done either by using market power or by compromising the quality of the product being transacted or by writing clauses in the contract that may give one party undue advantage of the other. When this happens market mechanism cannot fulfill the promise it has in the theory. In such situation the need is felt for some kind of an institution which can protect the interests of all the three parties; namely: the buyer, the supplier and the society. It is only in recent times that the world has noted the emergence of institutions such as consumer protection agencies, trade unions, etcetera.

In the Islamic tradition the institution of al-Hisba has a rich heritage of contribution to the efficiency of the market. In this paper we focus on the thought of Ibn Ukhuwah on al-Hisba. A study of his thought enables one to appreciate the remedies suggested by him to face market imperfections. It gives the physical as well as the spiritual contents that can help in bringing the market closer to the ideal condition.

Malaysia is studying very seriously the institution of al-Hisba to be implemented in the country.³ The idea arises due to the consciousness of the consumers and the rising trends in trade associations in protecting their rights. It is also providing additional measures to improve the

³Utusan Malaysia, Wednesday 27th. May, 1992.

functioning of the market. This is not to say that Malaysia is facing any serious social or political problems. It is for the government to improve the efficiency and productivity of her public sector services. Sweden, Australia, New Zealand, the US and Pakistan already have various agencies that perform different Hisba functions. In Sweden one such agency is known as "Ombudsman". Ombudsman has a duty to look after and check various types of mismanagement and injustices done by government agencies. Hence it assumes a wide scope of power to research and report, and make recommendations to the authority. More appropriately this institution protects the public interest.

I. THE MEANING OF HISBA

Al-Hisba was considered⁴ to be an important guideline for an efficient market system. In fact it formed the most important characteristic of market structure since the early Islamic generations. Al-Hisba was fully established as an institution during Mamluk period (1260-1382 AD).⁵ This is marked by three writers who wrote on the same issue during almost the same time.⁶ The most oft-quoted works on this

⁴Ibn Taimiyah, **Public Duties in Islam**, translated by Muhtar Holland, (London: The Islamic Foundation, 1982) Editor's Preface by Kurshid Ahmad, p.10.

⁵Islahi, Abdul Azim, **Economic Concepts of Ibn Taimiyah**, (London: The Islamic Foundation, 1988) p.23-49.

⁶The 12th century A.D.: Ibn Taimiyah (1265 - 1328 A.D.)
 Ibn Qayyim (1292 - 1350 A.D.)
 Ibn Ukhuwwah (- 1329 A.D.)

topic are those of Ibn Taimiyah (1265-1328 AD). However Al-Shaizari (died 1193 AD) was found to be the pioneer in this field who developed a detailed manual and stated standard procedures for the entire functioning of the institution of Hisba⁷.

Market practices during the Mamluk period were not very good.⁸ To control the spreading of bad traits, the governor himself used to go around the market places to ensure free and fair play of market forces. Later this responsibility was fully assumed by a high government officer called MUHTASIB who was the head of the office of Hisba in the government.

The function of al-Hisba is expounded from the following Qur'anic verses:

And there may spring from you a group of people who invite to goodness and enjoin right conduct (ma'aruf) and forbid indecency (munkar). Such are they who are successful. (3 : 104)

And the believers, men and women, are the protecting friends one of another. They enjoin the right conduct and forbid the wrong and they establish worship and pay

⁷Aidit Ghazali, **Islamic Thinkers On Economics, Administration and Transaction**, (Kuala Lumpur: Quill Publisher, 1989) Chap.5, p.86-92.

⁸Islahi, Op.Cit., Chapter 1, for detail elaboration of economic progress during this period.

the poor due, and they obey Allah and His messenger.

(9 : 71)

It is in the context of these verses that the institution of Hisba assumes importance. It is not an individual's work because the coverage of virtues and vices are all-embracing. The performance of this function requires a large army of preachers, overseers, who may be appointed to persuade citizens to abide by religious and civic laws, social and moral duties and to dissuade them from violating these laws. It is in fact this function of the state which facilitates the setting up of a truly Islamic society motivated by moral force.

Although the above verses, in particular "*amr bil ma'ruf wa nahy anil munkar*" are directed to every Muslim but it had been made an obligation upon a section of the community⁹ (*fard al-kifaya*). Majority of muslim scholars were of the opinion that this obligation should be the responsibility of the head of the community or public officers.¹⁰

Al-Hisba has been defined as "to enjoin what is commonly known as good (*al-ma'ruf*) and forbid what is commonly known as evil (*al-munkar*). Especially in those areas where the authority of governors, judges or other specified officers

⁹Ibn Taimiyah, Op.Cit., p.23.

¹⁰Ibid., p.24-25.

cannot reach or no ruling has yet existed"¹¹. According to Al-Mawardi, "enjoining what is good when that has ceased to be the custom and forbidding what is bad when that has become the custom."¹²

Among the span of control of al-Hisba are markets and common morals, which includes spiritual order with the aim of justice and righteousness according to the principles of Islam and the commonly accepted values of the time. Specifically these functions include inspection, verification and control as practised in a modern society by agencies and ministries of trade, agriculture, education and social police. Muhtasib was made in charge of the office of al-Hisba.

Like most other writers on al-Hisba, Ibn Ukhuwah emphasized its economic role. The main functions of al-Hisba institution are to ensure enough provision of necessaries, to supervise industries, trade and other services, to inspect weights and measures and the standard of products, as well as to put a check on hoarding, gambling, usurious practices and many other economic crimes. These functions have made Muhtar Holland define al-Hisba as "*a moral as well as a socio-economic institution in Islam through which public life is regulated in such a way that a high degree of*

¹¹Islahi, Op.cit., p.187.
¹²Ibid.

public morality is attained and the society is protected from bad workmanship, fraud, extortion and exploitation."¹³

II. IBN AL-UKHUWWAH - THE SCHOLAR.

Ibn al-Ukhuwwah is the popular name, however he is Diya' al-Din Muhammad Ibn Muhammad Ibn Ahmad al-Qurashi al-Shafi'i.

Little is known about Ibn al-Ukhuwwah's biography. The most up-to-date account with many new facts, is still fragmentary. The most significant exposure is made by Ruben Levy who translated the original text from Arabic into English (The preface dated 1937)¹⁴.

It is believed that Ibn al-Ukhuwwah had an Egyptian origin and his last name signifies that he was from al-Shafie's Mazhab (sect).¹⁵ The year of his demise also shows that he lived in the same period with that of Ibn Taimiyah and Ibn Qayyim¹⁶. During these years Egypt was ruled by the Mumluk dynasty under the influence of Abassid caliphate.¹⁷

¹³Ibn Taimiyah, Op.Cit., back cover.

¹⁴This particular book is the major source for the discussions in this paper.

¹⁵The Encyclopedia of Islam, Vol.III, Leiden: E.J.Brill and London: Luzac & Co., p.960.

¹⁶The 12th century A.D.: Ibn Taimiyah (1265 - 1328 A.D.)
 Ibn Qayyim (1292 - 1350 A.D.)
 Ibn Ukhuwwah (- 1329 A.D.)

¹⁷Nothing else is known about this significant scholar, but he is being quoted by several writers (e.g M.N. Siddiqi) for his elaborations on al-Hisba.

III. OBJECTIVES AND SCOPE OF THE PAPER.

This paper tries to analyse the economic thought of Ibn al-Ukhuwwah,¹ a rarely known but an important scholar of Islam. In the process we hope to outline the basic principles of the Islamic Economic system as perceived by Ibn Ukhuwwah and to highlight its operational aspects. It is also our aim to analyse the relevancy of his ideas in solving the contemporary economic problems, in particular the market distortions.

The scope of the analysis of the paper will basically be based on the book, entitled "*Ma'aliq Al-Qurba fi Ahkam al-Hisba*". Section One will discuss the philosophical foundation of the thought, market distortations, welfare economics and views on some selected issues. Section Two will look at the relevance of the thought to our contemporary economic activities.

¹He is Diya' al-Din Muhammad Ibn Muhammad Ibn Ahmad al-Gurashi al-Shafi'i, popularly known as Ibn al-Ukhuwwah.

SECTION ONE

*MA'ALIM AL-QURBA FI AHKAM AL-HISBA***I. The Perspective**

The circumstances surrounding the publication of the *Maa'lim al-Qurba* are oblivious. It addresses the heads of the community, the administrators, the governors and the leaders in general. The book discusses the need for them to supervise the economic activities in a highly developed state. The book, originally written in Arabic, has been translated into English after more than 600 years of the author's demise.

This great work on Hisba contains sets of guidelines for the conduct of Muhtasib. It is in fact a manual or standard code of duty of Shariah base, for specific trade and craft of the society. The target readers of the book are wide ranging. Besides the Muhtasib, it addresses the public in general especially with regards to safeguarding the public morality, ensuring the purity of faith and protecting the public against trickery, charlatany, fraud and extortion.

The book also reflects aspects of civilization of the people during the author's time.¹⁹ It gives a vivid picture of a Muslim town in the 12th century A.D with its workshops and markets, mosque and public baths, guilds and officials.²⁰

¹⁹see foot-note 7.

²⁰Aidit Ghazali, *Op.Cit.*, p.86-92.

The book contains seventy chapters, describing various types of professions, detailing various forms of market distortations including tricks and frauds practiced in connection with merchandise and types of adulteration in articles of commerce.

II. The Philosophical foundation of the thought

A. THE BASIC ISLAMIC CREED

Belief in Allah provides the basic creed that promotes Islamic Economic behaviour. Allah is the watchful, the protector of all things and is just - these are among the characteristics of God, which act as a reminder and inspire not only the administrators but the policy makers and those involved in the management of any organization; to restrain themselves from bad moral behaviour. The moral fibre of Islam forms important characteristic features of the economic teaching of the Qur'an and Hadith. Among the important moral concepts which act as inspiring force are prohibition of interest,²¹ unjust practices, frauds,²² cleanliness²³ and honesty.²⁴ Avarice, greed, selfishness and exploitation²⁵ are pronounced as economically harmful

²¹Ibn al-Ukhuwah, Translated by Ruben Levy, Chapter 6.

²²Ibid., Chapters 7-8.

²³Ibid., Chapters 11-39.

²⁴Ibid., Chapters 10 and 51.

²⁵Ibid., could be traced in most of the chapters.

and even sinful. The economic structure envisioned by Qur'an and Hadith is thoroughly infused with religious and moral principles. It is this economy that Ibn Ukhuwah tried to establish, with the properly defined functions of the Hisba institution.

The most important characteristics of a system based on a divine creed and revealed ethics are the concepts of good and bad, virtuous and vices, and lawful and unlawful; which play key roles in determining the broad contour of an economic system. The work of Ibn Ukhuwah illustrates such a system laid by Shariah. The concept of permissibility does not confine to the commodities only, but includes professions and other activities in general.²⁶ This great work also provides the guidelines to determine the desirability or otherwise of any practices that may be introduced as a result of socio-economic changes and technological improvements.²⁷

B. VALUES AND THEIR ECONOMIC IMPACTS

²⁶Ibid., Chapter 36 - money-changers; chapters 37-8 - goldsmiths, coppersmiths blacksmith; chapter 39 - shoemakers; chapters 46-7 - teachers, preachers; chapter 51 - judges.

²⁷The time of Ibn Ukhuwah and his contemporaries, Ibn Taimiyah and Ibn Qayyim, could be regarded as the most highly developed economy of the period.

The question of ethics in economics is fundamental from an Islamic perspective. Trade involves various techniques and transactions, and can fall victim to many unjust practices under the excessive force of 'self-interest'. Selling and buying must follow certain codes, failure to observe such codes will result in unlawful activities.

Earnings may be acquired through personal effort or through mutual cooperation.²⁸ Man should be honest, just and equitable in earning and in dealing with others. He must abstain from injustice and transgression. All activities which are disapproved by God must be avoided. Anything which is against the principle of justice and equity or is detrimental to the society as a whole is prohibited.²⁹ These include acquisition through theft, plunder, interest and gambling. Practices which cause independency and immorality are prohibited. These include earnings through abused professions³⁰, wine, mal-practices and prostitutions. Defrauding, such as earnings through under weighing and measurement, breach of trust, misappropriation, deluding publicity and advertisement, getting a favourable court decree to obtain other people property wrongfully through bribe and tapering with documents of business or debt are sinful.³¹

²⁸Ibid., chapters 6 and 53.

²⁹In contrast to the principles of welfare economics, i.e. Pareto optimal. Also related to principles of injury in the thought of Al-Shatibi. (Op.Cit., Aidit, p.137)

³⁰Ibid., Chapter 4, today's example is the employment children of under age.

³¹Ibid., chapters 50-1, computer crimes and cheating of cheques are current examples.

Justice is one of the basic characters of Islamic Economics. It is a legal requirement and persuades its followers to be prepared to behave magnanimously in claiming their right and be generous in discharging their duties. Justice and equity must be maintained and injustice and inequity be avoided. They are made operative in economic life as in other spheres of activities in Islam.

Cooperation too can be a basis for division of labour. Ibn Ukhuwah illustrates²² that the enforcement of law of *ṣa'aruf* and *ṣunkar* is classified into three parts:-

- i. those relating to rights of God.
- ii. those relating to rights of man.
- iii. those relating to both (God and man).

The first category covers religious activities such as punctuality of prayers, organization of congregations (juma'a and Id solats) and maintainance of mosques. The second category is further divided into two classes - those affecting the community affairs and those affecting the individual. The former is directed to the richer citizens to restore water supply, repair mosques and to pay taxes. The third category is related to affairs concerning municipal administration such as keeping the roads and streets clean, lit at night and preventing the environment of factory and housing areas which could damage the

²²Ibid., p.26.

community interest. The implication of this is that, there is a division of labour in any organisation for its proper function.

III. Market Distortions

As mentioned in the beginning of the paper, market imperfection is basically caused by two main factors, i.e. monopoly power and misinformations. Ibn Ukhuwwah posits these factors. To him markets must be allowed to act as freely as they can. However there are limits, the boundaries beyond which will hinder their proper functions.

1. Monopoly.

Activities of sellers and buyers who dictate their own terms irrespective of the conditions of demand and supply. Monopoly signifies a position of compulsion on the part of the seller leaving no option to the buyer but an unreasonable deal. Ibn Ukhuwwah describes :

" It is to the public welfare that butchers shall not combine together, in order that they shall not agree on one price." (p.33)

"A practice forbidden is that of collusion - the offering of a high price by a person not intending to purchase but only to mislead others." (p.41)

"It is forbidden to have a collusive agreement with a draper whereby when a merchant comes with goods the draper points out the crier as an honest broker to whom the goods are entrusted and who receives an agreed sum from the draper." (p.43)

2. Advertisements and Publicity.

Information is closely related to advertisement and publicity. Ibn Ukhuwah quoted the example of the Prophet (s.w.a.) who criticized a seller for displaying good dates on top of bad dates.³³ Publicity can be intra-mural, i.e. display of goods in shopping centres, and extra-mural, i.e. boosting through advertisement and propaganda out-side trading centres. Modern techniques achieve this objective through hand-bills, telephones, jumble sale, house-ware and garage sales, neon-signs, films, newspapers, radio and television advertisements. These are effective ways, but excessive publicity may frequently infatuate the customers and mislead them. More than this, constant publicity, to a large extent creates artificial demand for the product which actually is not genuinely needed by the consumers. In view of the real advantages in the publicity, it was inexpedient to forbid it. However moral restrictions are inevitable in order to avoid their abuse; hence the duty of the Muhtasib.

³³Ibid., p.42.

3. The Middlemen.

The intermediaries, such as brokers with their under-cover practices interrupt the order of the market. The criers and brokers simply make money without really participating in the real business.³⁴ Besides they stop the incoming traders from negotiating the new products at lower price than the market price.

4. Hoarding.

This is another activity that speculate the prices of commodities and hence distort market operation. The supplier holds the stock of commodity in demand in order to create artificial scarcity and affect a rise in price. When price thus rises, the hoarder releases his stock to sell at a higher price level.

5. With respect to weights and measure Ibn Ukhuwah described several ways to control the malpractices of shortweighing. Among which he notes:

".....the pans must not be touched by the thumb with fraudulent intent."

"Scales must not be suspended from the hand. A trick used in weighing gold is to blow into the pan containing it or to fasten a fine strand of hair to

³⁴Ibid., p.42.

one side. Another trick is known as al-Mu'adidi. It consists of having a balance with a steel beam but with a 'tongue' of soft iron which can be inclined." (p.28)

6. Ibn Ukhuwah also notes several cases of adulteration of food stuffs and beverages.

"No dough shall be baked until it has risen; unleavened bread lies heavy in the scales and on stomach. Bread should not be deficient in salt and should have seeds of good kind (eg. cumin) sprinkled over it. It should not be withdrawn from the oven until it is well baked but it must not be burnt." (p.30)

"Barley-water must be made from spring barley and no additions of water must be made.....the maker of barley water must wash his vessels every day. Shutters of reeds or palm-fronds must be placed over his shop at night in order to keep out of dogs. Jars which have grown old and smell evilly must not be used. The tinning must be renewed every three months."(p.38).

The restrictions on charging monopoly price, advertisement and publicity, role of middlemen, hoarding and speculation, including forward trading, make possible for a freer market operation.

For a proper functioning of the market:

1. Buyers and sellers must have enough information before entering into the market, especially the prices.
2. Trading must not be made outside the market, for this will lead to under-ground activities (such as hoarding, haram goods).
3. Hoarding must be strictly forbidden for it will push the prices up and deprive those in need.
4. Trading must be made with proper bargain, i.e. mutual consent.²⁰

IV. The Economics of Public Welfare

The very success of the moral and legal system of Islam depends upon satisfactory performance of public duties. That is why public welfare has always formed the datum of the fully-fledged implementation of Islam. But Islamic concept of public welfare is different from the modern concept. The modern concept tries to secure the greatest good for the greatest number of people,²¹ but in reality the

²⁰Ibid., chapter 4, p.18-24.

²¹Koutsoyiannis, A., *Modern Microeconomics*, (London: The Macmillan Press, 1979) p.525.

disparity between rich and poor is widening. The rich is growing richer and the poverty worsens. The Pareto-optimal criteria of public welfare too cannot guarantee that no one is worse-off by making a person better-off.³⁷ Even most government policies involve changes that benefit some and harm others.

The Islamic economic system introduces prosperity with austerity and affluence but abstinence.³⁸ Islam treats economic pursuit as a virtuous act but inculcates in its followers a spirit of self-control and contentment. It allows the attainment of the highest economic position but does not leave them to monopolize those riches. Islam compels such people to share their fortune with others through the law of inheritance, subsistence and zakat. Although sadaqa and gift are voluntary acts but they are valid forms to transfer wealth.

The Islamic concept of public welfare calls for the satisfaction of the basic needs of life. These basic needs are food, clothing, shelter, education, medical care and insurance against unforeseen events. A man may be forced to set aside ethical, moral and religious principles if compelled by hunger and need, and this poses a challenge to

³⁷Ibid., p.526.

³⁸For further detail see Ziauddin Ahmed, Munawar Iqbal and M.Fahim Khan (ed.) **Fiscal Policy and Resource Allocation in Islam**, especially papers written by Abidin Ahmed Salama and F.R.Faridi.