

PUBLIC DUTIES IN ISLAM:
THE INSTITUTION OF HISBA

EDITOR'S PREFACE

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In the name of Allah, the Merciful, the Mercy-Giving

Editor's Preface

The economic challenge of Islamic resurgence has many ramifications; one of them is to develop Islamic guidelines for economic management and policy making in a contemporary Muslim society. Muslim economists and policy makers have a unique role to play. On the one hand they have to study and analyse the problems faced by a contemporary economy and society, and on the other they have to delve into the sources and traditions of Islam to imbibe Islamic values and principles with a view to applying them in seeking solutions to contemporary problems. An Islamic economy in the fifteenth century Hijra is going to be a new and modern experiment directed towards achieving the goals of Islam and translating its values and principles into contemporary practice. The Qur'ān and the *Sunna* are the primary sources for this guidance, yet light has to be drawn from the entire classical literature as well as from experiments made in the past. *Al-Hisba* is one such institution which deserves to be examined carefully, both in theoretical as well as historical literature. This is a topic on which quite a wealth of material is available, full of penetrating insights for the modern economists and policy makers.

An Islamic economy has four distinct characteristics:

First, an Islamic economy is an integral part of an Islamic society and state and cannot be studied or managed in isolation. It is the entire social system, and not the economy in isolation, that is the concern of the Muslim policy maker. As such, while

examining and prescribing for the economy, its linkages with the entire social system have to be kept in sharp focus. Instead of an isolationist approach, a more holistic approach has to be adopted in an Islamic framework.

Secondly the material and the physical forces have to be studied in their inalienable relationship with the moral and the spiritual factors. In fact, according to the Islamic approach the material and the moral are two sides of the same coin, and not two different entities. The moral and the spiritual expresses itself in the form of the material and the physical. As such, the moral criteria has to play a decisive role in making the final choice. As ethical principles provide the framework for decision making, policy variables in an Islamic economy are not confined to the physical factors but include moral commitment and all aspects of human motivation as well as ways and means, moral, physical and legal, to influence it. This makes Islamic economics unique.

Thirdly, the Islamic economy is neither wedded to the idea of absolute right of private ownership and enterprise nor to total nationalisation of all means of production and consumption. It affirms the right of the individual to own property and engage in private enterprise but transforms the concept of ownership into that of trusteeship and subjects individual freedom to social regulation and control. An Islamic economy is neither a *laissez faire* economy nor a centrally-controlled command economy. It is a private enterprise economy with social management and guidance.

Fourthly, the real objective of an Islamic economy is the establishment of a just social order. The purpose of social control and management is to see that justice is done to all participants in the economic activity, in fact to all members of the society who are protected against exploitation of every form and order. The rights and obligations of people have been spelled out by the *Shari'a* and an effort has been made to inculcate a new approach in all members of the society to see that while they fulfil their own needs they do not injure anyone else's rights; in fact, they contribute towards fulfilling their rights. The Islamic vision of a just and prosperous society is one of an enterprising and sharing community which values increase in virtue and equity

more than mere increase in the flow of goods and commodities.

The efficient working of such an economy would very much depend upon a high degree of idealism and moral motivation in the individual and the existence of effective social institutions which on the one hand arouse the social consciousness of the people and educate them to follow the rules of the game and on the other are capable of guiding individual and collective action and wherever necessary, influence it in the desired direction. The ideal situation is one of self-management at all levels, but as any human society is subject to human failings, the presence of social institutions including the state is integral to the Islamic social programme, so as to intervene whenever necessary to protect the interests of the weak and to ensure justice for all. *Al-Hisba* is one such institution developed by the Muslims to help regulate the society and economy and ensure the full flowering of the Islamic norms of behaviour.

The function of *hisba* is integral to the Islamic socio-economic scheme, and the Prophet Muhammad (Allah's blessings and peace be upon him) took pains to see that individual and public conduct of the people in the nascent society of Madina conformed to the moral and legal injunctions of Islam. The function of *hisba* consists in maintaining public law and order and supervising the behaviour of the buyers and sellers in the market with a view to ensure right conduct and protect people from dishonesty and malpractices. The purpose was to regulate public life in such a way that a high degree of public morality is attained and the society is protected from bad workmanship, fraud, extortion, exploitation and charlatanism. Initially this function was performed in a number of ways but gradually the institution of *hisba* took shape. A special department of *hisba* came into existence with a hierarchy of state officers under the leadership of a *Muhtasib* who was responsible for the maintenance of public morality and economic ethics. Protection of the *sūq* (market) was one of his responsibilities. He was to check not only for bad workmanship or faulty measures or discrepancy in quality but also to see that there was no arbitrary manipulation of the market, by resort to hoarding, under-cutting, over-charging, obstructing supplies, etc. The *Muhtasib* wielded enormous powers to

reprimand and penalise deviant behaviour. He enjoyed moral as well as legal authority.

There is a wealth of literature dealing with *ḥisba*. This literature can be classified into two groups, one dealing with the theory of *ḥisba*, its rationale, philosophy, functions and limitations and the other providing guidance to the *Muḥtasib* and his functionaries as to the rules of the game. Literature of the latter kind contains many a manual for the *Muḥtasib*, spelling out do's and don'ts for him as well as identifying the types and forms of malpractices he might encounter. Although these manuals are of a practical nature and as such coloured by the practices of a particular period, their theoretical relevance lies in the fact that by cataloguing activities it enables the analyst to formulate a clearer view of the functions of *al-Ḥisba*. This literature remains instructive because although forms may change, functions continue.

It is in view of the importance of the institution of *al-Ḥisba* and its relevance to the problems of managing an economy that we are presenting the English translation of Imām Ibn Taymīya's scholarly work: *al-Ḥisba fī al-Islām*. The book relates to the first category of literature on *ḥisba*, i.e. its theory and philosophy.

Imām Taqī al-Dīn Aḥmad Ibn Taymīya was born at Harran on 10 Rabi' al-Awwal 661 H (22 January 1263) and died in Damascus on 20 Dhu'l Qa'da 728 (26 September 1328). He was a man of sublime character and towering scholarship. A *ḥāfiẓ* of the Qur'ān and an authority on the *Ḥadith* literature, he is acknowledged as one of the greatest thinkers in Islamic history. Although a Ḥanbalī theologian and jurisconsult, his influence is not confined to any one school of Islamic thought. He is accepted as an authentic spokesman of Islam and has been one of the chief sources of inspiration for the revivalist thought and movements during the last seven hundred years.

At the age of 20 he became a professor of Ḥanbalī law and a teacher of the Qur'ānic exegesis. Very soon he was acknowledged as an authority in a number of fields of Islamic learning. He had an innovative mind and was able to reconstruct Islamic thought on the pure foundations of the Qur'ān and the *Sunna*. He was a man of firm convictions and suffered for his independence of thought and action. He spent many years in prison because he

refused to barter his conscience or dance to the tunes of the political courts. Ibn Taymīya was a versatile genius. He authored a large number of books on a variety of subjects, all related to different aspects of Islamic thought and practice. It would be unfair to suggest that *al-Ḥisba* is one of his major works; yet it remains a lasting contribution in the field of Islamic social studies. Ibn Taymīya did not write this book as a discourse on economics. He delineated upon a cardinal institution of Islam, *al-Ḥisba*, and expounded its theoretical foundations and its socio-economic functions.

Al-Ḥisba is a moral as well as a socio-economic institution. Its *raison d'être* lies in the Qur'ānic command of *al-'Amr bi'l Ma'rūf wa-n-nahī 'an al-Munkar*, that is, to ordain good and forbid evil. This underscores the need for the state and its different organs. The book spells out different stipulations of *'amr bi'l ma'rūf* and can justifiably be claimed to be a treatise on sociology, political science and economics. It is full of insights for persons belonging to these disciplines. We are offering it in our series on Islamic economics because of the lurid light it throws on some of the critical issues of economics. Yet it would not be fair to assume that the relevance of this book is confined to this field of study.

Ibn Taymīya wrote in an age when economics as a science had not yet been born. But one is astonished at his perception of the market mechanism and the forces of supply and demand and of the problems of market imperfections and distortions and their consequences for the consumers and producers. He is concerned with the questions of monopoly, hoarding and price manipulations and is eager to establish the principle of just price and just wage. His primary concern is with the establishment of a just economic order. He is so concerned with the attainment of justice that he says that a regime committed to justice even if it has certain moral failings is superior to a regime of 'pious tyranny'. He says that "God upholds the just state even if it is unbelieving, but does not uphold the unjust state even if it is Muslim".

Ibn Taymīya expounds a broader concept of *ribā*, to see that exploitation, in all its forms, is brought to an end. He prefers determination of prices by the market forces of demand and supply – provided there is perfect knowledge and the market is free from

rigidities and deformities. If such is not the case, then he does not hide his preference for some kind of intervention in the market to ensure a just price.

Ibn Taymiya expounds a theory of collective good and emphasises that certain industries are in the nature of collective obligation and their development is a must for the progress of the Muslim society. He develops his theory of *ḥisba* in the wider context of a just society and an efficient market economy. It is this concern of the author with economic issues which prompted us to present this book in our series on Islamic economics.

Public Duties in Islam: The Institution of the Ḥisba is an English translation of *al-Ḥisba fī al-Islām* by Shaykh al-Islām Imām Taqī al-Dīn Aḥmad Ibn Taymiya. The present study has been prepared by the Islamic Economics Unit of the Islamic Foundation, Leicester. It has been a pleasure for me to oversee work on this book and finally edit it for publication. The translation has been beautifully done by our brother and colleague Mr. Muhtar Holland, who was with us in the Islamic Foundation as a Senior Research Fellow during 1978-81 and is presently director, Nur al-Islam Islamic Centre, New York. The preparation of the original manuscript in its present form, its classification into ten chapters, grouped into two parts, all chapter headings, titles for the parts, and division into sub-sections including sectional headings have been done by the editor. As the author had written the entire work as one lengthy discourse it was thought advisable to classify the material into parts, chapters and sections without changing its order or sequence. The author's epilogue which was included in the Arabic edition as an appendix has been incorporated in the English version as the concluding chapter. In suggesting appropriate chapter and section headings, the editor has tried to highlight the relevance of the contents of that section to certain issues and themes of Islamic economics. As the original book was written to expound certain basic concepts of Islam and delineate the spirit and ethos of the social order of Islam the editor thought it fit to pin-point the relevance of this material to economics by inserting appropriate sectional headings. The reader will realise that the author's ideas have great relevance to certain problems of economic policy-making. We also hope this

book will help a modern reader of Islam to understand how a great mind of the seventh century of the Islamic era grappled with some of the socio-economic problems of his time. We have also included as an appendix a paper by Mr. M. Akram Khan, a fellow of the Islamic Economics Unit, on the Institution of *al-Hisba* in Islam.

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