

**THE THOUGHT OF ABU YA'LA CONCERNING FINANCIAL
SUPERVISION
(STUDY ON THE BOOK OF *AL-AHKĀM AL-SULTĀNIYYAH*)**

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ABSTRACT

This study aims to find out the thought of Abu Ya'la concerning public finance supervision according to Islamic law in the book of *al-Ahkām al-Sultāniyyah*. This research is qualitative descriptive research with library research method and juridical-philosophical approach. The results showed that construction of Abu Ya'la's thought on public finance supervision was included in the system of hisbah, i.e. the system of the indication and the possibility to involve two parties; (1) an independent institution created by the government to supervise the financial management of the state, whether structural in the state institutions or independent purely and non-structural; (2) other parties involved in this efforts is society, so that the entire community of people are kindly participated in the oversight efforts. In Abu Ya'la's perspective, a Hisbah institution is not a *pro justitia* institution that does not have the right to impose criminal or civil sanctions, but has the right to listen to public complaints about the deviation of the state's financial management and cooperate with law enforcement agencies making claims.

Keywords: Abu Ya'la; Supervision; Public Finance; *Al-Ahkām al-Sultāniyyah*.

ABSTRAK

Penelitian ini bertujuan untuk mengetahui konstruksi pemikiran Abu Ya'la tentang pengawasan keuangan negara menurut hukum Islam dalam kitab *al-Ahkām al-Sultāniyyah*. Penelitian ini merupakan penelitian dekriptif kualitatif dengan metode studi pustaka (*library research*) dan pendekatan yuridis-filosofis. Hasil penelitian menunjukkan bahwa konstruksi pemikiran Abu Ya'la tentang pengawasan keuangan negara menurut hukum Islam, tercakup di dalam sistem *hisbah*, yaitu (1) sistem amar makruf dan nahi mungkar yang melibatkan dua pihak, lembaga independen yang dibuat oleh negara untuk mengawasi pengelolaan keuangan negara, baik yang bersifat struktural di dalam institusi-institusi negara, atau yang bersifat independen murni dan non struktural; dan (2) pihak lain yang dilibatkan di dalam upaya pengawasan yaitu masyarakat secara luas, sehingga seluruh lapisan masyarakat diharap berpartisipasi di dalam upaya pengawasan ini. Dalam perspektif Abu Ya'la, lembaga *hisbah* bukan merupakan institusi *pro justitia* sehingga tidak memiliki hak menjatuhkan sanksi pidana atau perdata, namun memiliki hak untuk mendengarkan aduan masyarakat tentang penyimpangan pengelolaan keuangan negara dan bekerjasama dengan lembaga penegak hukum buat mengajukan tuntutan.

Kata kunci: Abu Ya'la; Pengawasan; Keuangan Negara; *Al-Ahkām al-Sultāniyyah*.

INTRODUCTION

Islamic law provides the concept of public finance since the early periods of the Muslims. The scholars of Islamic jurisprudence have sparked their ideas on this matter in the classical books passed down to the next generation of centuries. The requirements of moral integrity for government and state managers, in addition to skills and building system in each field of government, it is in fact have also been discussed and contained in the classic books of Islamic scholars, especially those that discuss Islamic political science (*al-siyasah al-syar'iyah*). The book *al-Aḥkām al-Sulṭāniyyah* written by Abu Ya'la is a representation of the concept that has been revealed.

Abu Ya'la is a classical Islamic scholar who pays attention to this problem. Abu Ya'la al-Farra' (380-458 H/990-1066 AD) possess a Hanbali ideology. Kitab *al-Aḥkām al-Sulṭāniyyah* has advantages that other books do not have, especially in the discussion of madhhab fiqh. In addition to setting the requirements for moral integrity for state administrators, this book also contains an explanation of constitutional laws from the perspective of Islamic law in various fields of government, such as the field of appointing heads of state, the defence field and state security, and the field of justice. Public finance is one of the areas that receive great attention in this book, both in the form of state budgets and state tasks related to finance, such as public services and the private sector. Therefore, it is deemed important to conduct further studies on public finances according to Islamic law based on the perspective of Abu Ya'la which is relevant to be applied in the current context. As far as the author observes, previous research and studies related to this have not yet been carried out by scientists, academics and practitioners in Indonesia.

Several previous researches and studies related to the thoughts and contributions of Abu Ya'la in the Islamic world have been carried out. (Haris, 2010) inspects the thoughts of Abu Ya'la in the field of Islamic politics. In his research, he mentions that among some Islamic political thinkers such as al-Mawardi, at-Taftazani, al-Gazali, Ibn Taimiyah, Abu Ya'la al-Farra' and others assert that political opposition is an inseparable part of the Islamic political system. From some of many interesting figures to be appreciated, especially the idea of opposition is Abu Ya'la al-Farra' and

Ibn Taimiyah. This is because both are figures who have the same ideology as Hambali, and have very different backgrounds. According to him, Islam gives freedom to its people to make corrections and improvements in order to achieve a system of government that is just and respects human rights. The term that developed in the modern political system to translate the spirit of the idea from the above desire is known as opposition. In Abu Ya'la's view, a participatory opposition movement in the form of cooperation and control over the government is permissible. Likewise, Ibn Taimiyah has the same view concerning this issue.

Azeez et al., (2014) analyze the contributions and thoughts of Abū Ya'lā in various fields such as politics, education, literacy, law, and Islamic civilization. This study found that Abū Ya'lā was not only a *muhaddits* and Qur'anic scholar but also a prominent fiqh scholar among the Hanbali schools who contributed a lot to the development of science such as in the fields of sciences of jurisprudence, legal studies, Quranic interpretation, Prophetic traditions, theology and other fields in the development of Islamic civilization (*Islamic Civilization*).

Azeez & Isholaii (2017) examines the views and thoughts of Abu Ya'la bin al-Farra' regarding the character of truthfulness in the appointment of a *qāḍi* (a judge) by an imam (leader of the Islamic State). In this study, it is known that Abu Ya'la's thoughts on this matter are guidelines that can be adopted in contemporary society in appointing *qāḍi* a credible to a judicial position. Abu Ya'la argues that a *qāḍi* can be appointed if it meets the requirements, namely: (i) male (*al-dzukuriiyyah*); (ii) maturity and sound mind (*al-bulūgh wa al-'aql*); (iii) independent status (*al-huriyyah*); (iv) Islam; (v) fair (*al-'is*); (vi) perfection of the senses of hearing and sight (*al-salāmah fī al-sam'i wa al-baṣari*); and (vii) knowledge (*al-'ilmu*)

Although some of the researches mentioned above have tried to examine the thoughts and contributions of Abu Ya'la in the Islamic world, these studies do not examine and analyze Abu Ya'la's thoughts on state financial governance, especially in terms of state financial supervision. Therefore, to fill this *gap*, this research was carried out with the aim of knowing the construction of Abu Ya'la's thoughts regarding the supervision of state finances according to Islamic law in the book *al-Aḥkām al-Sulṭāniyyah*. This research is expected to contribute scientific thinking to public

finances, in line with the aims and objectives of the state being enforced, namely to provide justice and welfare to the public in general.

RESEARCH METHOD

This research is a qualitative descriptive with a method of library research (Iskandar & Aqbar, 2019). This study uses a multidisciplinary approach (Rohmatika, 2019; Tabrani, 2014), namely: (i) a juridical approach, which is an approach using the arguments of the Qur'an and the hadith of the Prophet Muhammad. And the legal aspects contained therein. The use of these arguments is interpreted using textual, contextual, and intercontextual methods, thus forming a general construction of public finances according to Islamic law; and (ii) a philosophical approach, namely an approach that explains the *maqāṣid* (intentions and objectives) of Islamic law in the field of finance, so that the benefit side of Islamic law for mankind can be more prominent.

The sources of data in this study came from readings of classic books of Islamic scholars, books of contemporary Islamic scholars, scientific journals in the field of public finance in particular the perspective of Islamic law, papers, and reports sourced from the internet. The sources of this data are sorted by type, then collected based on their relevance to this research. The type of data used in this study is qualitative data by collecting facts sourced from the literature, directly from the book *al-Aḥkām al-Sulṭāniyyah*, and indirectly from the arguments of the Qur'an and the hadith of the Prophet Muhammad, contained in the books of hadith collections, as well as the views of *fuqoha* of various schools to complement the data contained in the book of *al-Aḥkām al-Sulṭāniyyah*.

RESULT AND DISCUSSION

Kitabal-Aḥkām al-Sulṭāniyyah

The book of *al-Aḥkām al-Sulṭāniyyah* is one of Abu Ya'la's scientific legacies to Muslims throughout history, has similarities with the book of Imam al-Mawardi, but this book specifically explains the laws of state constitution and government from the

point of view of Hanbali jurisprudence, raising the narrations of Imam Ahmad ibn Hanbal's thought as well as the branches of the Hanbali school (Al-Farra, n.d.).

The discussion on government law has been written by Abu Ya'la in another book, namely *al-Mu'tamad*, yet because the discussion tends to be theological, so Abu Ya'la discusses the laws of government from fiqh point of view, arranged specifically in a book, namely *al-Aḥkām al-Sulṭāniyyah*. Abu Ya'la said in the introduction to this book, "I have written concerning the laws of *Imamah* (leadership) in the book *al-Mu'tamad*, I explained concerning the sect of the *mutakallimin* and their arguments, as well as our arguments (Hanbali), and answers to the arguments of the *mutakallimin*. "I, then chose to compile a special discussion of these laws *Imamate* in a book, I omitted the mention of different opinions and their arguments, as contained in the previous book, and added new articles on the discussion of rights and the obligations of a head of state" (Al-Farra, n.d.).

The book of *al-Aḥkām al-Sulṭāniyyah* by Abu Ya'la consists of seventeen chapters, which contains discussions on the *Imamah* and *Khilafah*, the authority of the head of state, state power over the management of Hajj, state power over the appointment of *imam* in mosques, public finances, which includes sources of state revenues and expenditures, state power over assets, earth, water, and precious metals. This book also contains a discussion of state administration, such as setting the salaries of civil servants, the appointment and dismissal of civil servants, as well as a discussion of the differences in status between Islamic countries, such as the state of *al-Haramain*, the country *Hijaz*, and other countries. The discussion of this book also includes an explanation of criminal laws, the devices, and institutions of prevention against acts of violation (*al-Hisbah*).

Public Finance According to Abu Ya'la

Abu Ya'la divided the discussion of public finance, namely public revenues, public expenditures, and supervision of the public treasury. According to Abu Ya'la, state income from zakat sources can be extended to assets that are similar to the types of zakat, such as all the wild plants that are not planted by humans, such as pistachios and wild bee honey (Al-Farra, n.d.). The types of zakat, namely: gold and silver,

livestock, plants, minerals, mining goods, and commercial assets, on this basis contain a broad scope and are not limited to types and types that have evidence from the Qur'an and hadith directly. The development of various types of zakat assets for public income can use the figurative method of analogy so that this source can be maximized, although still by maintaining the principle of not taking other people's property in an improper way.

Abu Ya'la said that public expenditures should be managed in a trustworthy manner so that all sources of public revenue which expenditures and distributions have been regulated by the Qur'an and Hadith should be followed properly, while the other distributions which are not regulated directly by the Qur'an and Hadith, then it can be regulated by the government. Abu Ya'la mentioned the difference of opinion among the Hanbali scholars regarding the release of excavated assets, namely treasures found in the ground that have been stored since ancient times. There are two narrations from Imam Ahmad bin Hanbal in this matter, the first narration states that it is issued according to the zakat post, and the second narration states that it is issued according to the expenditure post-distribution *fay'I* (Al-Farra, n.d.). Excavated goods in the Hanbali school are categorized as obligatory zakat assets, although there is another difference of opinion among them regarding who is obliged to issue zakat on this type of property, whether the landowner or the inventor of the excavation (Al-Farra, n.d.). Excavated goods are categorized as zakat obligatory assets when referring to the history of the first Imam Ahmad bin Hambal, namely the post of expenditure is zakat expenditure post, it means that it is purely issued to zakat recipients without accommodating *ijtihad* or government policies, while when referring to the second history, namely the post is expenditure *fay'i fact*, so there is room for the government to provide a budgetary policy for spending, due to the one-fifth of the share is returned to the public treasury, which it is for the Prophet.

Abu Ya'la also reminded the administrators of the state to maintain the trustworthiness, so that they do not receive wealth for the work the state has given them, except as a salary from the state. Abu Ya'la emphasized that gratifications and bribes are not the rights of public administrators and are illegal for them to accept, while their status is corruption. The difference between gratification and bribe or

risywah is that gratification or gifts are given to public administrators on a voluntary basis, while bribes or *risywah* are given on the basis of request and pressure (Al-Farra, n.d.). This act is considered untrustworthy, so it must be abandoned and can be subject to sanctions or penalties, which are further discussed in the supervisory system.

Abu Ya'la's Thoughts on Supervision of Public Finance (System of al-Hisbah)

Al-hisbah or the system of *amar makruf* and *nahi mungkar* includes supervision of public finances, in the field of public revenue as well as in the field of public expenditure. Supervision of the country's income sector emphasizes the legality and illegality of the country's revenue sources, while supervision of the country's production area emphasizes the construction and development of the system.

According to Abu Ya'la, supervision of public finance in the system *hisbah* includes:

1. The Inspection of Public Finance (Auditing)

The Inspection of public finance aims to ensure that there are no deviations in public revenues, both in terms of sources, and in terms of the implementation of the collection of assets for the state treasury from these sources. The duty of the inspector, in this case, is to ensure that the public financial manager carries out his duties in accordance with the provisions of Islamic law, namely not to take assets from the state treasury except from sources permitted by Islam and to collect these assets with full justice and avoid tyranny. Inspection of state finances also aims to ensure that there are no irregularities on public expenditures so that all assets issued by the state are believed to be channelled according to their designation, in order to achieve the main objective of financial management, namely the general welfare of the community.

Rasulullah always instructs the zakat collector officers to act fairly in carrying out their duties and not oppress the owner of the zakat obligatory property, such as not consolidating the property of someone who is separated in order to burden him with the zakat obligation, as conveyed by the Prophet in a hadith narrated by Anas bin Malik ra:

عَنْ أَنَسٍ أَنَّ أَبَا بَكْرٍ رَضِيَ اللَّهُ عَنْهُ كَتَبَ لَهُ فَرِيضَةَ الصَّدَقَةِ الَّتِي فَرَضَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، وَلَا يُجْمَعُ بَيْنَ مُتَفَرِّقٍ وَلَا يُفَرَّقُ بَيْنَ مُجْتَمِعٍ خَشْيَةَ الصَّدَقَةِ . رواه البخاري

Translation:

"Abu Bakr ra. wrote the guidance of the Prophet saw. (About zakat on livestock): it is not permissible to unite between those who are separated and it is not permissible to separate between those who are united, because they are worried about being affected by the obligation of zakat. " HR. al-Bukhari.

Rasulullah also reminded Mu'az bin Jabal ra. not to take the best part of the zakat property for the fulfillment of its obligations, as narrated by 'Abd Allah bin' Abbas ra:

... فَإِذَا فَعَلُوا فَأْخَبَرْتَهُمْ أَنَّ اللَّهَ فَرَضَ عَلَيْهِمْ زَكَاةً مِنْ أَمْوَالِهِمْ وَتُرِدُّ عَلَى فُقَرَائِهِمْ فَإِذَا أَطَاعُوا بِهَا فَخُذْ مِنْهُمْ وَتَوَقَّ كَرَائِمَ أَمْوَالِ النَّاسِ. رواه البخاري ومسلم

Translation:

"... if they have done so, then convey that God has set on their property the obligation of zakat that will be returned to the poor, then if they have obeyed you, take the zakat, but avoid taking the best kind of human wealth". (Narrated by Bukhari and Muslim)

The

Prophet also advised those who came to ask for zakat to be trustworthy, and not to take zakat unless they feel entitled to it, as narrated by 'Ubaid Allah bin al-Khiyar:

كَانَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَفْسِمُ يَوْمَ الْفَتْحِ فَجَاءَهُ رَجُلَانِ فَسَأَلَاهُ فَأَصْعَدَ فِيهِمَا بَصْرَهُ وَصَوَّبَهُ - أَوْ قَالَ وَأَخَذَرَهُ - وَقَالَ مَعْمَرٌ يَعْنِي جَلْدَانَ فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَهُمَا مَا شِئْتُمَا وَلَكِنْ لَا حَقَّ فِيهَا لِعَيْنِي وَلَا لِقَوِي مُكْتَسِبٍ .
رَوَاهُ عَبْدُ الرَّزَّاقِ

Translation:

"Rasulullah divided the property (zakat) in the time of *Fathu Makkah* of (Conquest of Mecca), then two people came to meet him and also asked for a share of the property, the Prophet then looked up and noticed the condition of these two people, then said: "Please take (if you feel entitled), but there is no right in this property for people who are self-sufficient and able to work." (HR 'Abd al-Razzaq)

The advice of the Prophet became a guidance for public financial auditors, which is to ensure that there are no deviations in public revenue and expenditure. The sources of national income that are clean, fair and free from acts of tyranny, as well as the production of the country that is straightforward and in accordance with its

provisions, are a guarantee for the blessings of Allah SWT in the form of public welfare.

2. The Guidance for Public Financial Management

Guidance of state financial managers is carried out in the following ways:

a. *Appointment of Public Finance Managers Who Have Skills and Integrity*

Pembinaan terhadap pengelola keuangan negara dimulai dengan penunjukan pejabat dan aparat di bidang ini yang profesional dan memiliki integritas. Sistem akuntansi yang baik diyakini tidak akan berjalan semestinya apabila pengelola sistem itu bukan dari kalangan orang-orang yang memiliki kapabilitas dan integritas yang baik pula. Kecakapan dan integritas ini menjadi salah satu pilar keuangan negara yang lurus dan berhasil, oleh karena itu didapati di dalam sejarah pemerintahan umat Islam perhatian yang besar terhadap permasalahan ini. Di dalam kitabnya, yaitu *al-Kharaj*, al-Qadi Abu Yusuf (w. 182 H/798 M) memberikan arahan kepada Khalifah Harun al-Rasyid (Al-Farra, n.d.):

The guidance of public financial managers begins with the appointment of officials in this field who are professional and have integrity. It is believed that a good accounting system will not work properly if the system manager is not from among people who have good capability and integrity. This skill and integrity has become one of the pillars of a straight and successful public finance, therefore it is found in the history of Muslim government that great attention is paid to this problem. In his book, *al-Kharaj*, al-Qadi Abu Yusuf (d. 182 AH/798 AD) gives directions to *Khalifah* Harun al-Rashid (Al-Farra', 1403 H):

أَمَّا الْعَشُورُ فَرَأَيْتُ أَنْ تُؤَلِّيَهَا قَوْمًا مِنْ أَهْلِ الصَّلَاحِ وَالذِّينِ وَتَأْمُرُهُمْ أَنْ لَا يَتَعَدَّوْا عَلَى النَّاسِ فِيمَا يُعَامِلُونَهُمْ بِهِ فَلَا يَظْلِمُهُمْ وَلَا يَأْخُذُوا مِنْهُمْ أَكْثَرَ مِمَّا يَجِبُ عَلَيْهِمْ وَأَنْ يَمْتَثِلُوا مَا رَسَمْنَاهُ لَهُمْ

Translation:

"As for *al-'usyur*, then I see the requirement for you to appoint the implementers from among people who have religious integrity and goodness, you order them not to overdo their interactions, they must not oppress others and do not take more than the obligations of merchants (to be paid), and they must comply with the system we have set...".

In fact, it can be seen that the weakness of the moral integrity and morals of state financial managers can cause misery to the people, corruption is more common because of low integrity, even though the management system is good or the academic ability of the manager is qualified. A good system can even be damaged with for personal and group interests if the moral integrity of the manager is bad.

The institution of *hisbah* in the field of public finance does not have the authority to appoint or promote officials and apparatus in this field or other fields, the authority for such appointment belongs to the head of government or other people who are entrusted with it. The institution of *hisbah* in this case can be a giver of recommendations to the head of government or together with other institutions that are entrusted with the task of selecting people who will occupy positions as managers of public finance. The institution *hisbah* has the responsibility to oversee the process of handing over this management trust to people who have good skills and integrity.

b. Performance Evaluation

Rasulullah gave an example for monitoring and evaluating the performance of the companions assigned to a particular task, such as the evaluation of the Prophet, which he did to Ibn al-Lutbiyyah, a companion assigned to collect zakat from the tribe of Bani Sulaim, as narrated by Abu Humaidal-Sa'idira:

عَنْ أَبِي حُمَيْدٍ السَّاعِدِيِّ رَضِيَ اللَّهُ عَنْهُ قَالَ : اسْتَعْمَلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَجُلًا عَلَى صَدَقَاتِ بَنِي سُلَيْمٍ يُدْعَى ابْنُ اللَّثْبِيَّةِ فَلَمَّا جَاءَ حَاسِبَهُ قَالَ هَذَا مَا لَكُمْ وَهَذَا هَدِيَّةٌ ، فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : فَهَلَّا جَلَسْتَ فِي بَيْتِ أَبِيكَ وَأُمِّكَ حَتَّى تَأْتِيكَ هَدِيَّتُكَ إِنْ كُنْتَ صَادِقًا ، ثُمَّ حَاطَبْنَا فَحَمَدَ اللَّهُ وَأَثْنَى عَلَيْهِ ثُمَّ قَالَ : أَمَا بَعْدُ فَإِنِّي اسْتَعْمَلُ الرَّجُلَ مِنْكُمْ عَلَى الْعَمَلِ مِمَّا وَلَا يَبِي اللَّهَ فَيَأْتِي فَيَقُولُ هَذَا مَا لَكُمْ وَهَذَا هَدِيَّةٌ أُهْدِيَتْ لِي أَقْبَلُ جَلَسَ فِي بَيْتِ أَبِيهِ وَأُمِّهِ حَتَّى تَأْتِيَهُ هَدِيَّتُهُ وَاللَّهِ لَا يَأْخُذُ أَحَدٌ مِنْكُمْ شَيْئًا بِغَيْرِ حَقِّهِ إِلَّا لَقِيَ اللَّهَ يَحْمِلُهُ يَوْمَ الْقِيَامَةِ فَلَا عَرَفَنَ أَحَدًا مِنْكُمْ لَقِيَ اللَّهَ يَحْمِلُ بَعِيرًا لَهُ رُغَاءٌ أَوْ بَقْرَةٌ لَهَا خُورٌ أَوْ شَاةٌ تَبْعَرُ ، ثُمَّ رَفَعَ يَدَهُ حَتَّى رُئِيَ بَيَاضُ إِبْطِهِ يَقُولُ : اللَّهُمَّ هَلْ بَلَّغْتُ . رواه البخاري ومسلم

Translation:

From Abu Humaidal-Sa'idira., that the Prophet commissioned a friend, named Ibn al-Lutbiyyah, to manage the zakat of the Banu Sulaim tribe, when he returned (to the city of Medina), Rasulullah evaluated it, then he conveyed the wealth he had obtained and separated some of the property while saying: This property belongs to the state, and this property is mine as a gift from people. Rasulullah reprimanded him and said:

"Why don't you just stay at home and wait if someone gives you a gift". Rasulullah then gave a speech to us, starting with praises to Allah, and said: "I appointed one of you to a task, which Allah also imposed on me, then when he came back he said this is a state treasure, and this one is a gift for me, doesn't he just stay home while waiting for someone else to give him a present? *Wallahi*, do not any of you takes wealth without a just reason, except on the Day of Resurrection, he will be responsible for it, indeed I will know one of you on the Day of Resurrection with camels, cows and goats that make sounds." Rasulullah raised his hand so that his white armpits were visible, while saying: "O Allah, I have conveyed". (Narrated by Bukhari and Muslim).

The evaluation carried out by the Prophet here is important because financial management requires legal clarity for doubtful cases (*syubhat*), such as gifts from state officials, whether they are categorized as gratuities (bribes) or not. State officials have the right to know the *shar'i* laws in cases like this so as not to fall into mistakes that can undermine their integrity.

This evaluation was also the direction of al-Qadi Abu Yusuf to Khalifah Harun al-Rashid, as mentioned in the book *al-Kharaj* about the performance of the tax collectors on imported goods (*al-'usyur*):

... ثُمَّ تَنْقَعُ بَعْدُ أَمْرَهُمْ وَمَا يُعَامِلُونَ بِهِ مَنْ يَمُرُّ بِهِمْ وَهَلْ يُجَاوِزُونَ مَا قَدْ أُمِرُوا بِهِ

Translation:

"... then you evaluate afterwards their working conditions and (whether) their interactions with the passing traders are correct or they go beyond what was ordered".

Evaluation of the performance of state financial managers is part of the guidance and supervision of the running system that has been built so that it runs well and in accordance with its purpose.

c. *The Role Model*

The example of a leader can be an effective coaching system for the officials under him, not least in the field of public finance. This method of coaching has been once practiced by Muslim leaders in their rule, as narrated from *Khalifah* 'Umar bin' Abd al-'Aziz (d. 101 H/720 A.D.) who returned state property after receiving the leadership trust, even up to the ring which he wore and belongings for his wife when married. The value of the annual income of 'Umar bin' Abd al-'Aziz before serving as

caliph was four hundred thousand dinars, but after becoming caliph this value decreased drastically to reach the value of four hundred dinars in a year so that the value of wealth left by 'Umar bin 'Abd al-'Aziz to his heirs during his tenure as caliph only three hundred dirhams only (Al-Dimasyqi, 1993).

This prudence (*wara'*) is an example for every official within the scope of his government, so as to produce prosperity for the community. The era of 'Umar bin 'Abd al-'Aziz's reign was also recorded in the history of Muslims as an era of public prosperity, the government made a policy to distribute direct cash assistance to the community, but they were not willing to accept it because of the good level of welfare and the nature of putting other people first than for their own sake.

d. Reward and punishment

The development of public financial management by giving rewards for work performance or sanctions for violations has been practiced by Islamic governments. 'Umar bin 'Abd al-'Aziz removed al-Jarah bin 'Abd Allah al-Hakami, as in the following narration:

عَزَلَ عُمَرُ بْنُ عَبْدِ الْعَزِيزِ الْجَرَّاحَ بْنَ عَبْدِ اللَّهِ الْحَكَمِيِّ عَنْ إِمْرَةِ خُرَّاسَانَ بَعْدَ سَنَةٍ وَخَمْسَةِ أَشْهُرٍ وَإِنَّمَا عَزَلَهُ لِأَنَّهُ كَانَ يَأْخُذُ الْجِزْيَةَ مِمَّنْ أَسْلَمَ مِنَ الْكُفَّارِ وَيَقُولُ أَنْتُمْ إِيمَانًا تُسَلِّمُونَ فِرَارًا مِنْهَا فَامْتَنَعُوا مِنَ الْإِسْلَامِ وَتَبَيَّنُوا عَلَى دِينِهِمْ وَأَدَّوْا الْجِزْيَةَ فَكَتَبَ إِلَيْهِ عُمَرُ إِنَّ اللَّهَ إِيمَانًا بَعَثَ مُحَمَّدًا دَاعِيًا وَلَمْ يَبْعَثْهُ جَابِيًا وَعَزَلَهُ.

Translation:

"'Umar bin 'Abd al-'Aziz removed al-Jarah bin 'Abd Allah al-Hakami from the position of governor of the Khurasan region after serving for a year and five months, because he continued to collect the tax *jizya* from non-Muslims who had converted to Islam, under the pretext that: "You convert to Islam only because you do not want to pay *jizyah*", so that some of them persist with their non-Muslim religion and refuse to convert to Islam, and continue to pay the *jizyah*. 'Umar bin 'Abd al-'Aziz finally wrote him a letter: "Verily Allah sent Muhammad peace be upon him as a caller (to Islam) and did not send him as a tax collector", then removed him from his position".

This firm policy becomes important so that other state officials can take lessons, that the government system that has been built should get their attention to run it as well as possible. Caliph Harun al-Rashid also received guidance from al-Qadi

Abu Yusuf in order to implement this method of guidance as to the appointment of officials, as *atsar* following:

... فَإِنْ كَانُوا قَدْ فَعَلُوا ذَلِكَ عَزَلْتِ وَعَاقَبْتِ وَأَخَذْتَهُمْ بِمَا يَصِحُّ عِنْدَكَ عَلَيْهِمْ لِمَظْلُومٍ أَوْ مَأْخُودٍ مِنْهُ أَكْثَرَ مِمَّا يَجِبُ عَلَيْهِ، وَإِنْ كَانُوا قَدْ انْتَهَوْا إِلَى مَا أَمَرُوا بِهِ وَتَجَنَّبُوا ظُلْمَ الْمُسْلِمِ وَالْمُعَاهِدِ أَنْتَهُمْ عَلَى ذَلِكَ الْأَمْرِ وَأَحْسَنْتِ إِلَيْهِمْ فَإِنَّكَ مَتَى أَتَيْتِ عَلَى حُسْنِ السِّيَرَةِ وَالْأَمَانَةِ وَعَاقَبْتِ عَلَى الظُّلْمِ وَالتَّعَدِّي لِمَا تَأْمُرُ بِهِ فِي الرَّعِيَّةِ يَزِيدُ الْمُحْسِنَ فِي إِحْسَانِهِ وَنُصَحِهِ وَارْتَدَعَ الظَّالِمَ عَنِ مُعَاوَدَةِ الظُّلْمِ وَالتَّعَدِّي

Translation:

"... If they have done that, which is to collect tax *al-'usyur* excess of what has been set, then you can remove them from the position and you can give them sanctions and return the property that has been taken from the oppressed or from people who pay more, but if they have done their duty in accordance with your command and avoided wrongdoing against Muslims and non-Muslims, then appoint them to the position and reward their work with better things, because indeed if you reciprocate with more goodness for good deeds and the trustworthy, as well as punishing for acts of tyranny and excess of the policies given to the people, then this will surely increase their motivation to continue to do good, and prevent the oppressors to repeat similar acts".

This method is considered effective for building the confidence of officials and state financial managers to always do their best in the mandate they carry, as well as eliminating the "nerve" of officials and state financial managers to commit injustice and corruption. The award given for the achievement of a state financial manager can be in the form of promotion to a higher position, or the opportunity to improve his ability with the opportunity to study at a higher level of education, but preferably not in the form of money or material, because usually such an award is not so educate, while the sanctions that can be imposed are only administrative sanctions, because the supervisory agency is not a law enforcement agency.

In ancient times, supervision of public finance was still carried out directly by the head of government, as has been explained from the hadiths of the Prophet Muhammad, then developed during the time of 'Umar bin al-Khattab ra. By appointing the certain people to carry out this supervisory mandate directly in areas outside the center of government. This shows that this supervisory task can continue to be developed in a professional firm, the state in this case can form an independent

supervisory institution outside the work units engaged in state finances, although the *hisbah* system in Islamic law also provides authority broadly for all citizens to participate in this supervision. The nature of the independence possessed by the supervisory agency is expected to be able to provide audit reports in an objective and transparent manner, while public supervision can be conveyed to this institution or to other institutions that have more authority than the supervisory agency, such as law enforcement agencies if deviations are found in the management of this finance.

The system *hisbah* in Islamic law in principle gives the right to all citizens to participate in overseeing all forms of good and bad deeds in society, not only in the financial sector but generally applies to all fields in society. The participation of all citizens in this supervision is limited only to visible actions (*zahir*), citizens do not have the right to be in control of actions that are hidden and for the public, such as conducting inspections for public finance reports. The right to supervise actions that are hidden in nature belongs to the supervisory agency assigned to it.

According to Abu Ya'la, the *hisbah* system is *amar makruf* and *nahi munkar*, or an invitation to do good and control over evil, especially when the good things have begun to be abandoned and many violations occur. The *hisbah* system is carried out by a special institution formed by the state with the responsibility for improving the social system of the community, yet everyone can participate in these functions and tasks even though they are not involved in institutions formed by the government. The *hisbah* system invites every citizen to be involved in the process of improving and monitoring the values of goodness in the life of the nation, as well as preventing damage that will harm everyone.

The *hisbah* system mentioned by Abu Ya'la does not specifically discuss the supervision of public finances, yet rather emphasizes the system of *amar makruf* and *nahi munkar* in relation to the rights of Allah SWT and the rights of mankind, as well as mutual rights between Allah SWT and human beings. This system is essentially an effort to ground the values of goodness in the community and control evil actions or violations. This *hisbah* system is participatory, that is, it involves all citizens in overseeing the implementation of good values, and prevents the spread of violations in society, although the government is expected to form a special institution to carry out

this role, in addition to the direct participation of every citizen and society. Abu Ya'la divides the *hisbah* system into two parts, namely first, *amar makruf*, and second *nahi munkar*. *Amar makruf* is divided into three parts, namely: all good deeds related to the pure rights of Allah SWT, all good deeds related to the pure rights of fellow human beings, and all good deeds related to mutual rights between Allah SWT and mankind.

All good deeds related to the rights of Allah SWT purely, revolves around the level of worship and creed, so that it is not directly related to the supervision of public finances. The good deeds related to the rights of fellow human beings, such as for public interest, namely repairing roads and public facilities for citizens, and for some special interest, such as cases of debts between fellow citizens. According to Abu Ya'la, the rights of fellow human beings that are in the public interest, are the responsibility of the agency officials *hisbah* to ask the state to address them from the state treasury, if the budget for that is not fulfilled, the *hisbah* institution has the right to ask private parties who have the ability to cover it, while the rights of human beings for special interest, it is the duty of the institution *hisbah* to resolve them peacefully and not through legal way, namely by mediating between the two parties and pressing those who commit injustice to repent and restore the rights of others. The *hisbah* institution in this case does not have the authority to impose sanctions, because this institution is not a judicial institution.

Abu Ya'la's view, in this case, explains that the *hisbah* system in supervising public finance, has a coaching side that aims to build awareness among the community, that the aspired welfare is not only the responsibility of government managers but requires participation from all citizens. Guidance in public finances according to this view in writing is not only intended for the financial managers, but also for all citizens. This view of al-Qadhi Abu Ya'la can also be understood that if all citizens are expected to participate in realizing people's welfare, while their financial management capabilities are limited, then the participation of public financial managers in carrying out their duties as well as possible in accordance with the mandate of the nation and state, indeed the demands are even greater. Expectations for state financial managers to be trustworthy, become one form of guidance that is a part of supervision.

All good deeds related to mutual rights between Allah SWT and mankind, revolve around these forms of practice that have two sides to this right, such as marriage, so that they are not directly related to the supervision of public finances. The supervision related to the third part of this form of *amar makruf* emphasizes more on maintaining a balance between God's rights and the rights of human beings.

The second part of the *hisbah* system is *nahi munkar*. Abu Ya'la divides *nahi munkar* into three parts, namely all acts of violation related to the rights of God purely, (including the system of worship, the prohibitions of God, and transactions system), all acts of violation related to the rights between human beings purely, and all acts of violation related to the common rights between Allah SWT and mankind. *Nahi munkar* which is part of the *hisbah* system and is related to the supervision of public finances directly is found in the part of the pure rights of Allah SWT And in the part of the pure rights of fellow human beings. Al-Qadhi Abu Ya'la gave an example of the violation of the payment of zakat from obligatory zakat which is a form of worship to Allah SWT, Usury transactions which are a violation in the field of *muamalah*, and market price intervention which is a violation of human rights.

The examples mentioned by Abu Ya'la show that the *hisbah* institution plays a major role in conducting audits of public finances, from the aspect of public revenue, so as not to interfere with assets whose sources are not clear, especially from sources prohibited by religion. Islam, and from the aspect of state expenditure so that it is distributed according to its designation. State managers may not oppress their people in order to cover up the state treasury or misappropriate state assets for personal, family, and group interests. The act of tyranny against citizens in the financial sector, and acts of corruption will only lead to misery, and the state to the brink of destruction, conditions that are contrary to the purpose of the state, which is the welfare of the citizens as a whole.

Aspects of auditing public finance and aspects of fostering public finance managers are the main tasks and functions of the supervision sector in this regard. These two aspects are discussed by Abu Ya'la in his book, *al-Aḥkām al-Sulṭāniyyah*, although he does not specifically mention them as a form of supervision of public finances. The *hisbah* system presented by Abu Ya'la in this book, in essence, gives the

government the authority to establish a special institution to carry out this function and also gives the right to all citizens to participate in overseeing public finance, as well as giving signals to all managers of public financial units to be trustworthy, and transparent in carrying out their duties.

CONCLUSION

According to Abu Ya'la, supervision of state finances, according to Islamic law is included in the *hisbah* system, namely the *amar makruf* and *nahi munkar* system involving two parties, an independent institution created by the state to oversee the management of public finance, both structural in nature state institutions, or those that are purely independent and non-structural. Another party involved in the supervision effort is the community at large, so that all levels of society are expected to participate in this monitoring effort. In Abu Ya'la's perspective, the *hisbah* institution is not an institution *pro justitia* so it does not have the right to impose criminal or civil sanctions, but has the right to listen to public complaints about irregularities in public finance management and cooperate with law enforcement agencies to file demands. This institution also has the right to impose administrative sanctions on actions that violate the rules in managing public finance. In the aspect of supervision of public finance, it is explained about the *hisbah* system, but it does not discuss specific supervision of public finances, yet emphasizes the *amar makruf* and *nahi munkar* system in relation to the rights of Allah SWT and the rights of mankind, as well as shared rights between Allah SWT and mankind. This system is essentially an effort to ground the values of goodness in the community and control evil actions or violations. This *hisbah* system is participatory, that is, it involves all citizens in overseeing the implementation of good values, and prevents the spread of violations in society, although the government is expected to form a special institution to carry out this role, in addition to the direct participation of every citizen and society.

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