



WORKS ON PUBLIC FINANCE BY THE SIXTEENTH CENTURY MUSLIM SCHOLARS

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ABSTRACT

The subject of public finance and taxation marked the beginning of systematic and rather exclusive writing on economic issues in Islamic scholarship in its earliest period. Within a few centuries, a large number of works came out on the subject. This trend continued in the later centuries but with a difference in quantity, quality and style. Their number decreased, coverage contracted and they increasingly tended to deal with specific issues. Writings in the later centuries were characterized by imitation and repetition. In the sixteenth century the major works on the subject included the works of al-Balḥunusʿ *“Tahrīr al-Maqāl Fī māl Yahull wa Yahr ‘m min Bayt al-Mēl”* and Ibn Nujaym’s *“Risālah fi’l-kharāj”* and *“Fi Mas’alāt al-Jibāyah wa’l-Ratibāt wa’l-Mu’sharāt al-Diwāniyyah.”* From the Persian speaking East, Fadl-Allah Khunji discussed the Islamic provision of public finance in much detail in his work *Sulḥ al-Mulḥ*, a very comprehensive treatment of the subject in that period. In Safawid Iran the issue of *kharāj* was a very controversial topic and centered on whether the acceptance of a stipend from *kharāj* income was permissible for religious scholars.

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1. INTRODUCTION

The systematic and rather exclusive writing on economic issues in Islamic scholarship first started in the field of taxation and public finance. Within a few centuries, a large number of works came out on the subject, such as taxation in Islam (*Kitāb al-Kharāj*) and public finance (*Kitāb al-Amwāl*) first appearing in the 2nd/8th century. Within the next few centuries, more than two dozen treatises were written. Shemesh (1967, pp. 3-6) gives, from various sources, a list of 21 works that were written on taxation during the early centuries of Islam. In addition to exclusive works on the subject, issues of public revenue and expenditure constituted parts of juristic and political writings. This trend continued in the later centuries but with a difference in quantity, quality and style. Their number decreased, coverage contracted and they increasingly tended to deal with specific issues. While works on the history of Islamic economic thought is a well-researched area of Islamic Economics, all academic research in the area, to the best of our knowledge, do not go beyond the end of the 15th century AD - the age of Ibn Khaldūn and al-Maqrizi.¹ The present paper aims to investigate Muslim thinking on public finance during the sixteenth century, a period hitherto largely unexplored. Related to our study period we have a work by Abū Bakr Mu‘ammad al-Ballūnūsī (d. 936/1530)¹ entitled “*Tahrīr al-Maqāl Fī mē Yahull wa Yahr‘m min Bayt al-Mē*” (Discourse written about what is permissible and what is non permissible from the Public Treasury). Ibn Nujaym (d. 970/1565) wrote a small tract on *kharāj* – entitled “*Risālah Fī’l-Kharāj*” (Treatise on Taxation), while another brief essay authored by him is “*Fī Mas’alēt al-Jib‘yah wa’l-Ratibēt wa’l-Mu’sharēt al-Diwāniyyah*” (About the issues related to government levies, periodical charges and custom duties). His other treatise “*al-Tuhfah al-Mardiyyah fī’l-Arādī al-Misriyyah*” (The Pleasing Gift Related to Egyptian Lands) has also discussed the question of creation of *waqf* and imposition of taxes on *waqf* lands in Egypt.

As a limitation of this study it may be noted that it is confined to available printed works in the Arabic language and a few English translations of Persian works. Thus, it presents only a general sketch of the ideas on public finance in the sixteenth century. It is hoped that it would fill a gap, to some extent, in the literature on the history of Islamic economic thought and provide a fillip to future research in this area.

2. *AL-BAL•TUNUS*'S WORK ON PUBLIC TREASURY

Ab ʿ Bakr Muʿammad b. Muʿammad al-Balʿtunusʿ, (whose name is taken from a fortress called Balatunus in Syria), was born in 851/1446. His father Muʿammad b. Abd-Allah al-Balʿtunusʿ al-Dimashqʿ (d. 863 AH/1457 AD) was also a great scholar and the first teacher of his son. Ab ʿ Bakr al-Balʿtunusʿ lived a simple life in Damascus and remained engaged in teaching and academic activities. He died there in 936/1530. He wrote many books but all, except the present work, remain unpublished in manuscript form.

Al-Balʿtunusʿ wrote his book *Tahrʿr al-Maqʿl* for guidance to those who were in charge of public affairs - rulers, government officials, jurists and judges - when he saw that no correct procedure was being followed in dealing with public finance and distribution of offices. He was a follower of Imʿm Shʿfiʿʿ, so he based his book on the opinions of the Shʿfiʿʿ School. This was the dominant school of law among the scholars, as independent thinking was generally not liked and a reason enough to discard a work. Al-Balʿtunusʿ completed this work during the Maml ʿk period in the year 871/1466, before the rule of Qaiʿt Baiʿ. The author lived about sixty-six years after this work – fifty three years of Maml ʿk rule and thirteen years under the Ottomans. It is not known from any later statement or writing of the author what changes or improvements, if any, took place in this period, especially during the reign of Qaiʿt Baiʿ or the new regime of the Ottomans.

2.1 SOURCES OF PUBLIC INCOME

Al-Balʿtunusʿ' s work is not written in the pattern of earlier writers like Ab ʿ Y ʿ suf (d.182/798) or Ab ʿ Ubayd (d. 224/838). Nor does he follow the pattern of modern writers. As the title of his work shows, he is more concerned with the things that are permissible regarding the Public Treasury and public offices and what are not permissible. He enumerates the sources of income of *Bayt al-mʿl* but does not give details. The sources mentioned by him are: one fifth of *ghanimah* (booty), *fʿy* (spoils of war), *kharʿj* (land tax), *jizyah* (poll tax on non-Muslims), *ʿushr al-tijʿrah* (custom duties), inheritance without heirs, property without owners (al-Balʿtunusʿ, 1989, pp. 139-40). Surprisingly, he does not mention in this list the *zakʿh* and *ʿushr* on crops (the *tithes*). No doubt, they are not sources of Public Treasury in the real sense of the word as they have their special heads. But since they were collected and disbursed by Islamic states, they deserve, at least,

the status of semi public revenue. The early writers, as mentioned above, divided the sources of revenue of the Public Treasury into three main categories in which one of them was *zakāh*. The reason may be that during his period, *zakāh* income was not administered by the state. Nor did the *‘ulamā’* like that it should be collected and spent by the state because of corruption and mismanagement rampant in the government. He quotes Izz al-Dīn b. Abd al-Salām who said that if a tyrant ruler collected *zakāh* and spent it in improper heads, then the rich *zakāh* payers would not be free from their obligations (al-Balṭunusī, 1989, pp. 250-51). Perhaps due to these strict rulings, the authorities excluded *zakāh* from their regular sources of public revenue.

2.2 PUBLIC EXPENDITURE

As for public expenditure, al-Balṭunusī is more concerned with its rightful, efficient allocation and appropriate disbursement. In this connection, instead of giving details of the heads of expenditure, he prescribes fundamental rules that must govern public expenditure. First of all, he emphasizes that the ruler is only a trustee or caretaker of the public treasury, just like a caretaker of an orphan’s property. Thus, no action of the ruler will be justified unless it is in the best interest of the public. He tries to make clear the intent of some earlier jurists’ statements that the ruler has choice and authority in the disbursement of public revenue. To him, this does not mean that the ruler is allowed to act arbitrarily. Instead, the ruler has to exercise utmost effort (*ijtihād*) in finding out what is the most appropriate for Muslims, and after deciding the best course, he has to act accordingly. This is not a recommendation but an obligation. Any action before proper thinking and determination of priorities is condemnable and doomed to failure (ibid, pp. 140-41). It is surprising that al-Balṭunusī is so emphatic on *ijtihād* by the ruler but ignores the process of mutual consultation (*shūrā*), although he himself appreciated the exemplary practices of pious ruler, such as Nur al-Dīn, and before him, the Companions who consulted each other to decide in the best interest of the people (ibid. p. 102).

Not only should public expenditure be based on the consideration of what is most important to achieve public interest, but public offices should also be assigned to those who fulfill the criteria of a particular post and who are best qualified for the job (ibid. p. 142). Al-Balṭunusī notes how corruption had spread in the use of the public treasury as well as in appointments to public offices and religious affairs during his

period (ibid. pp. 145, 274). According to him, the root cause of this corruption was the existence of tyrant governors, bribe-taking judges, corrupt jurists and impious *sufis* (ibid. p. 106). This led him to discuss the necessary qualities and duties of the *imlēm* (the ruler) and the *quḏlēt* (judges) - the two chief pillars of the executive and judiciary (ibid. pp. 111-135). We need not reproduce this portion of the book as those qualities and duties had already been discussed by earlier scholars like al-Mawardī (d. 450/1058), al-Ghazalī (d. 505/1111), Izz al-Dīn b. °Abd al-Salām (d. 660/1262) and other jurists. His emphasis is that the neglect of necessary conditions and required qualities, and ignorance from duties had worsened the situation and the cure lay in reviving them (ibid. p. 136).

Al-Balḏtunusī finds that the major source of corruption in the public domain came from *iqṭlʿ* (grant of land) and *waqf* (endowment). So the rest of his work was devoted to these two topics.

2.3 MEANING AND SCOPE OF *IQṬʿ*

Literally *iqṭlʿ* means to cut out something and give it to others. It may be used for any grant from the public treasury but its dominant use has been for the grant of land. The purpose of this grant has been to provide living assistance and financial aid to military personnel engaged in defense of the country (ibid. p. 153). Following the traditional pattern, he divides *iqṭlʿ* into two categories: *iqṭlʿ* of appropriation (*al-tamlīk*) and *iqṭlʿ* of usufruct (*al-istighlāl*) and then reproduces a lengthy description of the two types of *iqṭlʿ* from al-Mawardi's work *al-Ahkām al-Sulḏniyyah* (ibid. pp. 155-164). He laments that the rulers of his time are not observing the rules and conditions related to each type of *iqṭlʿ*. The worst is that the jurists are not only approving their action but regard it as something praiseworthy (ibid. p. 165). He makes it clear that *iqṭlʿ* or any grant made from the Public Treasury in lieu of certain services or as assistance for temporary reasons cannot be a permanent source of income for the grantee, nor can it be treated as inheritance. In this way it altogether differs from *waqf* which is a permanent dedication. This provides al-Balḏtunusī a context to discuss rules about the *waqf* by a ruler and its various forms.

2.3 IS IT PERMISSIBLE FOR A RULER TO MAKE *WAQF* FROM THE PUBLIC TREASURY?

According to al-Balġtunusġ an *imġm* (ruler) has no right to create a *waqf* from the *bayt al-mġl* because the basic condition is that the property must be owned by the *waqf* creator. *Bayt al-mġl* is never a personal property of the *imġm* (ibid. p. 174). Even the priorities are ignored by the rulers. The *waqf* is created on the basis of personal like and dislike, at the cost of public interest, just to please certain factions. He frankly states that most of the *awqġf* created by the rulers of his period are invalid and devoid of any piety or goodness (ibid. pp. 180, 185). On the other hand, in many cases *waqf* was created by wealthy persons to avoid taxation or save the property, earned through wrongful means, from confiscation. He critically examines opinions of those jurists who are inclined to accept the validity of *waqf* created by the ruler and rejects them one by one (ibid. pp. 176-99).

Al-Balġtunusġ's concern is economic and in the proper use of public resources, as well as to put a check on their wastage and arbitrary disposal by authorities. Since he found the rulers of his time lacked honesty and integrity, he opposed their actions regarding grants of lands and creation of *awqġf*. In this regard he went against the established opinions of past scholars, with justification.

3. IBN NUJAYM'S TREATISE ON *KHARġ*

Ibn Nujaym was born in Cairo in 926/1520 in the early years of the Ottoman rule in Egypt. He obtained his education from the most learned scholars of the time and achieved excellence in the existing sciences at a very early age. In the year 953/1548 he performed *hajj*. He died in the year 969 or 970/1564 at the age of 44. He left behind many valuable works such as *al-Bahr al-Rġiq*, a commentary on *Kanz al-Daqġiq* by al-Nasfġ, and *al-Ashbah wa'l-Nazġir*, on the pattern of al-Suyġ's work having the same title. It attracted attention of many scholars who wrote commentaries on it. *Majallġt al-Ahkġm al-ġAdliyyah* incorporated most of the rules discussed by Ibn Nujaym in this book. His other important work is *al-Rasġil al-Zayniyyah Fi Madhhab al-Hanafiyyah*, also known as *Rasġil Ibn Nujaym*. All these works have been published, the last one discussing many important economic issues of the time such as taxation, land management, custom duties, removal of poverty, *awqġf* and economic crimes such as bribery and

waqf selling or replacing. In this section our concern is his writing on issues related to public finance.

In his *al-Rasʿil al-Zayniyyah*, two articles - “*al-Tuhfah al-Mardiyyah Fiʿl-Arʿedʿ al-Misriyyah*” and “*Masʿalæt al-Jabayæt waʿl-Rʿabæt waʿl Musharæt al-Diwʿeniyyah*”- and a small tract *Risʿlah Fiʿl-Kharʿj* are of special interest to us.

He wrote his article, *al-Tuhfah* in the year 958/1551, in the wake of a controversy pertaining to the *imʿm*’s authority regarding selling public lands and imposing taxes on *waqf* land. The purpose was to provide a manual to the authorities on these particular issues (Ibn Nujaym, 1980[b], p. 50).

He makes clear that the ruler’s main role is that he is care-taker of the Muslims’ interest similar to the care-taker of an orphan. He quotes various sources of the Hanafʿ school to establish the *sharʿah* rule about the sale of the property of an orphan and concludes that it is permitted only on two grounds: either it is needed because of the personal need of the orphan or because it is in the interest of the property to sell it. Using the analogy, Ibn Nujaym says that the ruler of Egypt has the right to sell a particular land belonging to the *bayt al-mʿl*. A land comes in the control of the *bayt al-mʿl* either because:

- 1) its owner had died without survivors, or;
- 2) the owner is unable to cultivate it, so he surrenders it.

If the ruler sells a piece of land that came in the possession of the *bayt al-mʿl* because of the death of the owner, it will not be treated as a *kharʿji* land and the buyer will not be required to pay *kharʿj*. But in the latter case, the buyer has to pay *kharʿj* each year. This is because in the first case, the *bayt al-mʿl* got the full price of the land as it sold its own property, while the second is a transfer case and the buyer has to pay *kharʿj*, as the previous cultivator used to do so (ibid. pp. 124-129).

According to Ibn Nujaym the same rule of *kharʿj* will also be applied on *waqf* land. However, the *ʿushr* will be collected in case the *kharʿj* is cancelled (ibid. p. 229), but, if the object for which the *waqf* has been created is already one of the heads of expenditure of the *bayt al-mʿl*, then the *kharʿj* will be forgiven (ibid. p. 61). The reason is that collection of *kharʿj* from the same object and then spending on it will not be efficient.

An important aspect of this article is that by surveying the Hanafī juridical works, it presents the heads of expenditure of welfare revenue earned through the *kharāj*, summarized as follows:

As noted in *al-Hidāyah*, this revenue is meant for expenditure on welfare of Muslims such as defense, construction of bridges and flyovers, judges, officials, scholars, fighters and their dependents. Students will be included in the category of scholars. Qadi Khan in his *Fatāwā* added in this list the construction of mosques and their maintenance. In *al-Fatāwā al-Zhiriyyah* it is said that the surplus amount will be spent on the poor and the Holy Ka'bah. The decision to spend equally or with differences is left to the ruler as mentioned in *al-Muḥḥ*. According to Imām al-Zahidī, 'preference will be given to those who have merits and intellect over those who have simply needs. This was also the practice of Umar, the second caliph and that is suitable in our time.' Ibn Baḥḥī says that the debt would be repaid from the Public Treasury if a dead person had not left enough assets to repay it' (ibid. pp. 63-64).

Ibn Nujaym does not add anything of his own to the discussion. Nor does he recommend any addition or modification as the requirement of his time. This shows how rigid the community of 'ulamā' was during the sixteenth century. For any new incident, they always sought a solution in the writings of the past. This is clearer in his treatise on *al-kharāj* in which he tries to answer whether *kharāj* collected in a particular year would be counted *kharāj* of the past year or of the current year. This was the burning question in the year 965/1550. According to Ibn Nujaym, 'all were worried because they could not get an answer in earlier books of *fiqh* and *fatāwā*. But he was fortunate enough that he got the answer in the book of *al-Hidāyah*' (ibid. p.331). Instead of first forming an independent opinion in the light of the events of his time and presenting supporting evidence from the past scholars, the methodology has been altogether changed. First, seeking a rule from the past scholars and then, justifying it with all means.

In the end we must admit that our study has mainly been confined to available printed works in Arabic. These works were written by scholars who were not very close to government circles. Thus, their discussions were generally in a traditional *fiqh* pattern in content and style. An important source of study – the Ottoman archives – could not be accessed due to our own limitations, except a few fragmented

documents published by some researchers. We have some research on the taxation system in Iraq, Egypt and other parts of the Arab world before the Ottoman period, but to the best of our knowledge, hardly any serious research in Arabic or English is found on economic institutions under Ottoman rule. Public finance, the taxation system, fiscal policy, etc., each constitutes a full research theme, and the major source in this regard will be no doubt, Ottoman archives. They are hidden treasures of information that need to be explored.

4. KHUNJI ON ISLAMIC PUBLIC FINANCE

Fa'el-Allah Khunji has discussed the Islamic provision of public finance in much detail in his work *Sulḥ al-Mulḥ*² covering 100 pages (chapters 5-8, pp.232-364). Even the major portion of chapter 14, which deals with the rules concerning the people of the pledge (*awḳam ahl al-dhimma*) and poll taxes (*awḳam al-jizyah*), is related to the public treasury. This is perhaps the most comprehensive treatment of the subject by a Muslim scholar in the 16th century.

Fa'el-Allah b. Ruzbihan Khunji was born in Shiraz in the year 860/1455. Among his teachers was the famous scholar Jalāl al-Dīn al-Dawḥi (d. 908/1503), the author of *Akhlāq-i-Jalālī*. Khunji visited the holy places of Islam several times as well as neighbouring countries to acquire knowledge and experience. He spent most of his life in the eastern provinces at the time when Ismā'īl Shah, the founder of the Safawid dynasty, was busy establishing his rule in Iran. After Ismā'īl's accession to power in 907/1501 he migrated in 909/1503 to Qashan and later to Bukhara in the court of Shaybani Khan. At the battle of Marw in 916/1510 Shaybani Khan was defeated and slain by the Safawid army which shattered Khunji's dreams. The following two years he passed in hiding in Samarqand and reappeared only when it was recaptured in 918/1512 by 'Ubayd-Allah Khan – a nephew of Shaybanī Khan. Khunji died in Bukhara in 927/1521 (Haarmann, 1986, 5: 53-55).

Khunji presents many insights on the Islamic theory of public finance. The main features of his discussions are as follows:

As against the earlier Muslim scholars, who classify public income into three main categories, Khunji divides the public revenue of an Islamic state into four categories:

- 1) *zakāh* and *kaffārat* (sing. = *kaffārah*, financial penalties),

- 2) *kharāj*, jizyah and custom duties,
- 3) One-fifth of the spoils of war (*ghanimah*), of treasure troves and mines, and
- 4) unclaimed and lost-found properties and inheritance without survivors.

The fourth category has been separated lest the rightful claimant or inheritor appears some day (Khunji, 1966, p.334). Chapter five of his work deals with the collection and disbursement of *zakah* in five sections. He gives preference to the interest of the poor in deciding a rate where it is not already fixed. For instance, in case of merchandise, he says that its *nisab* will be based on the value of gold or silver, whichever is beneficial to the poor (ibid. p. 247). *Zakah* proceeds may be used to promote education and training. *Zakah* expenditure is permissible on those able persons - students or teachers - who are engaged in socially obligatory sciences, if their involvement in earning money may prove an obstacle in fulfilling their duties as teachers or those taught (ibid. p.250). But he is not ready to give such concessions to those who dedicate themselves to voluntary prayers. He presents the broad meaning of *al-amilun alayha* (those working for the sake of *zakah*) to include collectors, clerks, distributors, accountants, auditors, store-keepers, but not *imams*, judges or governors (ibid. 251). This means that Khunji excluded those who are exclusively working for the *zakah* department since they were not autonomous or decision makers, so as to avoid any misuse or ill-use of the *zakah* fund. After presenting the practices of the Prophet (pbuh) regarding the collection and distribution of *zakah*, he stressed that the ruler had to follow his tradition and establish the system of *zakah* (ibid. pp.271-74), – something which was rare in contemporary sources. Khunji was among the few Muslim writers who pointed out the economic significance of *kaffarat*. He said that income from *kaffarat* was spent by the Prophet (pbuh) on the poor. The sultan should accept such *kaffarat* if people paid them to him. Such incomes would be merged with the *zakah* fund and would be spent on the poor (ibid. p.346).

The sixth chapter deals with land tax (*kharāj*) and tithe (*ushr*) and lands subject to these two types of levies. In the same context, *iqt'* (land grant) as ownership or usufruct has also been discussed. When Khunji deals with an income, he gives the account of expenditure at the same place. Thus, heads of expenditure of *kharāj* and *ushr* revenue have also been dealt with in this chapter. Khunji allows

restructuring of income and expenditure by borrowing and lending from one category of income to another, with the condition of repayment when funds are available (ibid. p. 334).

Khunji dedicates a full chapter on unclaimed, lost-found properties, and property without inheritors. When hope is lost to trace the rightful owners or some one entitled for the properties, the ruler may use them to meet calamities, preparation of the coffins of the unclaimed bodies, expenditure on street-children and payment of blood money on behalf of such persons. He can also use it for the welfare of people or sell it out (ibid. pp. 341, 345).

The question of imposing extra-*sharʿah* charges or charges over and above legally recognized taxes, has been a very controversial issue in the history of Islamic economic thought. Khunji classifies such taxes into two categories:

- 1) Wrong, unnecessary and without public need.

He says that some earlier scholars, like al-Jassās and Abu Shujʿ Samarqandi consider rulers who imposed such taxes as infidels. Khunji is against such taxes but does not go to the extent of calling the tyrant rulers who resort to such taxes as infidels (ibid. p. 352).

- 2) Emergency taxes in cases of natural calamity, general catastrophe and war-like situations.

Khunji favors such taxes and emphasizes that such taxes must be accepted and the people must cooperate with the ruler by paying them whole-heartedly. As noted above, Lambton considers it as one of the two specific contributions which Faʿl-Allah makes to the development of the political theory of Islam (Lambton 1985, p. 200).

In the end, Khunji enumerates incomes and assets in the Sultan's hands and their entitlements. Twelve types are mentioned:

- 1) His own property from inheritance or self-earned income through trade or agriculture,³ or that obtained from his own share, or through appropriation of dead land (*ihyāʾ al-mawṭ*). All these are his personal properties and rules of inheritance will apply to them when he dies (Khunji, 1966, pp. 356-57).

- 2) Salary or living allowances that he gets from the state treasury. This will be treated as his personal income.
- 3) *Kharġj*, *jizyah*, and *sadaqġt* of Banu Taghlib,⁴ custom duties collected from the infidel traders. All these form one group and have same heads of expenditure, viz. army and public welfare.
- 4) *Zakġh*, *ushr*, and *kaffarġt* received by the Sultan. They are generally meant for the poor and needy.
- 5) One-fifth of the spoils of war, mines and treasure troves. Its heads are also mentioned in the Qur'ġn.
- 6) Lost-found unclaimed objects and inheritance without survivors. Its heads are also mentioned above.
- 7) Property without owners.
- 8) Property of past rulers.
- 9) Emergency charges and undue tax collections.
- 10) Gifts from infidel countries.
- 11) Gifts from Muslims, and
- 12) Bribery offered to the Sultan. It will be treated like unjust and illegal taxes.

Khunjġ complains that in his age, all these incomes were mixed up. It is one of the duties of the Sultan to collect revenue properly and spend on their heads justly (ibid. pp. 358-59). The Sultan must detach his personal assets from the public treasury, otherwise his wealth will not be clean. It is a requirement of piety that *ulamġ* should not accept a grant from such a mixed treasury. If the grant is from distinct *jizyah* revenue, it is permissible to accept it. This he mentions on the authority of al-Ghazalġ (ibid. p. 360).

A very distinguished advantage of Khunjġ's contribution is that on all these aspects he presents opinions of the two dominant schools of jurisprudence – the Hanafġ and Shġfiġ. Thus, his work will prove a great help for comparative study of the Islamic theory of public finance in these two schools.

5. WORKS ON *KHARġ J* UNDER SAFAWID IRAN: A BRIEF NOTE

The contemporary sources note at least four treatises on *kharġj* that were written under Safawid Iran of the sixteenth century as mentioned below:

- 1) *Ql̄ti' l̄t al-Lajl̄j Fi Hill al-Kharl̄j* by ʿAlī b. Husayn al-Karakī (d. 940/1534).
- 2) *Al-Sir̄l̄j al-Wahhl̄j Fi Dafʿ Ajl̄j Ql̄ti' l̄t al-Lajl̄j li'l-Karakī* by Ibrahim b. Sulaymān al-Qatifī (d. 945/1539).
- 3) *Al-Ris̄lah al-Kharl̄jiyyah* by Ahmad b. Muhammad al-Ardabilī (d. 993/1585).
- 4) *Ris̄lah Fi Hill al-Kharl̄j* by Mʿjīd b. Falah al-Shaybānī (late 10th/16th Century).

However, they did not deal with *kharl̄j* as discussed in the works of public finance provision of revenue for the needs of the state (Lambton, 1985, p. 271). The issue was whether it would be permissible for believers, more specifically ʿulamāʿ, to accept from the treasury such an income ‘which might have been collected illegally by the ruler under the name of *kharl̄j* (ibid). Safawid scholars of the sixteenth century were sharply divided on the issue. While al-Karakī and al-Shaybānī considered it indisputably lawful and accepted pensions from the Safawid court, al-Qatifī and al-Ardabilī held it unlawful and vehemently criticized al-Karakī and his supporters. Recently we came across Madelung’s study “Shiite Discussions on the Legality of the *Kharl̄j*”, the title of which also supports our finding that the main problem before Shiite scholars of the 16th century was “Legality of the *Kharl̄j*”, not the economic substance. According to Tabatabaʿī (1983, p. 57), ‘after the tenth / sixteenth century no major dispute occurred on this subject and it seems that a kind of consensus was reached among ʿulamāʿ on the legality of *kharl̄j*.

ENDNOTES

1. Elsewhere we have presented a survey of the literature that appeared up to the 15th century (9th century *Hijrah*) in this field (Islahi, 2005, pp. 61-65).
2. This is another example where the title is in Arabic but the text is in Persian. Khunjī’s work *Sul̄ k al-Mul̄ k* was edited by Muhammad Nizāmuddīn and Muhammad Ghose and printed in Hyderabad in 1386/1966. In their extensive introduction, the editors have given a summary of chapters in English.
3. This means he allows the Sultan to engage in trading and other economic activities. This is against the opinions of scholars like al-Mawardī, Ibn Khaldūn and many contemporary scholars.

4. Banu Taghlib was an Arab-Christian tribe who agreed to pay twice as much *zakāh*, but not the *jizyah*.

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