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Islahi, Abdul Azim

Islamic Economics Research Center, KAU, Jeddah, KSA

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WORKS ON PUBLIC FINANCE BY THE SIXTEENTH CENTURY MUSLIM SCHOLARS

Abdul Azim Islahi

Abstract

The subject of public finance and taxation marked the beginning of systematic and rather exclusive writing on economic issues in Islamic tradition 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 include al-Balatonusi's "*Tahrir al-Maqal.....*" and Ibn Nujaym's "*Risalah fi'l-kharaj*" and "*Mas'alat al-Jibayah*" From the Persian speaking East, Fadl-Allah Khunji has discussed the Islamic provision of public finance in much details in his work *Suluk al-Muluk* a very comprehensive treatment of the subject in the 16th century. It presents many insights on the Islamic theory of public finance. In the Safawid Iran the issue of *kharaj* was a very controversial topic. But this controversy centered on whether acceptance of stipend from *kharaj* income is permissible for religious scholars.

1. Introduction

The systematic and rather exclusive writing on economic issues in Islamic tradition first started in the field of taxation and public finance and within a few centuries a large number of works came out on the subject. Works on taxation in Islam (*Kitab al-Kharaj*) and public finance (*Kitab al-Amwal*) first appeared in 2nd/8th century and within the next few centuries more than two dozens treatises were written. Shemesh (1967, pp. 3-6) gives, from various sources, a list of 21 works that were written on taxation during 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. History of Islamic economic thought is a well-researched area of the discipline of Islamic Economics. But all researches, to the best of our knowledge, come to an end at the 15th century AD – the age of Ibn Khaldun and al-Maqrizi.¹ The present paper aims to investigate Muslim thinking on public finance during the sixteenth century, a period hitherto largely remained unexplored. Related to our study period we have a work by Abu Bakr Muhammad al-Balatonusi (d. 936/1530) entitled "*Tahrir al-Maqal fi ma Yahull wa Yahrum min Bayt al-Mal*" (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 *kharaj* – entitled "*Risalah fi'l-Kharaj*" (Treatise on Taxation). Another brief essay authored by him is "*fi Mas'alat al-Jibayah wa'l-Ratibat wa'l-Mu'sharat al-Diwaniyah*" (About the issues related to government levies, periodical charges and custom duties). His other treatise "*al-Tuhfah al-Mardiyah fi'l-Arabi al-Misriyah*" (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 Arabic language or a few English translations of Persian works. Thus, it could present only a sketch of the ideas on public finance in the sixteenth century and a general picture only. It is hoped that it would fill a gap, to some extent, in the literature on history of Islamic economic thought and provide a fillip to future research in this area.

1. Al-Balatonusi's Work on Public Treasury

Abu Bakr Muhammad b. Muhammad al-Balatonusi, who belongs to a fortress called Balatonus in Syria, was born in 851/1446. His father Muhammad b. Abd-Allah al-Balatonusi al-Dimashqi (d. 863 AH/1457 AD) (Henceforth in writing the date the first figure would mean Hijrah date and next after / Gregorian.) was also a great scholar and the first teacher of his son. Abu Bakr al-Balatonusi 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, remains unpublished in manuscript form.

Al-Balatonusi wrote his book '*Tahrir al-Maqal*' for guidance to those who were in charge of public affair – rulers, government officials, jurist 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 Imam Shafi'i, so he based his book on the opinions of Shafi'i School. This was the dominating methodology among the scholars, as independent thinking was generally not liked and a reason enough to discard a work. Al-Balatonusi completed this work during the Mamluk period, in the year 871/1466, before Qai't Bai' rule. The author lived about sixty-six years after this work – fifty three years of Mamluk rule and thirteen years of 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, specially during the reign of Qai't Bai' or the new regime of Ottomans.

Sources of Public Income: Al-Balatonusi's work is not written on the pattern of earlier writers like Abu Yusuf (d.182/798) or Abu 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-mal* but does not give details. The sources mentioned by him are: one fifth of *ghanimah* (booty), *fay'* (spoil of war), *kharaj* (land tax), *jizyah* (poll tax on non-Muslims), *ushr al-tijarah* (custom duties) inheritance without heirs, property without owners (al-Balatonusi, 1989, pp. 139-40). Surprisingly, he does not mention in this list the *zakah* and *ushr* 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 as the status of semi public revenue. The early writers, as mentioned above, divided sources of revenue of Public Treasury into three main categories in which one of them was *zakah*. The reason may be that during his period *zakah* income was not administered by the state. Nor did the *ulama* like that it should be collected and spent by the state because of corruption and mismanagement rampant in government machineries. He quotes Izz al-Din b. Abd al-Salam who said that if tyrant ruler collected *zakah* and spent it in improper heads, then the rich *zakah* payers rich would not be free from their obligations (al-Balatonusi, 1989, pp. 250-51). Perhaps due to these strict rulings, the authorities excluded *zakah* from their regular sources of public revenue.

Public expenditure: As for public expenditure is concerned, al-Balatonusi 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 the public expenditure. First of all, he emphasizes that the ruler is only a trustee or caretaker of public treasury just like a caretaker of orphan's property. Thus, no action of the ruler will be justified unless it is in the best interest of public. He tries to make clear the intent of some earlier jurists' statement that the ruler has choice and authority in disbursement of public revenue. To him, this does not mean that the ruler is allowed to act arbitrarily. Its correct sense is that the ruler has to exercise utmost effort (*ijtihad*) 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 fixation of priorities is condemnable and doomed to failure (ibid, pp. 140-41). It is surprising that al-Balatonusi is so emphatic on *ijtihad* by the ruler but ignores the process of mutual consultation (*shura*), although he himself appreciated earlier the exemplary practices of pious ruler Nur al-Din and before him the Companions to consult each other

to decide the best interest of people (ibid. p. 102).

Not only that public expenditure should be based on the consideration of most important and the next important heads in the public interest but public offices should also be assigned to those who fulfill the criteria for a particular post more than others and are best qualified for the job (ibid. p. 142). Al-Balatuṣi notes how corruption has spread in the use of public treasury as well in appointments to public offices and religious affairs during his period (ibid. pp. 145, 274). According to him the root cause of this corruption is the existence of tyrant governors, bribery-taker judges, corrupt jurists and impious *sufis* (ibid. p. 106). This led him to discuss the necessary qualities and duties of *imam* (the ruler) and the *quḍah* (judges) – the two chief pillars of 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-Mawardi (d. 450/1058), al-Ghazali (d. 505/1111), Izz al-Din b. Abd al-Salam (d. 660/1262) and other jurists. His emphasis is that the neglect of necessary conditions and required qualities and ignorance from duties has worsened the situation and the cure lies in reviving them (ibid. p. 136).

Al-Balatuṣi finds that the major corruption in public domain comes from *iqta`* (grant of land) and *waqf* (endowment). So the rest of his work is devoted to these two topics.

Meaning and scope of *Iqta`*: Literally '*iqta`*' 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). On traditional pattern he divides *iqta`* into two categories: *Iqta`* of appropriation (*al-tamlīk*) and *iqta`* of usufruct (*al-istighlāl*) and then reproduces a lengthy description of the two types of *iqta`* from al-Mawardi's work *al-Aḥkam al-Sultaniyah* (ibid. pp. 155-164). He laments that the rulers of his time are not observing the rules and conditions related to each type of *iqta`*. The worst is that the jurists are not only approving their action but regard it something praiseworthy (ibid. p. 165). He makes it clear that *iqta`* 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 the *waqf* which is a permanent dedication. This provides al-Balatuṣi a context to discuss rules about the *waqf* by a ruler and its various forms.

Is it permissible for a ruler to make *waqf* from the Public Treasury? According to al-Balatuṣi an *imam* (ruler) has no right to create a *waqf* from the *bayt al-mal* because the basic condition is that the property must be owned by the *waqf* creator. *Bayt al-mal* is never a personal property of the *imam* (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 *awqaf* 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 wrong 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-Balatuṣi's concern is economic and proper use of public resources and 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 *awqaf*. In this regard he went against the established opinions of the past scholars and he justified his stand.

2. Ibn Nujaym's Treatise on *Kharaj*

Ibn Nujaym was born in Cairo in 926/1520 in early years of Ottoman rule in Egypt. He obtained education from the most learned scholars of the time and achieved excellence in the existing sciences at 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-Ra'iq* a commentary on *Kanz al-Daqa'iq* by al-Nasfi, *al-Ashbah wa'l-Naza'ir*, on the pattern of al-Suyuti's work having the same title. It attracted attention of many scholars who wrote commentary on it. *Majallat al-Ahkm al-Adliyah* incorporated most of the rules discussed by Ibn Nujaym in this book. His other important work is *al-Rasa'il al-Zayniyah fi Madhhab al-Hanafiyyah*, also known as *Rasa'il Ibn Nujaym*. All these works have been published. Especially the last one discusses many important economic issues of the time such as taxation, land management, custom duties, removal of poverty, *awqaf* and economic crimes as bribery and *waqf* selling or replacing etc. In this section our concern is his writing on issues related to public finance.

In his *al-Rasa'il al-Zayniyah* two articles - "*al-Tuhfah al-Mardiyah fi'l-Aradi al-Misriyah* and *Mas'alat al-Jabayat wa'l-Ratibat wa'l Mu'sharat al-Diwaniyah* - and a small tract *Risalah fi'l-Kharaj* are of special interest for us.

He wrote his article, *al-Tuhfah* in the year 958/1551 in the wake of a controversy pertaining to the *imam's* authority regarding selling the public lands and imposing taxes on the *waqf* land. The purpose was to provide with 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 Hanafi school to establish the Shar'iah rule about the sale of the property of an orphan and he 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 property to sell it. Using the analogy, Ibn Nujaym says that the ruler of Egypt has right to sell out a particular land belonging to *bayt al-mal*. A land comes in the control of *bayt al-mal* either because 1) its owner had died without survivor, or 2) the owner is unable to cultivate it so he surrenders it. If the ruler sells a land that came in the possession of *bayt al-mal* because of the death of the owner, it will not be treated as a *kharaji* land and the buyer will not be required to pay *kharaj*. But in the latter case, the buyer has to pay *kharaj* each year. This is because in the first case the *bayt al-mal* 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 *kharaj* as the previous cultivator used to do so (ibid. pp. 124-129).

According to Ibn Nujaym the same rule of *kharaj* will be applied on *waqf* land also. But the *ushr* will be collected in case the *kharaj* is cancelled (ibid. p. 229). However, if the object, for which the *waqf* has been created, is already one of the heads of expenditure of *bayt al-mal*, then the *kharaj* will be forgiven (ibid. p. 61). The reason is clear: collection of *kharaj* from the same object and then spending on it will be against economy and efficiency.

An important aspect of this article is that by surveying the Hanafi juridical works it presents the head of expenditure of welfare revenue earned through the *kharaj*. Here is a summary of it: 'As noted in *al-Hidayah* 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. The students will be included in the category of scholars. Qadi Khan in his *Fatawa* added in this list the construction of mosques and their maintenance. In *al-Fatawa al-Zahiriyah* 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-Muhit*. According to Imam al-Zahidi, 'the 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 Battal 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 from his own side. Nor does he recommend any addition or modification as the requirement of his time. This shows how rigid the community of *ulama* was during the sixteenth century. For any new incidence, they always sought a solution in the writings of the past. This is more clear in his treatise on *al-kharaj* in which he tries to answer whether *kharaj*

collected in a particular year would be counted *kharaj* 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 *fatawa*. But he was fortunate enough that he got the answer in the book of *al-Hidayah*’ (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 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 researches on taxation system in Iraq, Egypt and other part of Arab before Ottoman period, but to the best of our knowledge, hardly any serious research in Arabic or English is found on economic institutions under Ottoman rules. Public finance, taxation system, fiscal policy, etc. each topic 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.

3. Khunji on Islamic Public Finance

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

Fadl-Allah b. Ruzbihan Khunji was born in Shiraz in the year 860/1455. Among his teachers was included the famous scholar Jalal al-Din al-Dawani (d. 908/1503), the author of *Akhlaq-i-Jalali*. Khunji visited several times the holy places of Islam and neighbouring countries to acquire knowledge and experience. He spent most of his life in the eastern provinces at the time when Isma'il Shah, the founder of Safawid dynasty, was busy in establishing his rule in Iran. After Isma'il'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 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 Shaybani 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) zakah and *kaffarat* (sing. = *kaffarah*, financial penalties), 2) *kharaj*, *jizyah* and custom duties, 3) One-fifth of the spoil of war (*ghanimah*), of treasure trove and mines, and 4) unclaimed lost-found 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 teacher or taught (ibid. p.250). But he is not ready to give such concession 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 *imam*, or *qadi* or governor (ibid. 251). It means that those who are exclusively working for zakah department and they are not the autonomous or decision makers, to avoid any misuse or ill-use of the zakah fund. After presenting the practices of the Prophet (pbuh) regarding collection and distribution of zakah he stresses upon the ruler to follow his tradition and establish the system of zakah (ibid. pp.271-74), – something which is rare in contemporary sources. Khunji was among the few Muslim writers who pointed out the economic significance of *kaffarat*. He says that income from *kaffarat* was spent by the Prophet (pbuh) on the poor. Now the sultan should accept such *kaffarat* if people pay them to him. Such incomes will be merged with the zakah fund and will be spent on the poor (ibid. p.346).

The sixth chapter deals with the land tax (*kharaj*) and tithes (*ushr*) and lands subject to these two types of levies. In the same context, *iqta`* (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 *kharaj* 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 fund is available (ibid. p.334).

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

The question of imposing extra-Shari`ah charges or 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:

a. Wrong, unnecessary and without public need

He says that some earlier scholars, like al-Jassas and Abu Shuja` Samarqandi consider rulers who impose such taxes as infidels. Khunji is against such taxes but does not go to the extreme to call the tyrant rulers who resort to such taxes as infidels (ibid. p.352).

b. Emergency taxes in case of natural calamity, general catastrophe, war like situations.

Khunji favors such taxes and emphasizes that such taxes must be accepted and 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 Fadhli-Allah makes to the development of political theory of Islam (Lambton 1985, p. 200).

In the end, Khunji enumerates incomes and assets in the sultan's hands and their entitlements. They are twelve types:

First, his own property from inheritance or self-earned income through trade or agriculture³ or he got it from his own share, or through appropriation of the dead land (*ihya` mawat*). All these are his personal properties and rules of inheritance will apply to them whenever he dies (Khunji, 1966, pp.356-57). Second, salary or living allowances that he gets from the state treasury. This will be treated as his personal income. Third, *kharaj*, *jizyah*, and *sadaqat* of Banu Taghlib⁴, custom duties collected from the infidel traders. All this forms one group and have same heads of expenditure, viz. army and public welfare. Fourth, zakah, *ushr*, and *kaffarat* received by the sultan. They are generally meant for the poor and needy. Fifth, one-fifth of the spoil of war, mines and the treasure troves. Its heads are also mentioned in the Qur'an. Sixth, lost-found unclaimed objects and inheritance without survivors. Its heads are also mentioned above. Seventh, property without

owners. Eighth, property of past rulers. Ninth, emergency charges and undue tax collections. Tenth, gifts from infidel countries. Eleventh, gifts from Muslims, and Twelfth, bribery offered to the sultan. It will be treated like unjust and illegal taxes. Khunji complains that in his age, all these incomes are mixed up. It is one of the duties of 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 be hardly clean. It is requirement of piety that *ulama* 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-Ghazali (ibid. p. 360).

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

4. Works on *Kharaj* under Safawid Iran: a brief note

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

- 1) *Qati'at al-Lajaj fi Hill al-Kharaj* by Ali b. Husayn al-Karaki (d. 940/1534).
- 2) *Al-Siraj al-Wahhaj fi Daf' 'Ajaj Qati'at al-Lajaj li'l-Karaki* by Ibrahim b. Sulayman al-Qatifi (d. 945/1539).
- 3) *al-Risalah al-Kharajiyah* by Ahmad b. Muhammad al-Ardabili (d. 993/1585).
- 4) *Risalah fi Hill al-Kharaj* by Majid b. Falah al-Shaybani (late 10th /16th Century).

However, they did not deal with *kharaj* 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, *ulama* to accept from the treasury such an income 'which might have been collected illegally by the ruler under the name of *kahraj* (ibid). Safawid scholars of sixteenth century were sharply divided on the issue. While al-Karaki and al-Shaybani considered it indisputably lawful and accepted pensions from the Safawid court, al-Qatifi and al-Ardabili held it unlawful and vehemently criticized al-Karaki and his supporters. Recently we came a cross Madelung's study "Shiite Discussions on Legality of the Kharaj" the title of which is also supporting our finding that the main problem before Shi'ah scholars of 16th century was "Legality of the *Kharaj*", not the economic substance. According to Tabataba'i (1983, p. 57), 'after the tenth / sixteenth century no major dispute precluded on this subject and it seems that a kind of consensus was reached among 'ulama' on the legality of *kharaj*.

Endnotes:

1. Elsewhere we have presented a survey of the literature that appeared up to the _____ century (9th century *Hijrah*) in this field (Islahi, 2005, pp. 61-65).
2. This is another example where title is in Arabic but the text is in Persian. Khunji's work *Suluk al-Muluk* was edited by Muhammad Nizamuddin and Muhammad Ghouse and Printed from 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-Mawardi, Ibn Khaldun and many contemporary scholars.
4. Banu Taghlib was an Arab-Christian tribe who agreed to pay twice as much as zakah but not the

jizyah.

Reference

- al-Ardabili, Ahmad b. Muhammad** (1313 AH), *Kharajiyah*, in the collection of *al-Rida'iyat wa'l-Kharajiyat*, part 2, pp.169-73. Tehran
- al-Balatunusi, Abu Bakr Muhammad** (1989), *Tahrir al-Maqal fi ma Yahull wa yahrum min Bayt al-Mal*, al-Mansurah, Egypt, Dar al-Wafa'.
- Ibn Nujaym, Zayn al-Abidin b. Ibrahim** (1980), *Rasa'il Ibn Nujaym* Beirut: Dar al-Kutub al-'Ilmiyah,.
- Haarman, U.** (1986), "Khunji" in *Encyclopaedia of Islam*, Leiden – New York, E. J. Brill,
- Islahi, Abdul Azim** (2005), *Contributions of Muslim Scholars to the History of Economic Thought and Analysis*, Jeddah, Scientific Publishing Centre, KAAU.
- al-Karaki, Ali b. Husayn** (1313 AH), *Qati'at al-Ljaj*, in the collection of *al-Rida'iyat wa'l-Kharajiyat*, part 2, pp.15-44, Tehran.
- Khunji, Fadl-Allah (1966)**, *Suluk al-Muluk*, edited by Muhammad Nizamuddin and Muhammad Ghouse, Hyderabad, Persian Manuscript Society, Ministry of Education.
- Lambton, Ann K. S.** (1985), *State and Government in Medieval Islam*, First Published 1981.
- Madelung, Wilfred** (1981), "Shiite Discussions on Legality of the Kharaj" *Proceeding of the Ninth Congress of the Union Europeene des Arabisants et Islamisants* (ed. R. Peters), Leiden, pp 193-202.
- al-Qatifi, Ibrahim b. Sulayman** (1313 AH), *al-Siraj al-Wahhaj*, in the collection of *al-Rida'iyat wa'l-Kharajiyat*, part 2, pp.96-168, Tehran.
- al-Shaybani, Majid b. Falah** (1313 AH), *Risalah fi Hill al-Kharaj*, in the collection of *al-Rida'iyat wa'l-Kharajiyat*, part 2, pp.176-90, Tehran.
- Tabataba'i, Hossein Modarressi** (1983), *Kharaj in Islamic Law*, London, Southwark Street.