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**The Functional Integration between the Institutions of Hisba and the Judiciary
and Their Impact on Societal Security: A Maqāṣidī Approach**

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Abstract :

This study examines the nature of the functional integration between the institutions of ḥisbah and the judiciary within the Islamic system by elucidating their complementary roles in safeguarding public order, protecting rights, and promoting societal security. The institution of ḥisbah performs a preventive function grounded in oversight, reform, and the prevention of deviant conduct and its underlying causes. The judiciary, by contrast, assumes a remedial role through adjudicating disputes and administering justice in accordance with the principles of Islamic law. This integration reflects the maqāṣid-oriented dimension of both institutions in harmonizing moral refinement with legal enforcement, thereby enhancing societal security and mitigating the causes of disorder and instability.

Keywords: Ḥisbah; Judiciary; Functional Integration; Societal Security.

Introduction

Societal security constitutes one of the foremost higher objectives pursued and safeguarded by Islamic law, as it represents a fundamental prerequisite for the stability of human civilization and the continuity of social life within a framework of balance and justice. Islamic law has therefore accorded considerable attention to all mechanisms capable of protecting society from manifestations of deviance and violations of rights, whether through legislative frameworks or through the institutions responsible for translating these values into practical reality.

Within this context, the institutions of *hisbah* and the judiciary emerge as two of the most significant institutional mechanisms that have historically contributed to the regulation of public life and the preservation of social order. The institution of *hisbah* performs a preventive and supervisory role aimed at enjoining good, forbidding wrongdoing, and protecting the public sphere from behavioral and economic deviations. The judiciary, by contrast, assumes a binding remedial function through the adjudication of disputes, the enforcement of rights, and the deterrence of transgressions.

Nevertheless, examining each institution in isolation does not necessarily reveal the depth of impact generated through their interaction and functional integration. The relationship between *hisbah* and the judiciary is neither one of separation nor opposition. Rather, it is an integrative relationship based on the distribution of functions within a unified system directed toward the realization of justice and the preservation of public order. From this perspective, the importance of studying this integration becomes evident within the framework of *maqāṣid al-sharīʿah*, which constitutes the comprehensive paradigm governing the functions and ultimate objectives of Islamic legislation.

Study Problem

This study is grounded in a central research problem formulated as follows:

To what extent has the functional integration between the preventive role of *hisbah* and the remedial role of the judiciary contributed to the realization of societal security?

This overarching question gives rise to several subsidiary inquiries, most notably:

- What is the nature of the functional relationship between *hisbah* and the judiciary?

- What maqasid-based foundations underpin this integration?
- How does this integration contribute to the achievement of societal security?

Study Significance

The significance of this topic lies in its examination of an important institutional dimension within Islamic thought, namely the distribution of supervisory and judicial functions within society. The study also establishes a connection between the classical juristic framework and the contemporary concept of societal security, thereby endowing the research with both theoretical and applied relevance.

Study Structure

This study is organized into an introduction, three main sections, and a conclusion presenting the principal findings of the research.

- Section One: Conceptual Framework and Terminological Clarifications
- Section Two: The Functional and Maqasid-Based Foundations of Integration between *Hisbah* and the Judiciary
- Section Three: Areas of Integration between *Hisbah* and the Judiciary in Achieving Societal Security

THE FIRST TOPIC: CONCEPTUAL FRAMEWORK OF THE RESEARCH TERMINOLOGY

This section seeks to establish a precise conceptual framework for the core terminology of the study by defining its linguistic and technical meanings and clarifying its scholarly implications within the academic context. This serves as a foundation for constructing a rigorous methodological perspective capable of accurately framing the research problem and analyzing its dimensions in a coherent and systematic manner.

First Requirement: Defining the Institution of Hisbah

In Islamic law, the concept of *hisbah* extends far beyond the notion of a general religious authority delegated by the ruler to selected officials possessing competence and integrity. Rather, it also encompasses civil institutions entrusted with safeguarding and protecting human rights within society. The breadth of this concept derives from both its linguistic and technical meanings.

First Section: The Linguistic and Technical Meaning of Hisbah

First: The Linguistic Meaning of Hisbah

Linguistically, ḥisbah (with a kasrah on the letter ḥā' and a sukūn on the letter sīn) is a noun derived from iḥtisāb, just as 'iddah derives from i'tidād. The term iḥtisāb itself originates from the root ḥ-s-b, which conveys several meanings:

- First meaning: Counting and calculation One says: ḥasabtu al-shay'a, meaning "I counted or calculated something."
- Second meaning: Sufficiency It is said: iḥtasaba bikadhā, meaning "he deemed it sufficient" or "contented himself with it."
- Third meaning: Denunciation and disapproval The expression iḥtasaba 'alayhi signifies "he condemned or objected to him." The designation of condemnation as iḥtisāb represents a rhetorical attribution of the effect to its cause, since denouncing wrongdoing constitutes the basis for commanding its removal, which is the essence of ḥisbah.
- Fourth meaning: Administration and governance It is said: "So-and-so possesses sound ḥisbah in managing affairs," meaning prudent administration and oversight in accordance with established laws and regulations. The muḥtasib exercises a distinctive form of governance, namely the implementation of Islamic law, which is regarded as the highest form of sound administration.
- Fifth meaning: Examination and scrutiny The phrase "women assess what men possess" refers to examining their conduct and behavior. Likewise, the muḥtasib observes people's outward conduct, evaluates it, and undertakes the removal of objectionable acts after careful verification and consideration of potential consequences.¹

Accordingly, the linguistic meaning of ḥisbah is not confined to merely condemning wrongdoing without regard to outcomes and consequences. Rather, it encompasses several essential dimensions, including proactive intervention to eliminate wrongdoing in pursuit of divine reward, careful examination and verification, consideration of consequences and outcomes, and the exercise of wise and prudent judgment in addressing wrongdoing. All of these constitute fundamental elements of the institution of ḥisbah.

Second: Al-Ḥisbah in Terminological Usage

In the terminology of classical scholars, al-ḥisbah is defined as "enjoining what is right when its neglect becomes apparent, and forbidding what is wrong

when its commission becomes evident.”² Thus, the “right” that the muḥtasib enjoins is that which is prescribed by the Sharī‘ah, while the “wrong” that he prohibits is that which the Sharī‘ah forbids. Ibn Bassām and Ibn al-Ukhuwwah further expanded this definition by adding the phrase “and reconciling people among themselves.” They therefore defined al-ḥisbah as “enjoining what is right when its neglect becomes apparent, forbidding what is wrong when its commission becomes evident, and reconciling people among themselves.”³

Contemporary scholars, however, have offered broader formulations. Dr. Muḥammad ‘Uthmān Shubayr defines al-ḥisbah as “the active engagement of Muslim society in performing acts of righteousness and goodness, and in rectifying wrongdoing in accordance with Sharī‘ah-oriented governance, with the aim of safeguarding the higher objectives of Islamic law.”⁴ This is a comprehensive and inclusive definition that encapsulates the essential purposes of al-ḥisbah.

Such engagement is not confined to the individual alone, but extends to the collective community and the state. Although enjoining what is right constitutes an obligation upon every Muslim individual, it becomes even more binding and emphatic upon the community as a whole, as indicated in the Qur’anic verse: “Let there arise from among you a community that calls to goodness, enjoins what is right, and forbids what is wrong; and it is they who are the successful” (Āl ‘Imrān: 104). Likewise, Allah says: “Cooperate in righteousness and piety, and do not cooperate in sin and aggression” (Al-Mā'idah: 2).

Second Section: The Importance of the Institution of Ḥisbah

The institution of ḥisbah constitutes one of the fundamental systems within the Islamic tradition, aimed at ensuring the realization of justice and the preservation of Islamic values and legal principles within society. As a supervisory institution, it regulates both public and private affairs in accordance with the precepts of Islamic law. The significance of ḥisbah is manifested through several key dimensions, including:⁵

- Realizing justice and safeguarding rights: Ḥisbah serves to protect the rights of individuals and communities from injustice and transgression. It functions as a mechanism for ensuring compliance with the legal and ethical norms that uphold justice and equity within society.
- Enjoining good and forbidding wrongdoing: The institution of ḥisbah represents a practical embodiment of the Islamic principle of enjoining good and forbidding evil, which constitutes one of the central pillars of

Islamic law. It seeks to promote virtuous conduct and combat corruption and moral decline within society.

- Promoting Islamic ethics and values: Ḥisbah contributes to the consolidation of Islamic moral principles and the preservation of the Islamic identity of society. It plays a vital role in preventing the spread of conduct that contradicts Islamic teachings and in protecting societal values from deviation.
- Regulating markets and professions: Among the responsibilities of the muḥtasib is the supervision of markets to ensure fairness in commercial transactions, prevent fraud, regulate pricing practices, and monitor product quality. Such oversight enhances public trust and contributes to economic stability.
- Protecting the public interest: The institution of ḥisbah contributes to safeguarding the collective welfare of society by monitoring practices that may harm the public interest, including encroachments upon public property and communal rights.
- Realizing the higher objectives of Islamic law: Ḥisbah serves as an effective instrument for achieving the maqāṣid al-sharīʿah, including the preservation of religion, life, intellect, lineage, and property. In this regard, it helps ensure the moral and social integrity of society in accordance with these overarching objectives.
- Supporting the authority of the state: Ḥisbah reinforces the legitimacy and authority of the Islamic state by functioning as an intermediary institution between governing authorities and society in the implementation and enforcement of Islamic legal rulings.

Third Section: Conditions Required of the Muḥtasib

The muḥtasib is the official entrusted with carrying out the function of ḥisbah, which encompasses the promotion of virtue, the prevention of wrongdoing, the regulation of markets, and the protection of public welfare in accordance with Islamic law. Traditionally, the muḥtasib was selected from among distinguished scholars possessing expertise in both religious and worldly sciences, as well as from respected and influential members of society known for their integrity in thought and conduct. Such a position required social authority and moral standing sufficient to enforce the regulations of ḥisbah.

Muslim jurists therefore established a set of conditions and criteria that must be fulfilled to ensure that the muḥtasib performs his duties justly and

effectively. These conditions are generally classified into general and specific requirements.⁶

First: General Conditions

These refer to the fundamental legal qualifications of moral responsibility (taklīf) in Islamic law, namely Islam, sound intellect, and legal maturity. In addition, the muhtasib must possess integrity, trustworthiness, and the capability to discharge the responsibilities of the office effectively. He should be widely recognized for upright conduct and adherence to Islamic ethical principles, free from corruption and moral deviation, so as to command the confidence of society. Furthermore, he must possess the physical and psychological capacity necessary to undertake the responsibilities assigned to him and demonstrate the competence required to address diverse social and legal matters.

Second: Specific Conditions

- Knowledge of Islamic Legal Rulings: The muhtasib must possess sufficient knowledge of the rulings of Islamic law, particularly those related to the promotion of virtue and the prevention of vice, as well as regulations governing markets, commercial transactions, rights, and obligations.
- Expertise in Public Affairs: He should possess a sound understanding of public affairs, including social customs and prevailing societal conditions, in addition to familiarity with commercial and administrative regulations within the community.
- Communication and Persuasive Ability: The muhtasib should preferably possess effective communication and persuasive skills, enabling him to fulfill the objectives of ḥisbah constructively and without provoking unnecessary conflict.
- Moderation and Wisdom: Wisdom and balance are essential qualities for the muhtasib, requiring him to exercise moderation in dealing with violations by maintaining an appropriate balance between firmness and leniency, while avoiding both excessive severity and negligent tolerance.
- Independence and Integrity: The muhtasib must remain independent in his judgments and free from external pressures or influences. He is also required to uphold impartiality, objectivity, and integrity in the performance of his duties.

Second Requirement: The Institution of Judiciary

First Section: The Linguistic and Technical Meaning of Judiciary

First: The Linguistic Meaning of Judiciary

The term Qadā' (judiciary or adjudication) carries several meanings in Arabic, the closest to the present context being judgment or adjudication. Its plural form is aqḍiyah. One says: qaḍā 'alayhi, meaning "he ruled against him," while qaḍiyyah denotes a legal case or matter. The expression istaqḍā fulān signifies that a person was appointed as a judge to adjudicate disputes among people. Likewise, the verb qaḍā means to judge and decide conclusively, and a qāḍī is one who renders judgment and settles disputes.

The phrase qaḍā' al-shay' refers to perfecting, executing, and completing a matter. It may therefore also convey the meaning of creation or accomplishment. Linguistically, the term ḥukm (judgment) derives from the expression ḥakamtu-hu 'an al-shay' or aḥkamtu-hu, meaning "I restrained or prevented him from something." From this root also derive expressions denoting control over an animal or compelling a person to adhere to the dictates of truth and justice.⁷

Second: The Technical Meaning of Judiciary

The technical definition of judiciary generally remains closely connected to its linguistic meaning outlined above, insofar as it denotes binding adjudication imposed upon others on the basis of evidence or confession. The essence of this definition lies in clarifying the true nature of judicial authority and the foundations upon which legal rulings are derived and understood in accordance with the objectives of the Sharī'ah.

Ḥanafī jurists defined judiciary as: "the resolution of disputes among people in order to eliminate contention and terminate conflict through legal rulings derived from the Qur'an and the Sunnah."⁸ Ibn Rushd of the Mālikī school defined it as: "the authoritative declaration of a legal ruling in a binding manner." Shāfi'ī jurists defined judiciary as: "the settlement of disputes between two or more parties according to the judgment of Allah Almighty."⁹

A careful examination of these definitions reveals that they are largely confined to the scope of ordinary judicial adjudication. They do not encompass either the jurisdiction of grievances (Qadā' al-Mazālim) or the jurisdiction of Hisbah. Both institutions aim to preserve rights, safeguard public security, establish justice, implement the noble Sharī'ah, and ensure adherence to Islamic legal rulings in matters of creed, ethics, worship, and transactions, even in the absence of an actual dispute or litigation.

Accordingly, a more comprehensive and concise definition of judiciary may be proposed as follows: “the authority to adjudicate disputes and protect public rights through the application of Sharī‘ah rulings.”

Thus, judiciary constitutes a binding authority empowered to resolve disputes, protect rights, and implement the Sharī‘ah by enforcing its rulings and ensuring public compliance therewith. It also serves to prevent harm to both individuals and society, whether committed by rulers, public officials, or ordinary citizens. In this regard, ordinary judiciary, the jurisdiction of grievances, and the institution of Hisbah collectively cooperate in realizing these objectives.¹⁰

Second Section: The Importance of the Judicial Institution

The importance of the judiciary in Islam lies in its status as a legitimate institutional framework entrusted with the realization of justice, the protection of rights, and the preservation of public order. Through these functions, it ensures social stability and regulates relations among individuals. The role of the judiciary extends beyond the mere adjudication of disputes. Rather, it constitutes a fundamental safeguard for both public and private interests and serves to prevent injustice and transgression. For this reason, it has long been regarded as one of the indispensable forms of authority upon which the collective life of human society depends.

The judiciary also plays a pivotal role in safeguarding the essential interests that Islamic law seeks to preserve, namely the protection of life, property, honor, intellect, and religion from all forms of violation and aggression. This is achieved through the authority of enforcement and the application of legal rulings in accordance with the requirements of justice. Consequently, the administration of justice constitutes a foundational pillar for the realization of security and social order, as it restores rights to their rightful owners and limits the causes of conflict and instability. In turn, this strengthens mutual trust among members of society and contributes to the consolidation of social peace.

Furthermore, the significance of the judiciary is reflected in its affirmation of the principle of equality before justice, whereby all individuals are subject to the rule of law without discrimination. This principle was clearly embodied in the Islamic experience during the era of the Prophet and the Rightly Guided Caliphs. The judiciary likewise contributes to the regulation of social and economic interests in a manner that fosters relationships grounded in cooperation, reassurance, and respect for rights. Judicial justice, therefore, represents a

fundamental basis for the continuity of civilization and the attainment of societal stability.¹¹

Third Section: Conditions Required of the Judicial Authority

Islamic jurists stipulated a set of conditions for those entrusted with judicial authority in order to ensure their qualification to assume this critical office, given that the judiciary represents one of the most important institutions in Islamic law associated with the protection of rights, the realization of justice, and the stability of society. These conditions include the possession of full legal competence, namely maturity, sound intellect, and adherence to Islam, in addition to moral integrity and uprightness, which guarantee the judge's impartiality, ethical conduct, and freedom from personal bias or undue influence.

Jurists further required comprehensive knowledge of the rulings, principles, and objectives of Islamic law so that the judge would be capable of applying legal rulings to diverse cases through a sound understanding that takes into account both the textual sources and their intended objectives. This requirement was not confined to theoretical knowledge alone. Rather, jurists emphasized the necessity of understanding social realities and emerging circumstances, since the judicial function requires awareness of the conditions and contextual dimensions surrounding disputes in a manner that ensures justice and prevents the misapplication of legal rulings. Likewise, the judge must be characterized by wisdom, sound judgment, and the ability to manage disputes and adjudicate them objectively and impartially.

Accordingly, these conditions do not merely constitute formal qualifications. Rather, they reflect the higher objective of the judiciary in Islamic law as an instrument for establishing justice, preserving public order, and protecting society from injustice and disorder.¹²

Third Requirement: Societal Security

In the Islamic perspective, societal security refers to a state of tranquility and stability experienced by individuals and communities across various spheres of life within a framework that safeguards rights, preserves moral values, and prevents the causes of fear and social disorder. This concept is not confined to physical protection or security in its narrow sense. Rather, it extends to encompass intellectual, ethical, social, and economic dimensions in a manner that ensures the proper functioning of public life and the maintenance of social equilibrium.

Within the Islamic conception, societal security is founded upon the intrinsic interdependence between individual security and collective security. Islamic law views society as an integrated entity grounded in cooperation, solidarity, and shared responsibility. Consequently, any disruption affecting the social or moral structure inevitably has direct repercussions on the stability and security of individuals. This explains why the concept of security in Islam is closely linked to collective welfare rather than purely individual interests.

Furthermore, the Islamic understanding of societal security is characterized by comprehensiveness and breadth due to its connection with a range of essential foundations, including the establishment of justice, the protection of rights, the consolidation of equality, the guarantee of economic sufficiency, and the promotion of political and intellectual stability. Security is therefore not perceived as an isolated domain separate from other aspects of life. Rather, it is viewed as the outcome of the harmonious integration of the social, legal, and ethical systems within society.

From a *maqāṣid*-based perspective, societal security constitutes a necessary objective that Islamic law seeks to realize, as it provides the framework within which the five essential necessities are preserved: religion, life, intellect, property, and honor. Thus, whenever justice is reinforced, social relations are regulated, and transactions are stabilized, societal security is achieved as a fundamental basis for the continuity of human civilization and the stability of public life.¹³

THE SECOND TOPIC: THE FUNCTIONAL AND MAQĀṢID-BASED FOUNDATIONS OF THE INTEGRATION BETWEEN HISBAH AND JUDICIARY

Understanding the relationship between the institutions of *Hisbah* and judiciary constitutes an essential point of departure for comprehending the nature of the integration between them. This relationship does not merely involve an overlap in certain competencies; rather, it reflects an integrated functional structure founded upon the distribution of roles within a *Sharī'ah*-based system aimed at realizing justice and preserving public order. From this perspective, the foundations of this relationship may be analyzed through two dimensions: the functional dimension and the *maqāṣid*-oriented dimension.

First Requirement: The Functional Structure of the Relationship Between Hisbah and Judiciary

The relationship between *Hisbah* and judiciary is characterized by a distinction in functional roles alongside unity in overarching purpose, namely the

protection of society from deviation and the maintenance of public discipline and order.

First Section: The Preventive Function of Hisbah in Protecting Public Order

The preventive function of the institution of *Hisbah* is manifested in its role as a proactive regulatory mechanism designed to prevent deviations and limit their escalation before they develop into judicial disputes or societal crises that threaten the stability of public order. In this capacity, *Hisbah* undertakes the regulation of public conduct in matters relating to transactions, marketplaces, and public morality, thereby ensuring the protection of collective interests and preserving social and economic equilibrium. Accordingly, *Hisbah* represents the first line of defense against manifestations of deviance and institutional imbalance through preventive oversight and early corrective intervention prior to recourse to judicial authority.

Moreover, *Hisbah* constitutes the comprehensive institutional framework through which the Sharī'ah principles underlying the obligation of commanding right and forbidding wrong are operationalized. This obligation evolved from a purely individual moral directive into an organized institutional function governed by precise Sharī'ah principles and methodological regulations. In this sense, the institution of *Hisbah* became the formal regulatory framework through which these normative principles are implemented within society in a manner characterized by order and discipline, thereby achieving a balance between preserving public order and safeguarding rights and freedoms.

Consequently, the practice of commanding right and forbidding wrong ceased to be a spontaneous or unrestricted individual activity and instead became subject to the legal and methodological parameters established by the jurisprudence of *Hisbah*. These regulations, principles, and mechanisms ensure the realization of the objectives of the Sharī'ah while simultaneously preventing abuse or deviation in practical application.¹⁴

Second Section: The Judicial Function in Resolving Disputes and Protecting Rights

In contrast, the judicial role manifests itself as a binding remedial function that intervenes after the occurrence of a dispute or the violation of a right, with the objective of adjudicating between litigants and restoring rights to their rightful owners. This function is accompanied by legal enforceability that guarantees the execution of judicial rulings and deters violations. Accordingly, the judiciary

represents the ultimate safeguard for the realization of justice when preventive mechanisms prove insufficient.

The judiciary also assumes a central role in preserving societal stability through the resolution of disputes in accordance with the principles of justice and equity, thereby preventing conflicts from escalating into manifestations that threaten public security. Its function is not confined merely to the issuance of judgments; rather, it extends to reinforcing the authority of the law and consolidating public confidence in state institutions. Indeed, individuals' awareness of the existence of a fair and impartial judicial authority significantly contributes to the promotion of social reassurance and stability.

Moreover, the judiciary constitutes a practical mechanism for the implementation of the higher objectives of Shariah associated with the protection of rights and the preservation of human dignity. It operates to eliminate injustice, redress harm, and ensure equality among individuals without discrimination.¹⁵

Third Section: Integration Between Preventive Regulation and Judicial Remedy

The relationship between the institutions of *ḥisbah* and judiciary within the Islamic institutional framework is founded upon a unified functional and *maqāṣid*-oriented vision that renders both institutions complementary pillars for the preservation of security and public order.

The essence of this integration lies in the fact that *ḥisbah* represents the preliminary stage in safeguarding public order through direct supervision, guidance, and prompt reform before harm escalates, whereas the judiciary constitutes the final stage responsible for addressing the consequences of breaches of public order when preventive mechanisms fail to achieve the required level of discipline and compliance. In this sense, the judiciary may be regarded as the natural extension of *ḥisbah*, since the judicial function is not detached from the supervisory role of *ḥisbah*. Rather, it is founded upon it and completes its objectives through the realization of justice, the removal of injustice, and the protection of public interests.

Furthermore, the integration between the two institutions reflects the *maqāṣid*-based conception of Islamic law, which harmonizes prevention and remedy, as well as moral cultivation and binding legal authority. The preservation of society cannot be achieved solely through judicial deterrence after corruption has occurred. Nor can comprehensive protection be realized through moral exhortation and ethical supervision in the absence of decisive judicial authority.

Accordingly, both *ḥisbah* and judiciary operate within a coherent institutional system in which responsibilities are distributed with precision. This prevents jurisdictional conflict and ensures institutional harmony in safeguarding religion, life, property, honor, and intellect as the essential objectives upon which societal stability and civilizational continuity depend.

From a functional perspective, *ḥisbah* alleviates the burden placed upon the judiciary by containing many violations at their initial stages before they evolve into complex disputes. This, in turn, enhances the effectiveness of justice and limits the escalation of social and economic conflicts. Conversely, the judiciary provides *ḥisbah* with the binding legal authority that grants it effectiveness and institutional legitimacy, thereby transforming moral oversight from mere ethical guidance into an integral component of the public regulatory system supported by state authority. This demonstrates that the relationship between the two institutions is one of organic interdependence, such that neither institution can fully perform its function in isolation from the other.¹⁶

Second Requirement: The Maqasid-Based Foundation of Integration between *Hisbah* and the Judiciary

While the functional dimension explains the nature of the relationship between the two institutions, the maqasid-based dimension defines the ultimate objective underlying that relationship. Institutional integration cannot be properly understood outside the framework of the higher objectives of Islamic law, which constitute the supreme reference of the legal system.

First Section: Preservation of Public Order in Light of the Objectives of Islamic Law

The preservation of public order stands among the foremost objectives upon which this institutional integration is founded, as it constitutes the basis for societal stability and the continuity of human civilization. *Hisbah* contributes to the consolidation of social discipline through oversight of public conduct and the protection of the values regulating social and economic life, while the judiciary ensures the stability of transactions and the safeguarding of rights through its authority of adjudication and enforcement. This functional integration occasionally resulted in an overlap between certain competencies of the *muhtasib* and the functions of the judge, particularly the *Qadi al-Mazalim*; however, such overlap did not represent a conflict of jurisdiction, but rather an organized distribution of roles aimed at ensuring coherence in the protection of public interests. Accordingly, the integration between the two institutions reflects the maqasid-oriented vision of Islamic law, which combines prevention and remedy

in a manner that promotes societal security and preserves the proper order of public life.¹⁷

Second Section: Protection of Public Values and Morality and Their Impact on Societal Stability

The significance of morality in the construction of the social fabric is manifested through its direct influence on guiding individual behavior and reinforcing the values of discipline and responsibility, thereby contributing to societal stability and cohesion. Consequently, the protection of public values and morality constitutes both a maqasid-based and civilizational dimension of the integration between *hisbah* and the judiciary. The proper functioning of public life cannot be achieved through legal mechanisms alone; it also requires a moral framework that strengthens voluntary compliance and prevents the disintegration of social bonds.

Within this context, *hisbah* performs a preventive role in safeguarding public values and regulating conduct within the public sphere, whereas the judiciary assumes the responsibility of protecting these values through its authority of enforcement and deterrence whenever violations occur. Thus, the integration between the two institutions does not merely represent a functional organization of powers, but rather embodies the maqasid-oriented vision of Islamic law through the combination of moral refinement and legal protection in pursuit of societal security and public stability.¹⁸

THE THIRD TOPIC : Areas of Integration Between Hisbah and Judiciary in Achieving Societal Security

This section marks the transition from theoretical foundations to the applied dimension, where the effects of the functional integration between *Hisbah* and judiciary become evident within social reality through a range of domains that reflect both preventive and remedial dimensions simultaneously. Together, these dimensions contribute to strengthening societal security in its comprehensive sense.

First Requirement: Integration in Protecting Society from Deviance and Corruption

The protection of society from deviance and corruption represents one of the most prominent areas in which the integration between *Hisbah* and judiciary is manifested. Within this framework, the preventive function operates in harmony with the judicial function as part of a unified system aimed at minimizing sources of social risk and instability.

First Section: Integration in Protecting Public Rights and Preventing Their Violation

The integration between *Hisbah* and judiciary is clearly reflected in the protection of public rights and the preservation of collective interests against various forms of infringement and disruption. *Hisbah* exercises direct oversight over public activities and daily transactions in a manner that limits harmful practices capable of undermining the economic or social security of the community. This is achieved through prompt intervention aimed at eliminating the causes of harm before their consequences expand and intensify.

The judiciary, by contrast, assumes the function of legal adjudication once disputes arise or violations of rights are established through the issuance of binding judgments and the determination of legal responsibility. In this manner, integration is realized between the preventive role of Hisbah and the remedial role of judiciary within a comprehensive system directed toward preserving public order and reinforcing confidence in the stability of transactions and social relations.¹⁹

Second Section: Integration in Combating Fraud, Monopoly, and Behavioral Corruption

Since one of the primary functions of the muhtasib was to safeguard markets from fraud and deception and to protect commercial transactions from forms of corruption, he assumed responsibility for supervising goods and merchandise, verifying their sources, quality, and prices, and consulting specialists to regulate standards relating to weights, measures, and product quality. In addition, he oversaw the organization of public facilities within marketplaces in a manner that served the public interest and preserved public order. He also worked to prevent prohibited transactions, considering them practices that threaten the economic and moral stability of society.

In contrast, the judiciary intervened when such violations developed into disputes or offenses affecting public or private rights, assuming responsibility for adjudicating such matters and imposing appropriate sanctions upon offenders. The complementarity between the two institutions thus becomes evident through the combination of the preventive oversight exercised by al-ḥisbah and the binding deterrent authority exercised by the judiciary, thereby ensuring the protection of transactions and the stability of public life.²⁰

Second Requirement: Integration in Promoting Justice and Social Stability

The impact of the integration between al-ḥisbah and the judiciary is not confined to the preventive dimension alone. Rather, it extends to the promotion of justice and the consolidation of social stability through the establishment of a balanced relationship between moral deterrence and judicial deterrence.

First Section: Institutional Integration Between Moral and Judicial Deterrence

The integration between al-ḥisbah and the judiciary is reflected in the reliance of Islamic law upon two interrelated mechanisms for regulating social conduct. The first is based on direct supervision and immediate reform, commonly referred to as moral deterrence, while the second relies upon the authority of adjudication and legal enforcement in cases involving transgression or violations of rights, namely judicial deterrence. Al-ḥisbah seeks to address deviations within their social context before they evolve into disputes that threaten communal stability through monitoring public transactions and preserving the ethical norms and values governing social relations within society. The judiciary, on the other hand, exercises its jurisdiction once a dispute arises or harm is established, thereby ensuring the restoration of balance within social relations and the protection of rights from abuse or infringement.

This functional interconnection reflects a maqāṣid-oriented vision that regards the protection of society as a shared responsibility in which educational, regulatory, and judicial mechanisms operate in an integrated manner. Al-ḥisbah contributes to the creation of a public environment founded upon respect for collective norms and values, while the judiciary provides the institutional guarantees necessary to preserve those values and prevent their violation. Accordingly, the relationship between the two institutions is not based on overlapping jurisdiction. Rather, it is founded upon a unity of purpose centered on the realization of social stability and the preservation of the public interest.²¹

Second Section: Institutional Integration in Reducing Disorder and Deviance

The institutional integration between ḥisbah and judiciary is manifested in their shared capacity to preserve societal equilibrium and prevent disruptions to the structural integrity of social and economic relations. The institution of ḥisbah is primarily concerned with monitoring daily practices that may lead to the spread of transgressions or harm to the public interest through supervision of the public sphere and the correction of conduct that violates ethical norms and the regulatory frameworks governing societal affairs. The judiciary, by contrast, is responsible for addressing the legal consequences arising from such violations whenever they result in disputes or infringements upon rights through judicial adjudication and the determination of legal responsibility.

This functional interdependence contributes to the establishment of a social environment grounded in respect for public norms and the reduction of factors leading to instability and disorder. While ḥisbah promotes a culture of discipline and social accountability within society, the judiciary provides the legal guarantees necessary for preserving stability and protecting rights. Consequently, the relationship between the two institutions reflects an integrated institutional vision in which the protection of society constitutes a shared responsibility encompassing moral, regulatory, and legal dimensions within a unified framework.²²

Study Findings:

- The study demonstrates that the relationship between ḥisbah and judiciary is founded upon functional integration rather than overlap or conflict, whereby ḥisbah assumes the preventive role while the judiciary undertakes the remedial and binding functions.
- This integration contributes significantly to enhancing the protection of public order through the combination of early supervisory oversight and subsequent judicial resolution of disputes.
- The study further reveals that ḥisbah functions as an instrument for regulating public conduct and limiting the causes of deviance before they escalate, thereby alleviating the burden placed upon the judiciary.
- The research concludes that the integration between the two institutions is not merely an administrative arrangement of authority. Rather, it constitutes a practical embodiment of the maqāṣid-based logic of Islamic law in achieving equilibrium between prevention and remedy, and between moral regulation and judicial deterrence.

- 1- Ibn Manzur, *Lisan al-Arab*, 3rd ed., Beirut: Dar Sader, 1414H, Vol. 1, p. 314; Ibn Faris, *Mu'jam Maqayis al-Lughah*, edited by Abd al-Salam Muhammad Harun, 1979, Vol. 2, p. 59; Al-Fayyumi, *Al-Misbah al-Munir*, Beirut: Al-Maktabah Al-'Ilmiyyah, p. 185.
- 2- Al-Mawardi, *Al-Ahkam al-Sultaniyyah*, Cairo: Dar Al-Hadith, p. 240; Ibn al-Farra', *Al-Ahkam al-Sultaniyyah*, 2nd ed., Beirut: Dar Al-Kutub Al-'Ilmiyyah, 2000, p. 284.
- 3- Ibn Al-Ikhuwwah, *Ma'alim al-Qurbah fi Ahkam al-Hisbah*, Cambridge: Dar Al-Funun, p. 51; see also: Ibn Bassam, *Nihayat al-Rutbah fi Talab al-Hisbah*, edited by Muhammad Hassan Muhammad Hassan Isma'il and Ahmad Farid Al-Mazidi, 1st ed., Beirut: Dar Al-Kutub Al-'Ilmiyyah, 2003, p. 10.
- 4- Muhammad Uthman Shubayr, "Reviving and Developing the Institution of Hisbah for the Protection of Human Rights," in *Human Rights as the Core Objective of Islamic Sharia*, p. 90.
- 5- Al-Mawardi, op. cit., p. 240 ; Ibn al-Farra', op. cit; Ibn Al-Ikhuwwah, op. cit; Ibn Bassam, *Nihayat al-Rutbah fi Talab al-Hisbah*, edited by Muhammad Hassan Muhammad Hassan Isma'il and Ahmad Farid Al-Mazidi, 1st ed., Beirut: Dar Al-Kutub Al-'Ilmiyyah, 2003; Muhammad Uthman Shubayr, op. cit; Muhammad Hamad Al-Gharaybah, *The Judicial System in Islam*, 1st ed., Amman: Dar Al-Hamid, 2004; Muhammad Jamal Abu Sunaynah, "The Conditions Required for a Judge between the Past and the Present," *Journal of Islamic Studies and Academic Research*, No. 47, 2016; Rawla Muhammad Ahmad Muhsin, "The Concept of Societal Security in the Qur'an and Sunnah and Its Applications," *eajazjo.org*; Ibn Abidin, *Radd al-Muhtar 'ala al-Durr al-Mukhtar*, 2nd ed., Egypt: Mustafa Al-Babi Al-Halabi Press, 1966.
- See: Mustapha Bricchi, "The Importance of the Hisbah System," *Journal of Anthropology of Religions*, Vol. 9, No. 1, pp. 180–181.
- 6- Abu Abdullah Al-Saqati, *Adab al-Hisbah*, edited by Levi-Provençal, Paris: Ernest Leroux Press, pp. 8–9; Ibn Bassam, op. cit., pp. 292–293.
- 7- Ibn Manzur, op. cit., p. 140.
- 8- Ibn Abidin, op. cit., p. 459.
- 9- Shams al-Din Al-Ramli, *Mughni al-Muhtaj ila Ma'rifat Ma'ani Alfaz al-Minhaj*, 1st ed., Dar Al-Kutub Al-'Ilmiyyah, 1994, p. 371.
- 10- Muhammad Al-Zuhayli, *History of the Judiciary in Islam*, 1st ed., Damascus: Dar Al-Fikr, Syria, 1995, p. 13.
- 11- Muhammad Hamad Al-Gharaybah, op. cit., p. 48.
- 12- See: Muhammad Jamal Abu Sunaynah, op. cit., pp. 93–94.
- 13- Rawla Muhammad Ahmad Muhsin, op. cit.
- 14- See: Shahrazad Boustila, "The Role of Hisbah in Preventing and Combating Corruption," *Journal of Judicial Ijtihad*, Vol. 4, No. 5, 2009, p. 159.
- 15- Noor Raad Rashid Muhammad and Sahar Khalid Khamis, "The Judicial System in Islam: A Comparative Foundational Study," *Tasneem International Journal*, Special Issue, 2025, p. 784.
- 16- See: Umaymah Yusuf Washah, *The Role of Hisbah and Judiciary in the Application of Human Rights during the First Abbasid Era*, Master's Thesis, supervised by Dr. Ghassan Mahmoud Washah, Gaza: Islamic University, 2016, p. 75 ff.
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