The New Muhtasibs ... Religious, Moral and Patriotic Inquisitions

Introduction:

“Hisba” is a term derived from the Islamic heritage. It describes an ancient job that is replaced now by a number of state institutions, like the consumer protection institution and others. “Muhtasib” was a supervisor of bazaars and trade in the medieval Islamic countries. His duty was to ensure that public business was conducted in accordance with the law concerning the quality and price of goods.

Some Islamic clerics believe that Hisba is based on the Islamic concept of Promotion of Virtue and Prevention of Vice. Nevertheless, the Arabic Network for Human Rights Information issued a detailed study, prepared by Helmi Al Namnam, a prominent Egyptian researcher and writer, tackling the issue of Hisba, its history, and its development until the year 2012. The study uncovers that the Islamic Prophet and his predecessors "Kholafaa Rashedin" never knew anything like "Hisba”. On the contrary, the post of "Hisba" was borrowed from the Byzantine Empire, like most of the administrative regimes which was borrowed by the Arabs from the Byzantines and Persians. The Arabs had no experience of running a state, therefore, they had to resort to foreign administrative systems after conquering these foreign lands. Like all obsolete posts and jobs, “Hisba” gradually disappeared to be replaced by modern state institutions.

The term “Hisba” reemerged in the 21st century to describe those who legally pursue people in order to confiscate their freedom of speech and expression. Starting with Georgy Zeidan and Taha Hussein and not ending with Nassr Hamed Abo Zeid, victims of thought inquisitions used to be defamed and pursued. Sometimes they lose their jobs and be separated from their wives, under the pretext of religion.

However, New Muhtasibs, who emerged in 2013, added characteristics. They hide under the pretext of patriotism, morals not only religion. They pursue whoever disagrees with them, including a singer joking on the stage. They define patriotism according to their measures, then pursue people, in accordance with these measures, including those who support the regime.

1- Who are the New Muhtasibs, and how did they emerge?

The term was coined to stigmatize lawyers who submit complaints and file suits against victims who did nothing but expressing their opinion.

Who are those lawyers?

Lawyers who pursue freedom of expression through filing complaints and suits – which most of the time are reserved – belong to three categories:

First Category:

2. A study about Hisba published June 2012 – last visit May 2019 http://www.anhri.net/wp-content/uploads/2012/06/%D8%A7%D9%84%D8%AD%D8%B3%D8%A8%D8%A9-%D9%88%D8%AD%D8%B1%D9%8A%D8%A9-%D8%A7%D9%84%D8%AA%D8%B9%D8%A8%D9%8A%D8%B1-%D9%86%D9%87%D8%A7%D8%A6%D9%8A.pdf
A celebrity seeker. Mostly a lawyer who has a legal office, seeking to increase his fees. As this lawyer never won a historical case or strove for a real cause, it is easier for him to acquire celebrity through monitoring social media users, TV speakers, writers in newspapers, sites or even youtubers. The plan is to hunt a slip of tongue for a public figure and file a complaint against him/her, accusing the figure of threatening national security, destroying morals, promoting atheism or “startling” citizens.

After filing the complaint to the Public Prosecution, the lawyer copies the complaint and sends these copies to newspapers, websites, and satellites. Eventually, journalists connect him to be interviewed and all of a sudden, the man is turned to be a public figure, a guest in TV channels, a lawyer who is mentioned in articles. This helps him to receive more clients and increase his fees.

Second Category:
Either a person who wants to offer his services to the authorities or he is already an agent for them. Sometimes the authorities need to be behind the scene when it comes to confronting the opposition. Especially if the dissident is a public and international figure, therefore, it is easier to order one of these lawyers to confront him/her on behalf of the authorities. The targeted message is: we have nothing to do with it, the opponent is provoking honorable citizens who chose to confront him/her.

So, this category of Hisba lawyers is nothing but "honorable" citizens who work for authorities but in courts not in streets.

Third Category:
True believers, defending their point of view in the wrong way as they express their opinion through confiscating others' opinions. Dealing with those who do not copy their views as evil and harmful for society, considering himself as the owner of the ultimate truth.

2-Is there Hisba in the Egyptian Law?
No. Theoretically speaking, the Egyptian constitution guarantees freedom of expression equally to every single citizen:

Article 64: Freedom of belief is absolute. The freedom of practicing religious rituals and establishing places of worship for the followers of revealed religions is a right organized by law. Article 65: Freedom of thought and opinion is guaranteed. All individuals have the right to express their opinion through speech, writing, imagery, or any other means of expression and publication.

Article 66: Freedom of research The state shall sponsor researchers and inventors and protect and work to apply their innovations.
Article 67: Artistic and literary creation Freedom of artistic and literary creation is guaranteed. The state shall undertake to promote art and literature, sponsor creators and protect their creations, and provide the necessary means of encouragement to achieve this end. No lawsuits may be initiated or filed to suspend or confiscate any artistic, literary, or intellectual work, or against their creators except through the public prosecution. No punishments of custodial sanction may be imposed for crimes committed because of the public nature of the artistic, literal or intellectual product. The law shall specify the penalties for crimes related to the incitement of violence, discrimination between citizens, or impugning the honor of individuals. In such cases, the court may force the sentenced to pay punitive compensation to the party aggrieved by the crime, in addition to the original compensations due to him for the damages it caused him. All the foregoing takes place in accordance with the law.

Concerning Egyptian Law, it never approves “Hisba” or states anything about “The Hisba Right”. On the contrary, The Civil and Commercial Procedural Law No. (13) of 1986 amending Law No. 13 of 1986, article 3 (replaced by Law No. 81 of 1996), does not accept any claim or defense based on the provisions of this law or any other law. Where the owner has no personal and direct and existing interest approved
by law. However, the potential interest is sufficient if the purpose of the request is to provide for the prevention of imminent damage or to ascertain the right to fear the disappearance of its evidence at the time of the dispute. The court shall, on its own merits, in any case in which the case arises, not to accept in case the conditions stipulated in the two preceding paragraphs are not met. The court may, upon ruling not to accept the case for the absence of the interest clause, impose a fine of not more than five hundred pounds on the defendant if it is found that the defendant has misused his right to litigation.

Therefore, we find that the cases and suits that target freedom of thought and expression are represented by the lawyer to file complaints against citizens. This complaint serves as an alert to the prosecution, which is acting on behalf of the people, that there is a danger, which threatens social morals and taboos, and that the prosecution either considers or preserves the complaint, but despite the preservation of many of these complaints, the aim is to intimidate those who have different opinion is achieved.

3- Examples of Hisba Lawyers:
There are well-known names of lawyers who are famous of Hisba suits. All you have to do is to search their names to face a long list of Hisba complaints. Sometimes Haphazardly.

First: Ayman Mahfouz:
One of the prominent Hisba lawyers. He has a long list of complaints: against an actress who was recording a personal message to her friend and mistakenly published it publicly. Against a dead Opera singer demanding to confiscate his library which was a subject of dispute between the family of the deceased and his lawyer, against an Imam in a mosque, accusing him of defaming Islam, against Mustakbal Watan political party accusing them of misusing the name of the president, not to mention his pursuance of actors Amr Waked and Khaled Abol Naga. Mahfouz accused actor Amr Waked of despising Islam as the latter demanded to abolish the death penalty. Such an accusation provoked a number of human rights advocates and opinion makers, as this complaint is not directed against Waked only, but it confiscates the freedom of expression of all those who oppose death penalty which is an international human rights cause that has nothing to do with despising Islam. On the other hand, Mahfouz filed a complaint against actor Khaled Abol Naga accusing him of promoting for homosexuality and "writing suspicious tweets leading to catastrophe in addition to his meeting with US Congress members along with Amr Waked with no right to speak on behalf of..."
the Egyptian people."

Contemplating complaints filed by Mr. Ayman Mahfouz, we never can find a connecting string between them. Sometimes he is a moral supervisor, sometimes he is a religious one and finally he is a supporter of the regime who pursues whoever has a different opinion. However, there are certain complaints that cannot have any title, for instance, Mr. Mahfouze filed a complaint against actor Ramez Galal because he anchors a “silly” TV program. For years, actor Ramez Galal used to anchor a "hidden camera" program in Ramadan. It seems that Mr. Mahfouz did not like the program. So instead of criticizing Galal or the hosting channel, Mr. Mahfouz filed a complaint against Ramez Galal to the Supreme Council for Journalism which studied the complaint to stop broadcasting the program as it is silly and irritates Mr. Mahfouz. Most probably. Mr. Mahfouz belongs to the first category which seeks celebrity. He is fond of appearing in media and bragging about suits he files, like talking about the national football team and its deteriorating performance in World Cup, though, Mr. Mahfouz did not tell us if he filed a complaint against the national football team.

Second: Samir Sabri (The Godfather of complaints)

“The Godfather of Complaints”

It is not a satirical description we use to mock the prominent lawyer. As a matter of fact, it is a title through which he describes himself on his Facebook page while listing the complaints he filed in 2015.

As it shows from this title, it is a hard task to cover all complaints submitted by Dr. Samir Sabri. Therefore, we will not be able except to list samples from these complaints using his own page on facebook along with a number of newspapers websites.

To sum it up: a complaint against director Khaled Youssef to isolate him from his membership in the Egyptian parliament accusing him of sexual harassment, a complaint against Salafi movement, a complaint against Dr. Abdul Monem Abul Fottoh and the weirdest: a complaint against the National Council for Human Rights, as he accused the council of dropping retribution. Along with complaint against former head of Central Auditing Organization, Hesham Genina, a complaint against the deceased Ahmed Kamal Abul Magd, accusing him of contacting Muslim Brotherhood, a complaint against Dr. Ossama Al Ghazali Harb, after an unauthenticated WikiLeaks text was published in a website that is not known for its credibility, accusing the latter of having contacts with the US embassy. It is worth mentioning that Dr. Samir Sabri did not exert some effort to search on the original WikiLeaks site in order to authenticate the alleged document, which appeared later to be false. Dr. Samir Sabri, in a complaint submitted to the General Prosecutor, accused Sawiris family of funding Muslim Brotherhood. He also accused one of the Sufi Sheikhs – Saleh Abo Khalil – of despising Islam and claiming prophecy. All these accusations and more were submitted only in 2015.

Too honest to be true; yet, it is interesting to mention that Dr. Samir Sabri confessed, publicly, that he,
fiercely, opposes freedom of speech! Illustrating that he is protecting the country from chaos. The “complaints star” announced his regret that he withdrew his complaint against actress Rania Youssef, as she wore a dress which was considered indecent according to the lawyer. He said that he withdrew the complaint out of his compassion with the actress, yet, it seems that the actress did not learn the lesson and continued to wear indecent dresses till now.

The complaints submitted by Sabri were not all considered, maybe because it is impossible. However, a key suit was considered in court which is the suit of "obscene gesture" in which the human rights lawyer and former presidential candidate, Khaled Ali, was accused of making an obscene gesture after winning the case of "Tiran and Sanafir", a case which was filed by a number of lawyers, including Ali, to prove the two islands, Tiran and Sanafir, are Egyptians, after the Sissi regime has sold it to Saudi Arabia. It was Sabri who filed a complaint against Khaled Ali, and the complaint was referred to the court in order to be considered. Ali was sentenced to three months in prison with the suspension to the penalty.

Khaled Ali is a fierce opponent to Sissi regime, he won cases against this regime in courts, he is former rival to Sissi in the presidential elections and he withdrew from the presidential race after declaring that it is nothing but a charade, despite all these givens, Sabri declared that his complaint against Khaled Ali is independent of the authorities.

We do not have blatant concrete evidence that makes us do not believe Dr. Sabri, nevertheless, we do have some legitimate questions. Dr. Sabri has a Ph.D. in law in which he is an expert. However, he violates the Egyptian law by filing cases against figures while not having a direct interest as stated in the law. Moreover, these complaints are referred to the court in a blatant violation of the law. It is worth mentioning that Dr. Sabri commits the crime of insulting and defaming his rivals though it is criminalized in the Egyptian law and he has never ever been held accountable for this. For instance, Dr. Sabri described Dr. Saad Al Din Ibrahim as a "traitor who serves Moza – Qatari queen mother", he never provides any evidence of such accusations, yet he was not been held to accountability.

We have no authenticated information about the benefits that are gained by the "Hisba" lawyers. Nevertheless, the fevered conflict burst out between the veteran Hisba Lawyer, Dr. Samir Sabri, and the junior Hisba Lawyer Mr. Ayman Mahfouz implicates that there is a certain interest or benefit from exerting all these efforts to follow people and target them with legal complaints.

The mentioned above Ayman Mahfouz filed a complaint against Samir Sabri claiming that he forged his Ph.D. degree.
Third: Ayman Mahrous.
A new Hisba star is glowing. Mr. Ayman Mahrous is a new talent yet he was able to draw the attention after being hosted in "The Insider" TV program to testify about his complaint against actor Mohamed Ramadan. This is a prove that pursuing public figures legally is a short cut for celebrity. Mahrous filed a complaint against Egyptian actor Mohamed Ramadan after appearing on stage with an extravagant car, surrounded by motorcycles, then he took off his shirt. Ayman Mahrous expressed his anger claiming being subjected to psychological damage as an Egyptian citizen saying: what is so innovative about singing naked?"16

Fourth: Mohamed Hamed Salem
An expert in complaints specialized in religion, politics, dairies, and football.
In football: Mr. Salem filed a complaint against Mahmoud al-Khatib, head of the board of trustees of Al Ahly football team, accusing him of gravy and receiving funds from Al Sheikh. It is worth mentioning that the complaint was not referred to the court, most probably because the victims are close to the regime. 17
In Dairies: the lawyer filed a complaint against Juhaina dairy company accusing it of selling rotten products, another crisis that passed calmly. 18
In Arts: Mr. Salem filed a complaint against Ayoub TV series accusing it of inciting women to kill their husbands! 19
Nevertheless, the most important complaints that were referred to court are mainly in the political arena: Public Prosecutor, Nabil Sadiq, orders to refer a complaint, filed by Mr. Salem against General Ahmed Shafiq, to supreme state security prosecution, in which the lawyer accused the latter of provoking the public opinion. 20
It seems that lawyer Mohamed Hamed Salem is obsessed with Hamdin Sabbahi, head of Al Karama Party and former presidential candidate, as the lawyer filed a number of complaints against him: Salem filed a complaint against Sabbahi accusing him of inciting against the state and demanding to confine him in a mental asylum. 21
Another complaint was referred to North Giza prosecution filed by Mr. Salem against Sabbahi and a number of the civil movement figures. ²²

The mentioned filed a complaint against engineer Mamdouh Hamza accusing him of defaming state institutions after the latter published a video on youtube. ²³

He also accused workers in BBC and al Masry al Youm newspaper of defaming Egypt and demanded to investigate them.²⁴

The lawyer also filed a complaint against MP Ahmed Tantawi when the MP said that he does not love Sissi or trust him, accusing him of insulting the president. ²⁵

On his Facebook account, the lawyer describes himself as "Lawyer, intellectual and politician". He also narrates his achievements:

“A striver, a revolutionist, an Egyptian, independent, I do not belong to any political party or stream”²⁶

If you are interested in knowing more achievements, like accusing ambassador Maassoum Marzoq of being mentally unstable and demanding to refer the ambassador to a mental asylum, his pursuance to fire the bearded officers from their jobs, his complaints against cartoons and other numerous achievements, please feel free to visit his official page on Facebook.

Fifth: Tarek Mahmoud

A new market emerged, it is the market of "legal complaints". It was born giant, and competition is severe. Therefore, you need to be the "most" of everything, the most patriotic, the most religious, the most ethical and you need to prove this through legal complaints and the choice of your victims.

Lawyer Tarek Mahmoud files a complaint against Human Rights Organizations accusing them of publishing false news. Among the accused: Gamal Eid director of the Arabic Network for Human Rights Information, Mohamed Zareei director of Cairo Center for Human Rights Studies, Mohamed Lotfi executive director of the Egyptian Organization for Rights and Freedom, Gasser Abdul Razeq executive director of Egyptian Initiative for Personal Rights.²⁷

It is noticed that some lawyers do file complaints against people who are abroad and are not controlled by Egyptian law, like Ayman Nour, or Moataz Matar,²⁸ or fugitives like Mahmoud Al Sharabi or

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²² Published: April 2019 – last visit May 2019
https://www.cairo24.com/2019/04/12/%D8%B5%D8%A8%D8%A7%D8%AD%D9%8A-
% D8%A8%D8%A7%D9%84%D8%AA%D8%AD%D8%B1%D9%8A%D8%B6-%D8%B6%D8%AF-
% D8%A7%D9%84%D8%AF%D9%88%D9%84%D8%A9-
% D9%88%D9%8A%D8%B7%D8%A7%D9%84%D8%A8-
% D8%AB%D8%AD%D9%8A%D8%AF%D8%A7%D8%B9%D9%87-
% D9%85%D8%B3%D8%AA%D8%B4%D9%81%D9%89

²³ Published: February 2018 – last visit May 2019
https://www.sawt.org/3063831

²⁴ Published: April 2018 – last visit May 2019

²⁵ Published: April 2019 – last visit May 2019
https://www.light-dark.net/t1465607

²⁶ Published: January 2019 – last visit May 2019
https://www.facebook.com/pg/%D9%85%D8%B3%D8%A7%D9%84%D9%85%D8%AF-%D8%AD%D8%A7%D9%85%D8%AF-
% D8%B3%D8%A7%D9%84%D9%85/about/?ref=page_internal

²⁷ Published: April 2019 – last visit May 2019
http://www.tahiamasr.com/253511
Mohamed al Nasser.  
As for actor Amr Waked, he is recently used as a scapegoat to prove patriotism. He was showered with complaints and lawyer Tarek Mahmoud had his share of "patriotic complaints".  
Not to mention Mr. Mahmoud's complaint filed against MP Haytham al Hariri accusing him of stealing public money.

Sixth: Mohamed Ramadan Abdul Monem:
Another newborn star in the field of Hisba complaints. He commenced with filing complaint against MP Haytham Al Hariri accusing him of receiving two salaries, claiming that, as an Egyptian citizen, he is suffering damage from Hariri's attitude. 
It is worth mentioning that the complaint was among a long list of complaints filed against Hariri and other parliament members who declared their rejection to the new constitutional amendments.

4-Hisba and Freedom of Speak
It goes without saying that the human mind needs the freedom to be creative in all fields. Surveillance is a murderer of creation and leads to backwardness. Not every innovator is ready to fight for his/her thoughts especially if he has to be imprisoned. For example, Oscar Wild fought to the last breath for his thoughts, yet, Galileo retreated in front of the church power fearing legal and social condemnation. You cannot blame the opinion maker if s/he retreats or chooses not to fight as this is considered blaming the victim, the guilty party, in this case, is the party that goes hunting creators and innovators.
It is true that the new Muhtasibs claim monopolizing patriotism, but practically they work against the national interest by imposing rigidness and through terrifying creators, innovators and opinion makers who think out of the box, as such figures are the main founders of civilization and progress. The feeling of being monitored paralyzes thinkers and hinder their contribution. No nation on earth was able to achieve progress while strangling human thought.

5- When does Hisba flourish?
Such an attitude which we call "Hisba" or inquisitions, flourishes under dictatorships. Humanity witnessed that in the middle ages under the Catholic Church power and in all ages under military power, especially in the third world. There are always beneficiaries from dictatorship who wants to get close to the authorities on the expenses of others. Being poor in talents, eager to acquire interests, afraid of the iron fist, make some people exert effort in flattering the dictator, serving him and pursuing all those who do not want to submit to his tyranny, of course, they care the least about the “national interest” which they claim defending it.
They claim "patriotism" "being pious" "having morals and ethics", however, they view these abstract values through a definition founded by the dictatorship which, of course, monopolize the ultimate truth.
6-Recommendations
If it is true that the state is seeking “Egyptian progress” as it always states, it has to open the public arena and gives total freedom to all creators, innovators and opinion makers without surveillance or irrational penalties. It is better to think and make mistakes rather than stop thinking. Fear does not serve the nation. Therefore, we offer the state the following recommendations:
1- Empowering opinion makers, no matter who they are, and enabling them to express their views freely under no threats at all.
2- Fighting opinions with opinions, words with words, creation with creation, not with complaints and legal pursuance.
3- Restricting the courts' role in considering crimes only, and banning courts from considering opinion cases.
4- Putting an end to the endless complaints filed by beneficiaries and hypocrites, rejecting complaints except those who have a direct interest, in order not to put the victim under the stress of fear or threat.
5- In the Arabic Network of Human Rights Information we reject suits of "Defaming and insulting", yet we do not encourage people to use obscene words in disputes. However, we demand to guarantee the right to respond to all those who undergo obscene campaigns by the regime media. We state here that media workers and journalists who support the regime violate the law and commit the crime of defaming and insulting without being held to accountability.

Conclusion:
Freedom of expression, opinion, and thought is not a luxury. It is not suitable to point at citizens who belong to the third world as "aliens who are not prepared for freedom and human rights" in reference to their culture as "different from those nations who enjoy freedom and human rights in Europe and the first world". This is a discriminative narrative which is not acceptable to be used by leaders in our countries. It is not acceptable too that our leaders declare bluntly that they despise us, describing their people as "different" and not "ready for human rights in the western concept"! We wonder, how do people in the third world differ from other people on the planet? What kind of difference that makes some people do not "deserve" freedom and human rights? Is it because they are different in color, race, language, and culture? Does such a difference make them less human?
Well, there is a difference in fact, not between people worldwide, but between governing regimes, legal systems and human codes founded by the state. This is the real difference that allows some people to enjoy human rights while deprives others of their least rights as human beings. One individual adopts certain aggressive attitude under dictatorship and turns a totally different person who respects law and rights when s/he is able to flee dictatorship and travels to live in a first world country. Therefore, we view, and after surveying facts, that citizens in this part of the world deserve enjoying full human rights and freedom in order to be able to lead their countries to progress and welfare and in order not to be obliged to immigrate to first world countries, either legally or illegally, seeking their freedom.