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Conclusion

Awqaf al-haramayn offre par son aspect « encastré» l'exemple par excellence d'un agrégat social reliant économie et culture, action individuelle et activité sociale, sphère publique et activité politique. Sa flexibilité juridique et son caractère durable lui confèrent un mécanisme simple et socialement efficace. Cependant, un changement méthodologique est nécessaire pour réappréhender de telles structures. Un dépassement au niveau de la méthode et des outils scientifiques est aussi indispensable. Le monde de l'Islam entant que sujet académique reste, dans une tendance dominante⁽¹⁾, hantés par une analyse historique linéaire échos de thèses orientalistes imprégnées de références statiques sur l'Islam, ses structures sociales de ses populations⁽²⁾. Cet univers analytique est eurocentriste par excellence, chargé de concepts globalisants où progrès, capitalisme, marché mondial, développement, et croissance renvoient à des catégories déterritorialisées. Une approche qui a du mal à penser la différence et l'hétérogénéité.

Face aux malaises des sociétés arabes contemporaines et les échecs des recettes développementalistes, académiciens et décideurs politiques ont un grand intérêt à considérer de nouveaux champs analytiques et pratiques qui pourrait contribuer à élucider de nouvelles perspectives et des solutions innovantes. L'exemple des chaines de solidarité endogènes offrent un cas à étudier et un sujet à explorer.

(1) Cf. à Tarak, Abdallah, « Pour une sociologie des awqaf », in AWQAF journal, KAPF, No 1, Year 1, Novembre 2001, pp 35-41.

(2) Saïd (Édouard). 1979. L'orientalisme ou l'Orient crée par l'Occident. Traduit de l'américain par Catherine Malamoud, Éditions du Seuil, Paris.

durant des siècles serait l'exemple patent pour rétablir une société civile forte partenaire d'un état responsable qui revalorise l'initiative individuelle dans la construction des sociétés, et dans l'orientation du comportement social vers l'utilité publique.

Réinventer la modernité c'est essentiellement redonner aux individus, hommes et femmes, leur capacité d'action au sein du vaste champ social. C'est aussi redonner l'importance aux médiations qui unissaient l'économie et la culture et assuraient une forte intégration de tous les éléments de la vie sociale. Renforcer l'espace public apparaît comme une condition inévitable pour ouvrir de nouveaux horizons d'actions sociales.

Nous estimons que les awqaf pourraient jouer un rôle dans cette entreprise. Considérée comme un « idéal type » au sens wébérien, l'étude de l'agencement historique de la structure waqf serait d'une grande utilité analytique pour mieux appréhender une forme de modernité plus humaine et moins techniciste. Cette démarche permettra l'appréhension du caractère socialement complexe des awqaf et les méthodes de gestion de l'espace civil où l'action économique est socialisée parce que « encastrée » au sein de réseaux de relations personnelles. La construction sociale des institutions reflète ainsi les relations sociales qui ne pourraient s'expliquer seulement en termes de rationalité économiques.

L'analyse des réseaux waqfs est bénéfique pour saisir les facteurs explicatifs de l'action individuelle et son impact social non seulement en termes de relations entre les individus eux-mêmes mais aussi sur la formation des structures socialement influentes. Comme le souligne fort bien Faruk Bilici « L'étude des waqfs dans le monde musulman n'est pas simplement l'étude de l'histoire de la bienfaisance, de la lutte contre la pauvreté ou encore, de la situation sociale et économique des fondateurs et par là, de la population en général. C'est aussi l'histoire de l'architecture, de l'urbanisme, de la démographie, de l'éducation, du système bancaire et de crédit, de la prévoyance et de la solidarité. »⁽¹⁾

(1) Faruk Bilici. Les waqfs ottomans à Istanbul au XVI^e siècle : la nahiye de Mehmed II (Fatih). N° 8, Y4, (Rabi I 1426 AH, May 2005). pp 16.

Les décennies passées depuis les indépendances politiques n'ont pas à vrai dire créé un «paradigm shift» pour emprunter le concept de Thomas Khun (1922-1996). On est très loin d'un nouveau mode sociétal capable de régler les problématiques héritées depuis l'effondrement de l'empire Ottoman, les conséquences de la période coloniale, et de la dépendance vis-à-vis d'un capitalisme de plus en plus hégémonique.

Le paradoxe manifeste qui continue à caractériser la vie socioéconomique de ces pays à savoir le déséquilibre –devenu chronique- entre d'une part une conception d'un état-providence présumé doté de larges compétences réglementaires, économiques et sociales en vue d'assurer des fonctions sociales étendues au bénéfice de leurs citoyens, et d'autre part les incapacités de ce même état à fournir les besoins économiques et sociales nécessaires à garantir une vie descente surtout aux couches les moins favorisées. La vision d'un état patron va de pair avec les mêmes slogans de modernisation, d'industrialisation, et de progrès économique, où l'état devient le seul vecteur de la totalité de l'action sociale. Ainsi, l'étatisation du projet de modernisation est synonyme d'un contrôle total de la sphère publique.

Aujourd'hui, les discussions autour des projets de renaissance dans le monde arabo-musulman témoignent d'un intérêt particulier à la question du rééquilibrage des rapports entre l'Etat et la société. En fait c'est à la modernité, entant que concept, qu'une réinvention semble nécessaire et urgente. Selon Alain Touraine, une modernité qui ne reconnaît pas l'action des individus et leurs « expériences particulières » est réduite en tant que projet sociétal à « l'arbitraire »⁽¹⁾.

Dans cette direction, nous pourrions ainsi aborder la réflexion sur une relation éventuelle entre le waqf et les projets de renaissance. Nous considérons que le secteur volontariste institué dans les sociétés musulmanes

(1) Alain Touraine écrit « L'Occident a longtemps cru que la modernité était le triomphe de la Raison, la destruction des traditions, des appartenances, des croyances, la colonisation du vécu par le calcul. Mais aujourd'hui, toutes les catégories qui avaient été soumises à l'élite éclairée, travailleurs et colonisés, femmes et enfants, se sont révoltées et refusent d'appeler moderne un monde qui ne reconnaît pas à la fois leur expérience particulière et leur accès à l'universel. De sorte que ceux qui s'identifient à la Raison apparaissent désormais comme les défenseurs d'un pouvoir arbitraire ». (Critique de la modernité, Les Éditions Fayard, *Dans son livre Paris, 1992*. Collection : le livre de poche, no 19, p 13)

Les idéologies des régimes politiques postcoloniaux graviteront autour de ce même cadre analytique à savoir la centralité de l'Occident industrialisé entant que garant, et propagateur de la civilisation, et en parallèle la marginalisation des structures traditionnelles. Deux principes sont supposés encadrer la poursuite d'un développement planifié. D'une part, un état national aux confins géographique et juridiques distincts, et d'autre part un marché autorégulateur qui à l'aide d'ingénieux mécanisme (parfois invisibles) arrive à créer une stabilité sociale et produire un progrès similaire à celui réussi dans les pays développés. Ces projets de développement créaient parallèlement une image bien particulière d'une modernité déracinée, figée, et contre les traditions. Une image qui sera poussée à son extrême dans le cas des awqaf et des chaînes de solidarité en général.

Au niveau macrosocial, les tentatives de modernisation ont réussi à démettre ce que restait des modes traditionnels qui ont pu résister à la stratégie de destruction massive planifiée par les administrations coloniales, tant qu'elles entravaient leur mission. En fait, les politiques développementalistes entreprises dans la majorité des pays Arabes avaient continué cet acharnement contre les structures traditionnelles catégorisées archaïques et donc estimées par défaut comme étant en opposition au «progrès» et par conséquent à la modernité. D'autre part, l'action de ces structures est par nature civile donc en dehors du champ de contrôle de l'état.

Qu'il s'agit des modèles historiques des années cinquante, ou des «politiques d'ajustement structurel» préconisés à partir des années 1980, les résultats étaient non seulement médiocres mais s'aggravaien dans un contexte de globalisation rampante depuis la dernière décennie du vingtième siècle. A croire les instances économiques internationales, les pays Arabes, y compris ceux qui jouissent d'importantes ressources naturelles, recherchent encore le développement⁽¹⁾.

(1) Selon les rapports de la Banque Mondiale, le taux de chômage est estimé en moyenne à 10% en 2017 pour les 22 pays du monde Arabes, contre 5,5% en moyenne dans le monde. Les pays arabes importent plus de 50% des céréales qu'ils consomment et sont le plus gros importateur net de denrées alimentaires au monde. Autre symptôme révélateur, 11 pays de cette région ont une dette publique qui excède 50% de leur PIB en 2017. (Banque Mondiale, <https://data.worldbank.org/region/arab-world>)

Le projet de Mohamed Ali était principalement centré autour de la création d'une structure politique centralisatrice, à l'image des états nationaux européens, qui accapare l'ensemble des pouvoirs, des autorités et des contraintes collectives que la nation possède sur les individus en vue de faire prévaloir une modernisation considérée comme «source de prospérité économique, de puissance militaire et d'indépendance politique»⁽¹⁾. En s'attaquant aux bases socio-économiques des structures qui possédaient une certaine autonomie vis-à-vis du pouvoir sultanien, M. Ali voudrait gérer «scientifiquement» les ressources de la nation⁽²⁾. Les awqaf seraient une cible prioritaire tant par leur importance socioéconomique que par leur pouvoir social. Contrôler les awqaf c'est aussi limiter l'action des composantes de la sphère publique. En 1835 M. Ali va inaugurer une tradition qui visait un contrôle total des donations par les instances publiques à travers la création de ministères de waqf ou autres administrations publiques qui avaient l'exclusive autorité de gérer les biens de charité⁽³⁾. Il est indéniable qu'à travers ce contrôle c'est l'étendue, la diversité, les préférences, les moyens d'action et les contributions des acteurs non étatiques qui étaient visés. Dans ce contexte, les structures des awqaf, les congrégations des ulémas, les guildes et autres formes socioéconomiques précapitalistes, formeront l'image «obsolète» d'une société arabo-musulmane jugée en retard et sous développées, et par conséquent nécessitant un remplacement de ses éléments endogènes par des facteurs de développement externes.⁽⁴⁾

(1) Ibidem, p. 119.

(2) Hourani (Albert). 1993. *Arabic Thought in the Liberal Age 1798-1939*, London University Press, p. 60.

(3) Tariq Al-Bishri analyse l'évolution des lois égyptiennes en revoyant le changement intervenu après la révolution de juillet 1952 et qui a aboli les awqaf familiaux (loi 180/1952) puis avec la promulgation de la loi 248 de 1953 «qui donne le droit au ministre des awqaf de dépenser les revenus du waqf sans se référer aux conditions fixées par le donateur. La loi 152 de 1957, a approuvé le règle du changement automatique de la nature juridique des terres agricoles waqf, et ainsi, «Cette loi a dépouillé le waqf et ses biens, et a induit une simple confiscation des waqf par les pouvoirs publics »(voir: Tariq Al-Bishri,2003, Les changements des relations entre institutions waqf et société civile dans les pays de la vallée du Nil », in, Le système waqf et la société civile au monde Arabe, Editeur : Ibrahim Bayoumi Ghanem, Centre des Etudes de l'Union Arabe, 674-675.

(4) Hichem Djait. (1978) L'Europe et l'Islam, Éditions du Seuil, Paris, pages 27, 28, 49.

(3)

Etat moderne et sphère publique

Bien que touché par l'agonie du pouvoir Mamelouk (notamment en Égypte) et par le danger de la montée de la force européenne après la chute de Grenade en 1492⁽¹⁾, l'empire avait pu profiter durant une relative longue période des multiples rôles joués par composantes de la sphère publique pour assurer sa stabilité, et consolider les liens politiques, sociaux et économiques entre ses provinces.⁽²⁾ Nonobstant, cette situation va changer à partir du dix-neuvième siècle, au moment où la situation politique et sociale de l'empire devient de plus en plus décadente tout en étant défié de l'extérieur par la montée de l'Europe industrielle. Mahmoud II [1808-1839] inaugure une période d'un demi-siècle de réformes (*tanzîmât*) qui traduisaient en fait la nature d'une crise radicale que traverse l'empire et la métamorphose de ses structures économiques et sociales. La désintégration progressive des structures sociales ottomanes et la montée d'une nouvelle élite, œuvrant essentiellement dans l'armée et l'administration publique, marquent un changement dans l'idée que se fera dorénavant le pouvoir de sa crise et des réformes nécessitant un recours intensif aux experts militaires et administratifs de la France, d'Italie, d'Angleterre et de Prusse. Pour plus d'efficacité et de résultats rapides, le sultan Abdelmajid (1839-1861) ajustera les *tanzimat* en promulguant une nouvelle série de réformes baptisée *Khat Kalkhana* (décret des Jardins des Roses)⁽³⁾.

Les provinces de l'empire seront fortement influencées par les *tanzîmât*. En Egypte, Mohamed Ali (1811-1849) cherchera à établir un état dominant sur la base de l'économie et de la technique⁽⁴⁾. Les structures endogènes identifiées comme traditionnelles seront marginalisées progressivement et poussées définitivement des affaires sociales sous l'effet combiné de la séparation des structures administratives, religieuses et militaires (comme étape préliminaire des réformes), de la montée des modernes administrateurs, et d'un retrait forcé des ulémas.

(1) Notamment en protégeant l'Afrique du Nord contre les agressions espagnoles.

(2) Jadaane (Fahmi). *Usus el-taqaddum 'inda moufakirî el- 'islâm*..., op.cit, p.104.

(3) Ce même décret va être reconfirmer en 1856 par un second *el-khat el-hamayoûni*

(4) Khelifa Chater compare les différentes tentatives de réforme au Monde Arabe précolonial en affirmant que « Mohamed Ali d'Égypte et Ahmed Bey de Tunis ont constitué à cet égard une exception, dans la mesure où ils ont cru devoir intervenir dans la sphère technico-économique » («les tentatives d'industrialisation de Ahmed Bey, 1837-1855 », in, *Entre développement et sous-développement, 1800-1870*, Centre d'Histoire Économique Internationale, Université de Genève, Éditions Dalloz, Genève, 1991, p. 219)

successives de l'unité culturelle et religieuse⁽¹⁾. La stratégie politique Ottomane avait déjà dépassé l'idée simplificatrice des awqaf, à savoir une forme de charité, pour considérer son aspect structurel, et ainsi en bénéficier pour la stabilité interne de l'empire.

En tant que système, le waqf correspondait à un ensemble d'éléments qui interagissent entre eux et, éventuellement, avec le milieu extérieur. Ce que les juristes appellent les bases du waqf (arkan al waqf) à savoir le fondateur, la fondation, les bénéficiaires, et l'acte légal, ne sont que la reproduction rationnelle et visible du système waqf. Une appréhension sociologique de la structure du waqf devrait aussi aborder le principe d'organisation représentée par la personnalité morale du waqf. Nonobstant, la tâche la plus difficile et la plus importante au sens analytique, est d'expliquer l'articulation entre les représentations symboliques du système waqf et ses aspects tangibles dans la vie des individus. La contribution du waqf dans la sphère publique serait ainsi le champ d'action où une telle articulation était concrétisée. Les images et valeurs et reliées au waqf al-haramayn facilitaient aux différentes régions de s'interconnecter et aux individus de matérialiser les symboliques intérieurisées. Dans ce contexte, l'empire garda un statut particulier chez l'ensemble des musulmans y compris la majorité des arabes en s'élevant au niveau du modèle à suivre⁽²⁾. Devenu première puissance du monde⁽³⁾, l'empire était doté d'une économie relativement florissante pour une longue période⁽⁴⁾.

(1) Voir : Tadmouri, Omar. 2001. « Les awqaf inscrites sur les murs des mosquées de Tripoli-Alsham, et des écoles, et leurs implications historiques à l'époque *Mamluk*, Awqaf, Numéro 1, (Novembre 2001), 39-49. (En Arabe)

(2) Ibidem, p. 106.

(3) Rizk (Charles). 1983. *Entre l'Islam et l'Arabisme...*, op. cit, p. 85.

(4) Du moins on pourrait dire avec A. Abdelmalek que l'empire se suffisait durant une longue période à lui-même, «jusqu'à 1838 la Turquie n'avait pas été impliquée dans le réseau économique et politique de la civilisation européenne. L'Occident n'était rien de plus qu'une source d'inspiration quant aux idées et aux méthodes» (in, Abdelmalek (Anouar). 1969. *Idéologie et renaissance nationale*, Égypte moderne, Anthropos, Paris, p.33.)

(2)

Waqf et pouvoir politique ottoman.

A partir du seizième siècle, les rapports qu'entretenait le pouvoir Ottoman avec ses différentes provinces étaient facilité par un système politique décentralisé⁽¹⁾ où prédominait l'idée classique d'un foyer officiel de la khilâfa⁽²⁾ qui devrait sauvegarder l'unité de la umma et la protéger contre ses adversaires. Dans ce contexte C. Rizk note « pendant les quatre siècles, qui séparent l'établissement de l'empire Ottoman de l'éveil du nationalisme dans le Monde Arabe, tous se sentaient frères dans la umma»⁽³⁾. Le «cosmopolitisme politique» ottoman assurait en fait une flexibilité d'action pour les différentes composantes d'une large sphère publique, qui étaient le garant effectif de la stabilité interne de l'empire. L'exemple des ulamâ, centre de gravité de l'intelligentsia de l'époque, est révélateur. Ces intellectuels avaient réussi à garder une position à l'extérieur du pouvoir politique Ottoman, en affirmant un rôle de hakam (arbitre) et en consolidant leurs liens avec la structure socio-économique Ottomane. L'infrastructure du système d'éducation ainsi que sa logistique s'assuraient à travers les awqaf entant que mode de financement durable. Kuttab, Madrasa et université⁽⁴⁾ fonctionnaient durant une longue période selon un système autofinancé, et témoignaient d'une relative indépendance vis-à-vis du pouvoir.

Au niveau symbolique les awqaf seront considérés comme l'outil par excellence de l'affirmation et d'appartenance à la umma comme espace géoculturel unissant les musulmans. Les awqaf seront un noyau central des cités de l'Islam non seulement à travers le rôle social des fondations constituées, mais aussi à travers ce qu'ils représentaient dans l'imaginaire collectif des musulmans. Les édifices architecturaux de ces fondations vont même rappeler, par leurs textes gravés sur les murs, des générations

(1) Rizk (Charles). 1983. *Entre l'Islam et l'Arabisme; Les Arabes jusqu'en 1945*. Albin Michel, Paris, p. 80.

(2) «Solidaires des Arabes dans l'Islam, les Turcs n'étaient donc en rien considérés comme des étrangers dans l'empire et leur domination était d'autant plus volontairement acceptée qu'aux yeux des Arabes elle servait la cause de l'Islam, et qu'il n'était alors «Umma» que religieuse, islamique et non nationale » (Ibidem, p. 83)

(3) Ibidem.

(4) George Makdisi: Muslim Institutions of Learning in Eleventh-Century Baghdad, Bulletin of the School of Oriental and African Studies, University of London, Vol. 24, No. 1.Pp. 1-55.

provinces Arabes. L'expédition de la sorra impériale sera conduite par un responsable désigné par la sublime porte, généralement un militaire, qui servira d'ambassadeur auprès du chérif de la Mecque qui recevra le décret impérial de la distribution de la sorra.

En tant que représentant du sultan Ottoman, le responsable de la sorra veillera à ce que la distribution des dotations et des cadeaux aux populations sera strictement suivie, pour soumettre après la période du hajj un rapport détaillé aux Grand Vizir et Cheikh de l'Islam à la sublime porte.

Les dons constitués au profit des lieux saints exprimaient une image de la umma que les populations musulmanes intérieurisaient, et par conséquent dirigeaient leurs actions caritatives pour consolider les liens entre ses différentes régions. Basées sur une vision étendue de la solidarité sociale, ces actions avaient réussi à rassembler différentes composantes sociales, et ainsi dépasser les divisions géographiques, sectaires, et même religieuses. La similarité juridique et pratique du waqf dans les diverses régions⁽¹⁾ avait sans doute facilité l'adhésion des individus à des modèles caritatifs qui partageaient les mêmes caractères civils, et ainsi avait permis au waqf de devenir un des paramètres de la régulation sociale dans les diverses régions de la umma même dans ses phases historiques descendantes.

L'action sociale menée à travers les awqaf transformera le processus caritatif de son niveau personnel, aider les nécessiteux, pour s'inscrire dans une perspective plus large, celle de l'activité civile et l'équilibre sociétal⁽²⁾. Le rituel de la sorra véhicule une symbolique de grande pesanteur sociale⁽³⁾ et ouvre ainsi des possibilités à ceux qui ont choisi délibérément de faire partie de cette dynamique. A l'instar des awqaf al-haramayn, le réseau d'institutions charitables qui débordaient les frontières locales et soutenaient en fait les relations culturelles, économiques, et politiques entre les différentes régions de l'empire musulman, témoignait de la densité des phénomènes sociaux et de leur diversité dans l'histoire du monde musulman.

(1) Par rapport à d'autres sujets et problématiques débattues par les jurisconsultes, le waqf est caractérisé par un fiqh simple et un caractère pratique. (Voir : Gomaa, Mahmoud Al Zuraiqi , « L'avenir des institutions waqf entre le statique et le dynamique, Awqaf, numéro 7, Novembre 2004, p 61-62. .

(2) Miriam Hoexter (1998). Ibidem, p. 25.

(3) Ce symbolisme est de la même nature de ce M. Mauss avait élaboré

cette perspective la sorra est essentiellement un mode communicationnel reconnue socialement et soutenue politiquement.

L'importance de la sorra portée à la Mecque et Médine à l'occasion du pèlerinage est illustrée non seulement par les sommes d'argent et les biens en nature qui lui sont offerts mais surtout par le rituel qui lui est particulièrement associé. En fait, la sorra constituait aux yeux des individus une tâche respectable et un devoir noble traduisant les liens spirituels, culturels et économiques entre leurs régions et les deux villes saintes de l'Islam.

Devenue une coutume liée au voyage des pèlerins à la Mecque, la sorra est ainsi dotée d'un double caractère combinant une obligation religieuse (le pèlerinage) et un devoir social (les awqaf constitués et les cadeaux destinés aux habitants des lieux saints). Familles de pèlerins, administrateurs, et fondateurs des awqaf de chaque province seront les hôtes d'un événement annuel qui suivait un rituel méticuleux tant au niveau de sa forme que de sa substance.

La participation des autorités politiques et des dignitaires de la province, assure un caractère officiel à l'évènement. De son côté, l'administration des awqaf al-haramayn exerce ses tâches comptables et juridiques afin de veiller à ce que la sorra parviendrait à ces destinataires et que les toutes les conditions du waqf qui lui sont associées seront respectées.

Depuis la victoire de Sélim I (1470-1520) sur les Mamluks, les autorités Ottomanes affirmeront le caractère officiel de la sorra qui devenait un outil diplomatique par excellence consolidant leur rôle de gardien des routes de pèlerinage vers la Mecque et Médine. Les ottomans vont doter la sorra al-hamayuniya (sorra impériale), d'une propre division armée pour assurer sa sécurité tout au long de la route du hajj entre Istanbul et la Mecque⁽¹⁾. Jusqu'à 1864 la sorra était expédié par voie terrestre, puis par navire à Beyrouth ou à Suez et de là à Djeddah ou à Yanbu' pour arriver à sa destination finale la Mecque et Médine. A partir de 1908 la sorra utilisait le chemin de fer Hedjaz construit essentiellement pour relier Istanbul à ses

(1) Yossef Gaglar, Salah Gulen (2015). L'honorabile expédition et son voyage vers les lieux saints. Traduction Ahmed Kamal& Hazam Said Montassar , Editions AlNil, Egpte, p. 34

Les awqaf transnationaux contribuaient en fait à la gestion des empires musulmans sous forme d'actions civiles à vocation internationale. Entrepris par des individus, cette action coordonnée tissait de denses relations entre les différentes parties et régions du monde musulman. A travers une association aménagée entre les constituants des awqaf et les potentiels bénéficiaires s'unissaient en fait différentes régions et localités, et ainsi se créaient sur la base de cette diversité géographique des liens sociaux, culturels et économiques⁽¹⁾.

Les historiens s'accordent sur le fait que depuis le quatorzième siècle, tous les pays musulmans ont vu la naissance des waqf transnationaux et particulièrement ceux constitués au profit des lieux saints⁽²⁾. Dans la majorité des pays musulman une administration spécialisée serait établie pour gérer l'ensemble de ces awqaf destinés à la Mecque, Médine et AlQuds.

(1) La sorra : le don et son rituel

L'étymologie du mot sorra, emprunté à l'arabe classique, veut dire un sac ou un portefeuille pour déposer de la monnaie. Les revenus générés par les awqaf immobilisés au profit des lieux saints particulièrement aux populations vivant à la Mecque, Médine et Al-Quds, vont être connue sous l'appellation de la sorra devenue une pratique coutumière suivie dans la quasi-totalité des provinces Ottomanes depuis le 15^{ème} siècle. Néanmoins, la sorra ne se limitera pas aux revenus des awqaf puisqu'elle incorporait aussi tous les cadeaux offerts par les individus aux lieux saints. La sorra serait en fait une forme de don, au sens qu'avait décrit M. Mauss, qui exprime un processus complexe de relations réciproques entre donateur et récepteur selon un cheminement précis, et des règles bien définies. Dans

(1) Randi Deguilhem & Abdelhamid Henia (coordinateurs), *Les fondations pieuses (waqf) en Méditerranée: enjeux de société, enjeux de pouvoir*, Publication de la Fondation Publique des Awqaf du Koweït, 2004, p11

(2) Voir notamment:

- Miriam Hoexter (1998)., Endowments, Rulers, and Community: Waqf Al-Haramayn in Ottoman Algiers, Brill.
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Introduction

Jusqu'au début du dix-neuvième siècle l'existence et l'action étendue des chaines de solidarité dans diverses régions du monde musulman, témoignaient d'un rapport maniable entre le politique⁽¹⁾ et le social, ce qui permettait une action en dehors du champ politique bien gardée. En effet Le mode politique « sultanien⁽²⁾» bien qu'hermétiquement « fermé », cohabitait avec un vaste champ d'activités de diverses catégories sociales qui exerçaient en fait des fonctions attachées prioritairement aux besoins des individus.

En opposition à la sphère privée, la sphère publique désigne cet espace communicationnel et symbolique et ouvert aux individus leur permettant des capacités d'action et de possibilités directes et indirectes concernant l'administration de la cité.

La sphère publique témoignait en fait d'un lien plutôt flexible entre le pouvoir politique sultanien et les diverses structures socioéconomiques. C'est grâce à cette sphère que les sociétés musulmanes ont assuré leurs pérennités non seulement localement où confrérie et guildes jouaient des rôles économiques et culturels assurant en grande partie son équilibre social, mais aussi au niveau des rapports bilatéraux entre différentes régions du vaste empire musulman durant de longs siècles⁽³⁾.

Dans ce cadre historique, les chaines de solidarité à vocation internationales étaient la consécration de l'étendue de la sphère publique à l'extérieur même de ses frontières locales. L'imaginaire collectif d'une très large communauté musulmane s'identifiait à un ensemble de symboles religieux et culturels, et ainsi tissait un dense réseau d'associations et d'alliances charitables destinées à soutenir la Umma. Les exemples sont multiples. On trouvera des awqaf constitués au profit de la Mecque et de Médine (mieux connues sous awqaf al-haramayn), Al-Quds (Palestine), ainsi que pour les institutions d'enseignement telles que Al-Azhar en Egypte, la zitouna en Tunisie, et al-qarawiyin au Maroc.

(1) On ne peut pas parler d'état au sens moderne du concept.

(2) Voir: Wajih Kawtharani : « L'image de l'état sultanien dans l'imaginaire Arabe », in, Al_Ijtihad, sixième année, Numéros 23, pages 177-196. (En arabe)

(3) Ibid p. 187

يحاول هذا البحث، من خلال نموذج أوقاف الحرمين، إظهار الروابط التي تشكلت عن طريق تفعيل آليات الوقف في مستويات السياسة والاقتصاد والثقافة، وكيف خدمت هذه الآليات مصالح مختلفة عززت في النهاية مساحات المجال العام، وسمحت للأفراد بتنفيذ العديد من المشاريع ذات المصلحة العامة.

في اتجاه مغاير؛ ارتبطت عمليات التحديد التي شهدتها مختلف مناطق العالم الإسلامي مع نهايات القرن التاسع عشر، بتهميشه واضح وتدرجيه، بل ومعاد في كثير من الأحيان للعناصر المكونة للمجال العام، وبالأخص آليات التضامن الاجتماعي، التي تشكلت تاريخياً من الأوقاف والصدقات، باتجاه ترسيخ الدولة القومية وقويتها وتمكينها -كفاعل واحد- من القيام بمهمة بناء دولة حديثة.

في هذا الإطار التاريخي، يسعى البحث إلى إعادة النظر في «المجال العام»، بوصفه أحد شروط مواجهة المشاكل الاجتماعية، التي يعيشها العديد من بلدان العالم الإسلامي.

إن رفع الوعي بأهمية دور الآليات المدنية، ومنها الوقف، في أي مشروع مجتمعي إنساني، ومتوازن ومستدام، يرتبط كذلك بمسائلة منهاجية وعلمية للحداثة كنموذج مجتمعي، والنظر في آلياتها الاجتماعية، في إتاحة هامش الحركة للأفراد والمؤسسات ذات الطابع اللافعي.

Waqf et sphère publique l'exemple de awqaf al-haramayn

Prof. Tarak Abdallah*

Résumé

Le waqf est une institution ancrée dans la culture, le droit et l'économie des sociétés musulmanes. Sa fonctionnalité était historiquement visible au niveau de la sphère publique où différentes structures et modes sociaux ont contribué à partir des rôles multiples à la gestion du social. A travers le fonctionnement de awqaf al-haramayn cet article essaye de démontrer les connexions qui existaient entre le politique, l'économique, et le culturel, et qui servaient des intérêts divers tout en renforçant la sphère publique où les individus trouvaient des outils divers pour mener leurs actions sociales. Les tentatives de modernisation entrepris au Monde Arabe depuis les le début du vingtième siècle ont généralement marginalisé et même combattu les composantes de la sphère publique, en particulier les chaînes de solidarité, pour redonner à l'état national la responsabilité absolue de bâtir une nation moderne. Ce défi serait mis en échec quelques décennies après son application. Une remise en valeur de la sphère publique serait une des conditions pour palier à une situation sociale du moins décevante. Revaloriser le potentiel social des composantes civiles, à l'instar du waqf, nécessite d'abord un questionnement des fondements de la modernité et une analyse des déclinaisons multiples de ces institutions dans les domaines sociaux.

ملخص البحث:

إنه خلال فترات تاريخية طويلة قد تجذر مؤسسة الوقف في ميادين الثقافة، والقانون، والاقتصاد، وقد برزت سمة الوقف الوظيفية في المجال العام؛ من خلال مساهمته في إدارة شؤون المجتمع، وذلك عبر هيكل وأنماط محددة لعبت أدواراً اجتماعية بامتياز.

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The crux here is that the predominant principle in the Islamic waqf is a principle that of a principle of integrated social development which does not acknowledge the limits of religion, race, ethnicity, place or time. This principle seeks to boost the theory of the social and solidarity social security, and the fair distribution of wealth. In this regard, we recall the attitude of the caliph Omar ibn el Khattab when he said: ‘I am interested in fulfilling a need wherever I find it as much as feasible; if we fail, we shall adapt ourselves until we are equal in getting the minimum subsistence’⁽¹⁾.

(1) Biography of Omar ibn el Khattab: Ibn el Jawzi, Great Commercial Printing Press, without history, Cairo, P 101.

CONCLUSION

Solving the problem of the humanitarian nature brought to existence an old and philosophical dialogue known to humanity long time ago. The interception and reaction between philosophy and religion was clear in that regard. At the beginning, religion was dominant in the Moslem philosophical thought, whereas the protest against religion and religionists was responsible for a new solution to the problem of the humanitarian nation in the European societies., that solution which took a new attitude towards the human nature. A human being, wherever he exists, should enjoy his rights and receive the utmost attention away from any authority or power which interferes with his free nature.

The human motives in the Islamic thought did not defer to any human authority, therefore the Islamic thinker discussed the civil society by virtue of being an independent actor and in a way that reflects the array of values and criteria introduced by Islam.

On reviewing the morals of Islam, it would not be a difficult to discern the real intention and devotion of the actors and their attitude towards the Birr and Ihsan. In this respect we read the Quranic verse, ‘They give food, for the love of Him, to the needy, the orphan and the captive. We feed you only for the Face of Allah. We desire no recompense from you, no thankfulness, for we fear from our God a frowning day, inauspicious’⁽¹⁾. This attitude in a Moslem society does not separate from its creed and social philosophy. Imam Al Shafie says in this regard that ‘the poor have a right in the money to a degree that there is a partnership between the poor and the rich’⁽²⁾. This means that it got outside the area of being a process of beggary and personal importunity. A Moslem society confirms the rule of integration and collective solidarity through a right; a poor man and a needy person and the society in general have a definite right in the wealth, thus giving is by no means a favour or a reputation because is the by-product of the level natural creation (fitra) which is inborn in a human being; it is embodied in a civil society which grants without considering it a favour.

(1) Al Insan Sura, Verses 8 - 10

(2) Islam ans Social Security, Mohammad Shawki el Fangari, Egyptian Authority for the Book, Cairo,1990, Edition 3, P 35.

linking the civil society organizations, the non-profit institutions and the NGOs is the aim which must receive our support so that we can reach those sectors in need of more support. This supports the idea of a scholarship whether it was related to a study, research or any moral or material issue. This is an honorable aim which requires those in charge of managing the waqf in our societies to give their attention to it and take it into due consideration. It would be better to carry out this task through involving the researchers of social studies in planning for the management of awqaf, and developing their projects and potentials which can be utilized in solving a great number of the urgent social and economic problems in our societies.

Important historical studies have approached the Islamic awqaf before the European conquests of many Arab societies, ahead of which is the Egyptian society. In the 17th century, ‘Women used to manage the awqaf which were carried out solely by men’⁽¹⁾. This shows the status of women in the civil society long time before getting in touch with the European West, in which it removed that black image of the Islamic waqf and its effect on the economy in the 17th and the 18th centuries. That accusation includes an unfair attitude towards awqaf as an economic system though the awqaf were part of the economic potential of the country, not to mention the fact that they also participated in the economic cycle of the economic life in a similar way to the lands and real estate property⁽²⁾. It is to be added to that w the salaries of the employees which provided cash fluidity in the Egyptian market, not to mention the indirect effects of the awqaf in the movement of the internal and external trading in terms of leasing shops, agencies and the movement of the awqaf ships in the outside trading movement⁽³⁾.

This indicates the power of the civil society in the Islamic societies as shown in that strong social solidarity. This comes in contradiction to what the European biased attitudes try to give. The civil society in the Islamic world was by no means less effective than its European counterpart. Assuredly, it was more balanced, traditional and organizational. This refers also to the value of confidentiality and hiding the movements of the Birr and Ihsan. there are many cases in which the well doers dedicated massive wealth without disclosing their identities because it was the good pleasure of Allah the Almighty which concerned them. This distinguishes the Birr and Ihsan from the Birr and Ihsan in the European and American societies where hypocrisy could be the motive, or to gain a reputation, defend a case or pursue an interest.

It is necessary to restructure the Islamic waqf institution under the conditions of the international and local changes. The tendency towards

(1) Modernity and Imperialism: French conquest and the problem of the Renaissance of Egypt by Ahmad Zakariyya al Shalaq, Dar el Shurouq, Cairo, Edition 1, 2006, P 33

(2) Ibid, P 33

(3) Modernity and Imperialism: French conquest and the Problem of the Egyptian Renaissance by Ahmad Zakariyya al Shalaq, P 33, It seems clear that the author points to the study by Mohammad Afifi: Awqaf and the Economic Life in Egypt during the Ottoman Period, Egyptian Authority for the Book, 1991, as the author dealt with this point in detail, in the light of its pure historical perspective beyond the current study

behaviour, but rather it is an overall reflection of the movement, values and criteria of the Islamic society. Here we can imagine that sociology understands the Islamic waqf through the valuative and criterial structure of the Islamic civil society, that structure which agrees with the human nature as embodied in the Islamic thought. Those values and criteria are based on the social solidarity throughout the generations and times without an official bequest. The civil society undertook the responsibility for managing the Islamic waqf and distributing its proceeds to the beneficiaries. Moreover, Islamic thought felt that the problem of poverty cannot be solved by individual giving, neither can it be solved by the reformative measures which aim to relieve the pain or lessen the suffering⁽¹⁾.

The Islamic waqf was truly an expression of the active civil society's spirit as it was a financier for social sectors and projects which cannot be imagined today. One of the major studies of the American researcher Catherine Herold about the role of waqf in the Egyptian political economy showed that awqaf used to finance schools, hospitals, places of worship, wayfarers, food for the poor, maintaining tradition and numerous infrastructure projects needed by the society. In addition to that, waqf extended personal benefits to the grantors themselves which is exemplified in their feelings as nigh to their Creator through their philanthropic work⁽²⁾.

Many studies have debunked the traditional European image about the Islamic societies as shown clearly by Peter Gran who maintains 'that the study of the traditional European studies include a concept about the civilization of the east as being the civilization of the other. Therefore the westerners' definition of their civilization their definition of the eastern civilization have developed through a series of positive and negative attitudes; Westerners viewed themselves as rational, and democrats with free will. Conversely, they viewed the easterners as transcendentalists, autocrats and believers in destiny⁽³⁾. In this regard, Bran believes that 'there is no avail coming from of the West'⁽⁴⁾.

(1) Islam and Social Secrity, Mohammad Shawky el Fangari, Egyptian Authority for the Book, Cairo, 1990, P 41

(2) Giving in Egypt: Evolving Charitable Tradition in a changing Political economy, Catherine Herold, in Pamala, Wippking Femida Handy (editors) The Palgrave Handbook of Global Philanthropy., PALGRAVE Macmillan, UK,2015

(3) Islamic roots of capitalism: Egypt 1760-1840, Peter Gran, translated by Mahrous Suleiman, Dar el Fikr for Studies and Publication, Cairo, 1993, P 19

(4) Ibid, P 11

the loss of the social capital in the United States of America in the recent decades⁽¹⁾. Despite the improvement in the education levels, urbanism and the membership of the political groups, the active participation showed a remarkable drop.

Islamic Waqf and Sociology

The effort to boost the psychological feeling towards virtue and self-satisfaction in extending assistance to others integrates, from an Islamic perspective, with the Birr and Ihsan, which call for giving. Altruism is a quality which occurs in the Holy Quran, ‘And preferring others above themselves, even though poverty be their portion and those saved from the covetousness of their own souls – they are the ones that achieve prosperity’⁽²⁾.

Islamic history has the oldest and biggest humanitarian institution and is the forerunner in Birr and charitable work. Waqf, as an Islamic institution is the renewable altruistic Sunnah which preceded other institutions in this field in the various societies. This institution used to support all the sides of life in Islamic societies, including students, the sick, the poor, the wayfarers and travelers, in addition to other Sunnas (institutions) which came to existence through Birr and Ihsan throughout history⁽³⁾.

Given that one of the specialized religious specialized studies in religious sociology concluded that ‘religion is not a purely individual behaviour which can be considered as a social act having an impact on the type of life and environment of the society which could be known as the ‘religious environment’ whose aim is to test the nature of religion and its effect on the society’⁽⁴⁾.

This means that Birr and Ihsan do not represent a purely individual

(1) Civil society: Theory and Practice by Frank Adolf, translated by Abdul Salam Haidar, Egyptian Authority for the Book, Cairo, 2009, P 76

(2) Al Hasr Sura, Verse 9

(3) Religion and Infant Mortality in the USA. A preliminary study of the dominational Variation, John Bartkowsky, Xiaohe, Xu, ad Jinny Garecia, in: Kent Kerly, (editor) Current Studies in the Sociology of religion. <http://www.mdpi.com/journal/rreligious/> special-issues/sociology-religion) P 4, 10/3/2019,12/25 pm

(4) Religion and Infant Mortality in the USA. A preliminary study of the dominational Variation, John Bartkowsky, Xiaohe, Xu, ad Jinny Garecia, in: Kent Kerly, (editor) Current Studies in the Sociology of religion. <http://www.mdpi.com/journal/rreligious/> special-issues/sociology-religion) P 4, 10/3/2019,12/25 pm

It is to be taken into consideration that religion highlighted the types of the social capital, therefore many studies sought to explore the relation between religion and charitable work and to judge its volume and status. Most of those academic studies concluded that there are causative pluralism and not inevitable when dealing with the relation between religionism and charitable work. This was confirmed by a group of researchers who maintained, after reviewing the tradition of Birr and Ihsan, that there is a numerous classification for that relation which is based on ‘the resources in terms of the net per capita income – the taxes he pays, human capital, education, health well-being, social capital, number of children, religion and piety, demographic changes, age, gender, and marital status⁽¹⁾.

That study revolves round five major factors which are held responsible for causing and guiding the individual to participate in charitable work : ‘senses or religious spiritualism without the intimate observance of the religious rites, education starting from the parents’ and grandfathers’ and relatives’ generations, the ability to achieve social integration, the economic factor represented in the amount of money in one’s possession which enables a human being to involve in the charitable work⁽²⁾.

It seems clear that the social capital is regarded as a central concept when the Birr and Ihsan are analyzed. According to Robert Putnam the ‘social capital indicates the social ties among the individuals, the social networks, the criteria of the social reaction and the mutual confidence which issues from those relations’⁽³⁾.

There is not the least doubt that the social capital in many Islamic societies is denser in terms of quantity and quality, especially when it is possible for the virtues of the charitable work to spread in a society through individualism or as Putnam called it “the Civic Virtue”. ‘Those virtues which could exist extensively in a society of individuals and isolated groups. Thus, it is not necessary for this to express an intense social capital’⁽⁴⁾. This is confirmed by Putnam in his book ‘Bowling Alone’. In this book, Putnam presents multiple data which should prove

(1) Framing the roots of Philanthropy, Swee-Sum Lam, Gabriel Henry Jacob, David Jeremiah Seah, ACSEP Basic Research Working Paper No 2, University of Singapore, 2011, P 4

(2) Ibid, P 4

(3) Sociology, Religion and Development, Emma Tomalin, P 4

(4) Ibid, P 4

International Bank⁽¹⁾. With the challenges created by the international capitalism which created with them poverty and discrepancy in the distribution of wealth and other means of exploitation, it was inevitable to resort to the Birr and Ihsan by virtue of their being humanitarian issues which are not limited to a specific group or nationality to a degree that the Multinational international companies have earmarked financial budgets for the Birr and Ihsan, and extending assistance to the poor, the sick and students. This came as a result of sensing those widespread economic and social problems which came with the international capitalist activities. The effort was dedicated to mitigate the social discrepancies resulting from the economic globalization.

Those changes and the like caused the emergence of new expressions which are typical of that epoch to emerge. The organizations of the civil society replaced the political organizations and the social capital got impetus and replaced the material and economic capital, and the voluntary work instead of the official work. Those changes led to the emergence of a new academic expression carrying the name 'Third Sector' to distinguish it from the first sector, i.e. the government sector and the second sector, i.e., the private investment and profit sector. Thus, the Third Sector includes charitable organizations and institutions which are non-governmental or non-profit. That sector sought to heighten the concept of volunteerism through money or time. A voluntary act is based on the actors' awareness of the value of their act and its social, evaluative and humanitarian impact.

A group of researchers have conducted a comprehensive survey to more than five hundred articles and studies in the refereed academic periodicals which dealt with the acts of Birr and Ihsan. The researchers started this work by the inquiry 'Why do people donate money to charitable organizations?'

⁽²⁾ Reviewing the 500 surveys, the researches came to the conclusion that there are eight mechanisms for the forces which push the two acts of Birr and Ihsan. They are as follows: a. Awareness of the others' needs, b. responding to the need of the others, c. Earnings and benefits, d. Good Reputation, e. Altruism, f. psychological benefits, g. Values, h. Efficiency⁽³⁾.

(1) A Literature Review of Empirical Studies of Philanthropy: Eight Mechanisms that drive Charitable Giving, Rene Bekkers, and Pamalas Wiepking, SAGE Publications, 2001, P 1.

(2) A Literature Review of Empirical Studies of Philanthropy: Eight Mechanisms that drive Charitable Giving, Rene Bekkers, and Pamalas Wiepking, SAGE Publications, 2001, P 1

(3) A Literature Review of Empirical Studies of Philanthropy: Eight Mechanisms that drive Charitable Giving, Rene Bekkers, and Pamalas Wiepking,

major concept for him which indicates those values which are approved and reckoned with without discussion⁽¹⁾.

The referential frame of the social act is formed from criterial structure and the ultimate values which represent an agreed-upon basis among the individuals of the society – these which are included in building the consecutive processes of the social adaptation⁽²⁾. This means that there will be an independent future for the values, though not inevitable neither crucial, in creating the social act with reference to the specific meanings related to the believers as what Max Weber did. This indicates that Birr and Ihsan represent independent social arrangements created as a result of the general values of the society, not as a result of the generating behaviour of the act through an indefinite category or a specific religious group. Therefore, Birr and Ihsan are independent arrangements having their different attitudes, acts and specific actors. Those arrangements play a functional role in stabilizing the social arrangement as a whole.

With the wide international changes and the promotion of the post-modernization phenomenon and attitudes, the theories of rationalism retreated and became a performance tradition which heightens science and religion to regulate the behaviour of the actors and in a way that serves the actor and the capital society. In addition to that, a new cultural discourse came to existence, definitely the Post Secular which means the inclusion and stabilization of specific subjects which go beyond and challenge the division secular/ religious from one side⁽³⁾. It is to be added also that ‘the people have become more fragmented into societies, raising the motto of rationalism; the people have become more informed about the experiences of getting more detached from their societies. Consequently, Robert Putnam came during the period from 1993 – 1995 – 2000 to rehabilitate the concept of the social capital. This concept was previously formulated by the French sociologist Pierre Bourdieu in the seventies of the 20th century. Through reviving that concept by Putnam, it became a central concept at the international development institutions and the programmes of the

(1) Sociology and spirit of sixty eight, Norman Dennis, British Journal of Sociology, Vol 40, No 3, London, Sept 1989, P 422

(2) Modern Social Theory, Ali Laila, P 574 Post secular resistance, the body and the 2011 Egyptian Revolution, Luca Mavelli, Review on international studies, No 38, 2012, P 1058

(3) Sociology, Religion and Development: Literature Review, Emma Tomalin International Development Department, University of Birmingham, Sept 2007, P 130.

Therefore, those who do not work and request others to assist them – these violate and oppose the criteria working and making monies. Thus Emile Durkheim has talked about the medium groups when he indicated the ‘distinguished role of Civil the job groups which represent a medium level between the state and the individual’⁽¹⁾. This means the organization of the civil society in the modern sense, or what Durkheim called the political society, citing the task of those organizations as being integrating the non-productive and the inapt to the labour market.

Given that Max Weber had believed in the necessity of secularism, or as he maintained that modernization has shut the door of religion, he called for secularism and rationalism. He also called for ignoring the social values. Consequently, he formulated the concept a sociology which is free from the values. As based on his individual methodology which stands in opposition to the attitudes of Durkheim, Weber said that a researcher ‘must take a neutral attitude towards values because those values are promoted through the emotions and temperaments of individuals’⁽²⁾. Religion, as viewed by Max Weber, is a cultural phenomenon which must be mentally approached through the control values which it stresses in achieving salvation for the believers of Protestantism (Calvinism) through devotion and ascetism, in addition to exerting efforts in the capital production. Thereafter, Birr and Ihsan should not be understood except through this autogenous meaning of a believer which is realized through the embodiment of the creed in his rational behaviour. This implies that Max Weber understands Birr and Ihsan by virtue of being individual deeds related to the specific meaning of each believer and in a way that goes in line with his rational behaviour resulting from his involvement in work and production. Thus, the collective conscience for Emile Durkheim becomes an individual conscience for Max Weber.

Weber’s understanding of Birr and Ihsan as being rational deeds will be rejected by Talcott Parsons (1902- 1979) who is one of the outstanding American sociologists and the pioneer of the theory of Social Arrangement in which the values and criteria represent the cornerstone in the Parsons’ thought. Parsons presents the concept of the Ultimate Values which is a

(1) Civil Society and Political Application by Frank Adolf, translated by Abdul Salam Jaafar, Egyptian Authority for the Book, Cairo, 2000, P 52

(2) Methodology of Sociology between functionality, Marxism and Constructivism, Ahmad al qasir, Egyptian Authority for the Book, Cairo, Edition 1, 1985, P 55.

the capital system, so an organizational act exceeds and overshadows a traditional act for Max Weber's action,

Max Webber classifies a social act into four major divisions, as follows:

- 1. Mentally Purposeful 2. Mentally Valuative 3. Emotional**
- 4. Traditional through inborn customs⁽¹⁾ .**

Though the classification of the ‘act ‘takes up a wide and extensive area of the social acts, it is not without that bias for the capitalist social project. In this respect, Weber believes ‘that the most effective act for a capitalist society is the practically discreet act, which indicates the logically organized act conducive to realizing specific objectives’⁽²⁾. The emotional act was outside the framework of the meaning of the actor himself. Here we see Weber ‘equals between the emotional act and the non-rational act’⁽³⁾. The same applies to the traditional act for Weber in terms of forbidding an actor from working out an autogenous meaning for his act which is worthy of being studied and considered. For Weber, a traditional actor ‘is not in need of envisaging the objective or the value related to his work or behaviour.⁽⁴⁾’. Furthermore, he is not emotionally motivated, therefore the voluntarism and the free willing trend of the actor, for Weber, provides that it should have an autogenous meaning in the mind and cognition of the actor. Thus, there will be an objective which pushes the actor to realize its actual meaning, or a value directed to an intended purpose, whereas the two acts, the traditional and the emotional, are outside the autogenous meaning, so that they lose the quality of voluntarism and willingness as far as Weber says.

Reflecting on the attitudes of the founders of the academic sociology, the meanings of Birr and Ihsan should not be detached from the institutional organizational structure because a society cannot realize solidarity and social integration unless achieved through specialization and division of work (Emile Durkheim) and the discreet rational authority (Max Weber).

(1) Basic concepts in sociology: Max weber, translkated by Salah Lilal, National Trsanslation Center, Cairo, Issue 1675, Edition 1, 2011, PP 53 - 54

(2) Major concepts in Sociology by Max Weber, translated by Salah Hilal, National translation Center, Cairo, Issue 1675, Edition 1, 2011, PP 53-54

(3) Mukadema in Sociology, Mike Odoneil, translated by Mostafa Khalaf, Modern Readings in the theory of sociology, Center for researches and Social Studies, Faculty of Arts, University of Cairo, 2002, P 529.

(4) Modern Theory of Sociology, Ali Laila, P 529

Under that structural or collective approach for Durkheim come the contributions of his disciple Marcel Mauss (1872 – 1950) as it was clear that the ‘threading element which confers a harmony and consistency on the thoughts of Mauss is that that he fuses most of his subjects in the mould of the social collective fact’⁽¹⁾. Following the steps of Durkheim, Mauss rejected the positive thought and the disintegration of the social phenomena. Thereafter he studied both the gift and the giving as a social phenomenon. According to Marcel Mauss, gift or giving are connected with the cycle of giving as the payment comes from a well-doer and it goes to the recipient. ‘That cycle is one of the major social facts in a society because ‘giving’ in its essence means ample opportunities for the emergence of actions and components of the social integration. This brings about widening horizontal connective networks, in addition to boosting the social difference and hierarchical variation and the other factors which are related to the social gradation’⁽²⁾.

Mauss concluded that ‘the principles of noble spending ‘must necessarily be regained. This principle denotes the duty of the rich towards their state and society. Thus the duty of capitalists and merchants, as far as Mauss is concerned, is to underwrite the financing of the public projects, the entertainment festivals, the banquets and the mobilizing of the armies. They must also give the utmost attention the individual’s well-being, life and education and not to be left under the mercy of the coercive powers of the cold capital market’⁽³⁾.

Max Weber, the well-known German sociologist (1864-1920) built his theory through drawing a connection between his theory in the social act and the types of authority he suggested. It was clear for Weber that ‘without bureaucracy, capitalism would not have been able to make that progress achieved in the western world’⁽⁴⁾.

This makes it clear that a discreet and balanced act acquires its meaning by being embodied in the organizational actor who is associated with

(1) French Anthropology Tradition by Marcel Mauss, Yunis el wakeeli (editor) Muminoon bela Hudoud Est, Amman, Feb 2116, P 3

(2) Foundations and the charisma of Giving, Frank Adolf, P 2004

(3) Anthropology of the gift and the systems of exchange, by Yousef bin Mousa, Anthropology of the French tradition, Marcel Mauss, Mucinous bela Hudoud Est, Amman, Feb 2016, P 67

(4) Political Sociology, Concepts and Issues by Al Sayed el Husaini, dar el Maaref, Cairo, Edition 2, 1981, P188

provides each member with his whole needs which assist him in reaching perfection⁽¹⁾. In this regard, we see Al Farabi confirms that connection between the human nature and the collective vision for a human action. An individual action is not more than a behaviour and it does not change into a social action except through human gatherings. This attitude underlies that sentiment on the part of the Moslem philosopher towards rejecting the individual trend. A human action cannot be understood or crystallized unless inside this is fulfilled in a human gathering.

Within this framework of criticizing the individual human nature, we can refer to the most outstanding pioneer of sociology Emile Durkheim (1858 – 1917) who is regarded as the founder of modern sociology. Furthermore, he was the most of them to criticize individualism with its ideal and utilitarian meanings. He views individualism as a threat to reaction and social stability. This statement occupies a remarkable and essential place in the project of Durkheim in connection with the relation of the doer with the society⁽²⁾. Durkheim showed an interest in the collective conscience which meant for him a ‘host of joint collective feelings and beliefs cherished by the majority of citizens in one society in a way that specifies its independence and difference’⁽³⁾.

Durkheim presented the collective conscience as an objective solution for the problem of the social system. He views the components of that objective conscience as outside factors for the individuals and that they ‘do not issue from the persons as individuals. The meaning here is that they issue from what comes from them through their union and affiliation’⁽⁴⁾. This is the point which indicates that the collective conscience is not purely a receptacle which contains the agreed-upon values of a society as a means for social commitment. The collective conscience, in this regard, needs an organizational structure which stands for a mechanism representing its controlling moral and inevitable embodiment. Therefore, Durkheim stresses the necessity for the rise of the organizational act which confirms the synergy between the produced acts⁽⁵⁾.

(1) The opinions of the citizens of the Good City by Al Farabi, Dar el Maaref, Cairo, 1981, P 326

(2) The contemporary social theory, Ali Lailah, Cairo, 1981, P 326.

(3) From mobilization to revolution: Charles Tilly, Random House, New York, 1978, P 17

(4) New Liberalism, its roots and economic dimensions by Ashraf Mansour, Fikr Series, Egyptian Authority for the Book, Cairo, 2008, P 200.

(5) Modern Social Theory: Ali Lailah

It is possible for us to approach charitable work or the relation between a well-doer and a needy person through the theory of the social exchange when ‘people always find themselves in social-exchange-of-benefits situations where they exchange the psychological and emotional support⁽¹⁾. This explanation of the theory of the Social Exchange and other theories based on discretion fall under the individual trends. Therefore, the fact must be sought in the individual, not in the society⁽²⁾.

This individual vision takes two main trends in sociology; the first looks at the society through its independent individuals and their special interests; the second has a holistic look towards the society through its buildings, castes and general regulations. According to the first attitude, the discreet individuals, in a big group and multiple numbers, seek their personal interests. Therefore, they are far away from searching for the group’s interests to which they belong unless there is a coercion to force them, or incentives to be attained independently by those individuals in order to pay for the burden of such an effort directed to bringing general benefits to the group⁽³⁾.

The second attitude goes towards criticizing the individual analysis of the society and thereby it takes a comprehensive approach which shows itself clearly in some of the contributions of the father founders of sociology who were shocked at the negative impacts of the social transformations, held responsible for the disintegration and decline of societies. This encouraged sociologists at that time to inquire about the means to rally the members of a society.

Islamic thinking and history are rife with the pioneers who rejected the individual trend while analyzing the human nature, ahead of whom is the Islamic thinker Al Farabi (864-950 AD). This thinker confirms the collective trend when he says that ‘It is impossible for a human being to reach perfection for which the natural origination was created unless there are big and cooperative groups, where each one of them carries out a part of his own needs so that the effort of each member of the group carries out a part of an individual need. The result is that this collective effort

(1) Peter Plow and his contribution to the theory of Social Exchange, Talat Ibrahim Lutfi, Human Sciences Magazine, Kuwait University, Issue 46, 1994, P 120.

(2) Ibid, P 120

(3) The Logic of Collective Action, Public Goods and the Theory of Group, Mancur Olson, Harvard University Press, 1965, Reprinted in

the movements of urban popular social movements, the movements of protecting the environment and the soundness of nature, the emancipation of women, the gay movement, the Peace movement, in addition to the cultural protest spearheaded by students and young activists⁽¹⁾.

Due to that great force and growing interest in satisfying the social needs via huge financing by individuals and groups sympathizing with those needy people, we can say that the interest of European societies in joining the charitable organizations has multiplied in the nineties of the 20th century. This can be attributed to the decline of the welfare state which brought with it a great trust in the activists of the non-governmental organizations seeking the fulfillment of the public good, besides an unprecedented accumulation of wealth as it was the case in Germany⁽²⁾.

Returning to some quantitative data concerning the charitable donations in the mid seventies of the 20th century in the UK, for example, we shall come to the point that 81% of the adults in Britain have extended material donations to the charitable organizations in 1993. Such donations reached 5.3 billion Sterling pounds; in 1995, individual donations formed 15% of the Charitable organizations' income in the UK (Hems and Passey, 1996⁽³⁾).

To find an explanation for those data, scientists failed to reach it in terms of pure economic explanations as to the volume of wealth possessed by an individual and which may push him to charitable deeds. 'They raised the point of altruism which means that it is not purely a giving from one side as it seems for a beholder, but it is actually a process of exchanging benefits because grantors feel a sort of commitment towards improving the life and opportunities of the grantees. This issue cannot be tracked in terms of the material benefit because there is a based-on-interest relation between the grantor and the grantee. In this case, the grantor attains multiple psychological benefits'⁽⁴⁾.

(1) Economic and sociological theories of Individual charitable Giving: Complementary or Contradictory? Peter Halfpenn Peter Halfpenny: International Society for Third Sector Research and the John Hopkins University, 1999, P 199

(2) Foundations and the Charisma of Giving: A Historical Sociology of Philanthropy in Germany and the United States, Frank Adolff, International Society for Third Sector Research, John Hopkins University, 2014, P 2003.

(3) Ibid, P 200.

(4) Ibid, P 200

Birr and Ihsan. There is not the least doubt that both the American and European societies have gone a long way in institutionalizing charitable work and keeping it away from the governmental control. Consequently, the civil society has become the major financier of the social welfare. The criticism raised against the liberal and new liberal policies assisted in creating new social powers out of the essence of capitalism, but they denied the promotion of the market tools to the extent that they defined the needs of the people with the lower income and less power. Thus, the European civil society was created as a patron and defender of the rights of those existing outside the market.

Third Sociological Theorization of Birr and Ihsan

The sixties of the 20th century represent an important phase in the growing social protest against the liberal policies in general. The experience of the young men protesting against the capital system in Europe and its institutions worldwide in 1968 stand as a good example for this fact. There was a serious attempt to protest in order to get out of this false perception which got its solid foundation through the vehicles of the official culture and media. This was shown clearly in the movement of the millions of young men worldwide who emerged to challenge the ‘blocs of predominant powers which represented ideological rules and regulations created by those in power in order to guarantee the ongoingness of the status quo’⁽¹⁾. Those blocs were usually formulated through harangues and heated speeches made by those in power as it appears in that conditional correlation in the tenets of capitalism “Capitalism and Freedom”⁽²⁾.

Despite that critical experience, the state of welfare was always performing its duty till the end of the seventies of the 20th century which witnessed their weakened role in assisting and supporting the basic needs. Together with this, there was the emergence of the new social movements with those ample opportunities for an independent political activity. Those movements were formed of a mixture of movements which integrated

(1) 1968 thirty years after: Four hypotheses on the historical consequences of the student movement,
Claus Offe, Thesis eleven, November 68, February 2002, P 83.

(2) 1968 thirty years after: Four hypotheses on the historical consequences of the student movement,
Claus Offe P 83.

This state of affairs forced Carnegie to declare in April 1905 the establishment of the salaries of the university instructors through making a primitive donation of \$ 10 million out of the steel profits. He also selected a trustee out of the most outstanding universities and colleges⁽¹⁾. Through this process, Carnegie managed to ‘reformulate the American higher education so that those salaries became the carrot at the head of which there is the stick pursued by the colleges⁽²⁾. Ever since the educational institutions embarked on modeling themselves and their programmes to go in harmony with the gift. This attitude was adopted by Richard Brown in his book and that businessmen ‘used charitable deeds to secure the support to education, sciences and medicine in order to serve capitalism⁽³⁾. Consequently, a social policy, based on blaming an individual for his poverty away from putting the blame on the capital system, has developed and gained ground. Birr and Ihsan have become subject to the criteria and values of the market and for protecting the capital owners. In this regard, Rockefeller (1874- 1960) the oil Tycoon in the USA says that ‘the evils of a society are not of an economic nature, but rather they are moral and materialistic. He added that he looks forward to showing an interest in people through improving public health and morals⁽⁴⁾. It was clear that the two philosophies of Liberalism and New Liberalism caused the concept of values and morals to gain ground in a way that meshes with the individual’s abstract image, or rather as Anit Bayer said, when talking about the liberal morals ‘that you may not help the people to be anything else, indifferent one to the other’s interests, unless this is made clear through its justification theories⁽⁵⁾.

If Liberalism of the 19th century has drawn and defined the deeds of Birr and Ihsan in a way that goes in line with the predominant Bourgeois doer, we see that the European societies of the 20th century have achieved major deeds in the institutionalization of charitable work which exceeds the traces of the old or modern liberalism connected with the concepts of

(1) Rockefeller Medicine Mem, Medicine and Capitalism in America,,Richard Brown, University of California, 1979,P

(2) Ibid 54

(3) Philanthropy: the Capitalist Art of Deception, Suzan Rosenthal, Socialist Review, May 2015 2015,<http://socialistreview.org.uk/402/philanthropy-deception>,1/3/2019,12PM.

(4) Ibid, <http://socialistreview.org.uk/402/philanthropy-deception>,2/3/2019,12PM

(5) Aklaq el Enaya by Virginia Hield, translated by Michel Hanna Mityas, Alam al Maarefa, National Council for Culture, Arts and Literature, Kuwait, Issue 356, October 2008, P19

do not behave in a pre-determined manner or as result of innate or fixed inclinations⁽¹⁾, but they behave as ‘innovators and actors in creating the social world during the process of reacting to it. This will not be fulfilled by isolated individuals or individual wills, but it is fulfilled by virtue of their being members in groups and social castes⁽²⁾.

If Birr and Ihsan (giving and well-doing) as taken by Marxism, in a caste society were a tool for reproducing the social system and maintaining it, then the change of the social system and the distribution of wealth were the solutions put forward by Marxism in building its concept to approach Birr and Ihsan. Therefore, Marxism understood the liberal Birr and Ihsan negatively which seeks to abort the rebellion and protest of the poor and the needy.

Second Birr, Ihsan and Liberalism

On reviewing the social policies and their understanding of Birr and Ihsan in the 19th century, we shall see that harmony between the liberal philosophy and the interpretation of a charitable work. Individualism has no longer been held as a sheer vision and theory as much as it has become a predominant policy which found in the capitalist system a haven and a fulfillment of its promise at a time when social and economic contradictions were growing in favour specific social sectors. In this regard, Andrew Carnegie, the US steel tycoon, in 1889, 'disputes that the wealthy may undermine the social protest through their donations for substantial reasons. Carnegie rejected the request for raising the wages and the standard of living because this would lead to a decline in profits. Alternatively, he favoured providing opportunities to the people to improve themselves. Naturally, there should be lucrative opportunities, or at least opportunities for collecting profits'⁽³⁾. Thus, the establishment of charitable organizations aimed to preserve the capital interests and those social castes which support them, besides propagating good morals of the capitalist businessmen.

(1) The origin of classical social theory, Sam Pyke, in: Ian Marsh (editor), Theory and Practice in Sociology, Prentice Hall, London 2002, P 121

(2) Ibid, 121

(3) Philanthropy: the Capitalist Art of Deception, Susan Rosenthal, Socialist Review, May 2015,<http://socialistreview.org.uk/402/philanthropy-deception>, 1/3/2019, 11AM

abstract and an exemplary model because it is not connected with a place or time as much as it is connected with human soul wherever it existed and sought to get rid of the restraints of nature and human beings. In this attempt, it stabilizes a sublime value sought by the set-at-rest human soul.

Historically speaking, it can be said that the rise of this human trend was connected with that discussion in the hope of attaining salvation which has not so far been settled. Later the rise of the human trend gained ground and sought to establish a full trend to pave the way towards creating a new vision which addresses the right of a human being, as a human being, regardless of his social, ethnic or place affiliation with respect to care or human status. The longing to the first primitive or value-related nature pushed the thinkers of the 15th and 16th centuries to produce a new perspective which dealt with the abuses resulting from the social and value changes, this perspective which connected their concepts about the morals of the first nature and the requirements of modern life. According to Charles Elwood “the human trend did not show itself clearly by starting charitable organizations, but rather it showed itself especially in organizing the efforts exerted in assisting people to overcome their deteriorating social conditions⁽¹⁾. Moreover, Elwood believes that those efforts strengthened that spirit which brought about the actual birth of those charitable organizations as being a movement in itself.

Given that the human movement was a comprehensive project, “it was like a cloak which hid under it all those with a non-theological and non-national outlook in the first place towards this world”.⁽²⁾ Nevertheless it adopted an outstanding humanitarian values which showed themselves clearly in the form of socialist and communist attitudes, all of which discussed the right of a human being to lead a decent life through changing the existent social system. The famous Marxist statement still rears its head in the relevant literature that ‘everybody has what he needs’. This aim, as far as Marx thinks, will be achieved once a society reaches the highest phase in a communist society. This concept comes as a part of the positive trend which came with Marxism and Communist philosophy - in general - towards the human nature. Marx believed that ‘human beings

(1) Sociology and Charity, by Charles Elwood, 1899, Lectures, Mid-American Review of Sociology, Vol xiii, and no 2-21-30, 1988, P 21

(2) Forming Modern Mind by Crane Brighton, P23

This contradiction cannot be understood except through the methodology of Ibn Khaldoun himself who manifests an interest in the type of urbanism by virtue of its being the main indicator in defining the types and attitudes of the social act, or as he said, "I know that the difference of generations in their conditions means a difference in their life styles"⁽¹⁾. Urbanism in cities differs from urbanism in the desert. The rise of states, for Ibn Khaldoun, is not based on a sheer religious factor. If Ibn Khaldoun has assumed that caliphate is a religious plan, he revoked this attitude later out of deference to the prevalent state of affairs when he put forward two main conditions for the rise of great and extensive states, viz, solidarity and doctrinalism (Asabiyya and Math'habiyya)⁽²⁾.

In general, ibn Khaldoun makes of the Bedouin case an expression of the level human nature which is the exemplary type. The desert inhabitants are 'nearer to the primitive human nature and further from the despicable habits'⁽³⁾. It seems clear for us that we are face to face with several interpretations for human nature. If Islam has dealt with the concept of primitiveness (fitra) so that Moslems may return to taking the Prophet (peace and blessings of Allah be upon him) and his companions, as their example, sociology, on the other hand, defined those qualities in terms of place as to rest in the qualities and structure of the Bedouin community. This concept, for ibn Khaldoun, was shown clearly in respect of the primitive Bedouin case. Liberalism and utilitarianism suggested the concept of the first nature, but when they did that, they approached the Social Contract to control the freedom of the actor, not to release it. Marxism, on the other hand recommended the obliteration of the capital society system and to go beyond that as a means conducive to the freedom of a human being. In doing this, they advocated communism as an exceptional example which we must pursue.

The philosophical attitudes may agree or differ in interpreting the essence of the human nature, whether it is a state of primitiveness, a state of free or common condition, with no control or division of work. Nevertheless, all of them agreed on a historical epoch being a reference for the social act. On the other hand, the concept of primitiveness was rather

(1) Ibid 243

(2) Political Islam between the Fundamentalists and Secularists: Mahmoud Ismail, Al Shari'e el Arabi Establishment, Edition 1, 1993,PP 84 - 85

(3) Ibn Khaldoun, P 248

Research in the issue of freedom was connected with this law. Whenever philosophers talked about the necessity of human gatherings, they raised the question of freedom and acquiescence. In this respect, Jean Jacques Rousseau (1712- 1778) was surprised at the fact how a human being was created free, but we see him in fetters and chains everywhere. His reply was that a human being was forced to exchange his natural state for the state of civilization⁽¹⁾. The essence of the first nature is the absolute freedom which unfolded the trends of good-doing and non-aggressiveness in the human nature.

Ibn Khaldoun (1332-1406), the reputable Arab Moslem thinker, says that in addition to the need for a human gathering as an indigenous trend in the creation of a human being, this does not mean that he ignores the fact that human nature may find itself prone to aggressiveness. Consequently, its social behavior must be put under the control of several social and political measures. Moreover, Ibn Khaldoun says “if such a gathering is made available to all human beings, and the whole world enjoyed it, there should be a motive which pushes them apart from one another due to their animal - like motives exemplified in aggressiveness and oppression⁽²⁾. Ibn Khaldoun suggested that this type of motive is found everywhere, or as he said that human beings need in every gathering to a control or ruler who keeps them apart from one another and this ruler must be of an overpowering nature, otherwise he will not be able to carry out that task⁽³⁾.

Reflecting on the texts of Ibn Khaldoun, one cannot establish a single or inevitable vision in connection with the social act. Once he confirms that the king and doctrinalism (Asabiyya) form the essence of social stability and controlling the behaviour of people, and later he rejects those outside controls which regulate the social behaviour or, as he says “the rules of the sultan and instruction are detrimental to the might because a motive thereof is coming from outside. The Shari'a, on the other hand, is not of a detrimental nature because the motive thereof is autogenous⁽⁴⁾.

(1) Forming the New Mind by Crane Brighton, translated by Shawky Galal, ‘Egyptian Book Authority,2001, P 143

(2) Ibn Khaldoun Mukaddema (Introduction) edited by Abdullah al Darwish, Dar Yaarub, Damascus, part 1. Edition 1, P 136.

(3) Ibid

(4) Ibn Khaldoun, P 253

Birr and charitable work are social acts whose types and purposes differ from one society to another. They are associated with the human nature which has been refined by the philosophical, religious and positive systems. The purpose of birr in some societies may be different from those of the Islamic societies. Therefore, the relation between a charitable deed and a human nature which are affected by their environment and social system constitute part of the major issues in trying to understand the status and role of the Islamic awqaf as far as sociology is concerned.

First Birr, Ihsan and Humanitarian Trend:

A research in the social act and human nature abounds in a rich and deep tradition which is as old as the Islamic civilization. This fact is highly manifest in that close relation between the two issues of act and human nature. A gathering or a human reaction necessarily means social relations which distinguish a society. It is not possible for a human being to fulfill his instinctive, psychological or social needs through an open conflict with his compeers, neighbours or brothers, neither forcing others to fulfill his needs by force. He should integrate in the existent social make-up. Therefore, philosophers gave paramount importance to the study of the human nature in order to define the principles and foundations of the social make up.

It was natural that philosophy took over the responsibility for the research in the human nature. Greek philosophers initiated the work on the theory of the human nature and that law which points to the nature of the first human being, where the spontaneous benevolent nature existed. Afterwards, the philosophical power remaining for the idea of the natural law as a political concept depends on the well-established humanitarian nature⁽¹⁾. The main point in the human nature is that it is based on a good nature and morals, not on discord and aggressiveness. De la Posset, in the 16th century, confirmed this statement by saying “it is beyond doubt that if we were to live according to the laws conferred upon us by nature and the lessons elicited therefrom, we would have naturally been obedient to our parents, subjected to our minds without being slaves to anybody”⁽²⁾.

(1) Political Philosophy by Leon Goodman: Oliver Liman (editor). Future of Philosophy in the 21st century, translated by Mostafa Mahmoud Mohammad, Allam el Maarefa Series, National Council for Culture, Arts and Literature, Kuwait, Issue 301, March 2004, P 134

(2) An article on ‘Selected Slavery’ by Allen de la Posset, translated by Mostafa Safwan ‘Egyptian Book Authority, 1992, P 80

Sociology of Birr and Charitable Work

Dr. Mahmoud Salah AbdelHafeez Mohamed*

'Al Sharifa, daughter of the well-doer, used to send him on a daily basis a big bowl of fateet (type of food) as part of her charitable deed and sadaqa during that crisis. Her wealth which was spent in the way of charities was immeasurable. At that time, al Mustanser did not have any food except what this woman offered him. This took place only for once in a day and night. We read the book of Taki Eddin Ahmad bin Ali al Maqreezi known as 'Relief of the Ummah in Removing the Affliction'. This book deals with Al Mustanseria Affliction which lasted for seven years starting from 457AH.

Introduction

The process of getting acquainted with the image inside the minds of sociologists concerning Birr and charitable work, then that of the waqf, requires deep thinking when approaching the theory in sociology, especially in terms of its issues and major components round which the theory has been formulated.

Among the major issues is what can be said about the urgent philosophical questions related to the essence of the human nature and the issue of the social act. These two issues constitute the major issues on which modern sociology, with its academic meaning, is centred. The attitude towards human nature determines the types of the social and economic duties and responsibilities of human individuals and groups.

It is noteworthy that the attitude towards a social act explains to us the meaning of the acts put forward by the individuals and groups in the different social acts. Thus, the meaning given by people to Birr and charitable work differs from one society to another in the light of the cultural or religious capital.

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and the development of the philosophical and schools as part of changes in the western societies, in addition to the effect of this factor on the establishment of the charitable institutions according to each period. On the other hand, the researcher tried to interpret the prevalent concept in the Islamic waqf as a principle for an integrated social development which exceeds the boundaries of religion, ethnicity, place and time to reach the aim of fostering the theory of social solidarity and the fair distribution of wealth.

In ‘Book Review’, **Dr. Amjad Ali M. Sa’adeh** introduces the book of **Prof. Usama AbdulMajed Al-Ani** ‘Waqf Minor Financing Fund’.

Sa’ee for Developing Awqaf, Riyadh, Kingdom of Saudi Arabia, 1441 AH (2019 AD).

Editorial Staff

understanding the changing role of the welfare state, and last developing the waqf institutions in a way that they may address the human needs and challenges confronting the Moslem societies.

Dr. Kheir-Eddine Benmechernene in his article entitled ‘Waqf Nazir as the local and direct manager in charge of waqf properties between Fiqhi origination and Algerian Legal Framing’ puts forward three major principles approved by the Algerian legislator in connection with waqf: Law of 1991. The juridical personality, holding the waqf manager as a direct local manager of the waqf and the state which is not represented in the waqf, but a guarantor for complying with the waqif’s intents. On the other hand, the article sought to track the movement of the nazir in managing the waqf and the type of its judgments in order to clarify on the possible relations between the waqf nazir and the other relevant officials and to show that harmony or discord between such departments.

Prof. Tarak Abdallah, in the French part of the Waqf Journal, and in his research entitled ‘Waqf and Public Sphere, Awqaf el Haramain as an example which aims to show the relations embodied in the historical experience of the Islamic world, specifically in the Awqaf of Al Haramain, in connection with the reaction between the political, economic and cultural domains in order to boost the public sphere. Consequently, various tools will be made available to allow the individuals to involve in the social act. The researcher analyzes the historical reasons which curtailed this domain and led to the emergence of the concept of the welfare state which contributed strongly to minimizing the spheres of action and individuals’ involvement. Moreover, the researcher believes that rehabilitating the public sphere and approaching the rationality of the state’s concept, modernity and voluntary work may assist in lessening the economic and social burden of the state and empowering various social sectors to bear part of such responsibilities.

Dr. Mahmoud Salah Abdul Hafeez in his translated-into-English research entitled ‘Sociology of Birr and Charitable Work’ strives to understand the status of the Islamic waqf and its role from a sociological perspective. He tries to analyze the relation between well-doing and the human nature in the light of the environment and the social system. The researcher analyzes the western experience as exemplified in the Liberalism of the 19th century which coincided with the rise of capitalism

Awqaf and those Awqaf of an International or cross border nature to explore opportunities which may strengthen the status of the Jerusalem awqaf. This is expected to revive its role in the confrontation and survival. The main opportunity in this domain is the search for finding partnerships with similar institutions which are able to utilize the resources, experiences and finance in a joint and complementary domain.

Falah Mohammed Fahad Alhajri in his research entitled ‘Irsad Regulations in the Islamic Fiqh (Jurisprudence)’ deals with a short jurisprudential outlook about the essence of Irsad, its fiqhi adaptation and its major rules. The researcher lays emphasis on the current importance for developing a flexible and integrated formula for the Irsad which may keep abreast with the changing developments and thereby benefit from such a formula in addressing the needs of the Islamic countries.

Dr. Salim Hani Mansour reviews the techniques of the French imperialism in weakening the functions of the Islamic awqaf and the means of usurping them (Lebanon is an example). The researcher analyzes in a lecture how the French imperialism sought to weaken waqf and its role, or rather obliterate it, through robbing or liquidating its assets. He showed the methods utilized by the French imperialism in Lebanon to weaken the role of Islamic waqf and how it assisted in the loss of its documents and deeds through robbery or usurpation. Another relevant fact is the communal segregation which it pursued and the legal decisions it took to weaken the waqf.

Dr. Abdullah Nasser A AlSadhan in a research entitled the ‘Entertainment Waqf - a novel example of the educational waqf’ suggests that a renewal in the waqf channels of spending should be added and directed towards human beings, for example dealing with the new educational methodology through scientific means for conveying information. This should be carried through simple means so that learners may like and accept it. At the same time, it would address the efficiencies of the educational process. Furthermore, the researcher points to the strong historical relation between waqf and education, but the modern indicators show that waqf is concerned with social affairs and relief, away from contributing to educational purposes. To approach this unhealthy state of affairs entails a reshuffling of priorities for the waqifs (dedicators),

The particularity of this testimony is that it included the specifications of the awqaf. They are documented and in the Possession of Allah the Almighty, a possession with an ongoing nature which knows no cessation.

This testimony from the one hand is documented and validated by the waqf deeds which appear on the paper, and inscribed on the walls, all of which are kept in special records inside and outside Palestine. All these documents represent a legal and unrefutable document and an actual evidence about the assets which have been usurped and the rights which have been violated since the occupation of Palestine.

Assuredly those awqaf belong to Allah, the Lord of all beings, and do not belong to any specific individual, so it is not allowed for any body to pass any part of them to any other entity. The whole of the Islamic nation is responsible for defending them and taking all the measures to regain them sooner or later.

On the other hand, they were dedicated to consecutive generations without being interrupted by any timing, which means that they should remain as such until Allah inherits the earth and whoever is thereupon. This also means that it is valid for the beneficiaries in terms of the imprescriptible rights, which cannot be forfeited with the passage of time regardless of the occupier's false representations.

In the light of the aforementioned, the relation between Palestine and the waqf is an organic one which connects the asset to the deed; between the place and the legal right and between history and its glories. Therefore, it does not seem strange to delineate the historical boundaries of Palestine through its relevant waqf deeds, which give a detailed picture of its geographical landmarks, measurements, areas, mosques, places, houses and all the outstanding components of the Palestinian cities and quarters, whether this be in Jerusalem or its Tel Rabi'eia or the scattered quarters. Awqaf in Palestine are not only assets, but rather they are witnesses, rights and a history which is still throbbing like a human heart.

This issue of Awqaf Journal includes a research by **Prof. Yaser Abdel Karim Mohammed Hourani** about the integration between the Jerusalem

Editorial



When Waqf Draws a Map of Palestine

The Palestinian Poet Harun Hashem Rasheed writes a few lines in which he talks about Palestine, the country which he loves and gave life to him.

*Assuredly I am from Jerusalem and in it are my roots
My roots are far below the surface, solid and smooth in form and shape
My heart's throbbing extends to Kannan, Adnan and Qais
From the past to the present, from this day and yesterday*

The roots about which the poet talks take multiple examples which stand as vivid witnesses which still exist till today, all of which constitute landmarks which link the relation of Jerusalem in particular, and Palestine in general, with Arabism and Islam, in addition to the rights which shall return to the rightful owners sooner or later.

It goes without saying that waqf, through its relevant documents and assets, mosques, katateeb and alms-houses, stand as a firm eye witness to this list of the existing landmarks and to those usurped by the occupiers. Therefore, waqf constitutes a live and decisive testimony for Palestine, covering its true history, rights of the Palestinians and its endless steadfastness.

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An Invitation to All Researchers and interested People

AWQAF Journal would naturally aspire to accommodate all the topics that have a direct or indirect relationship to Waqf such as charitable activities, voluntary works, community and development organizations, and reaches out to researchers and those interested in general in interacting with it; in order to meet the challenges that obstruct the march of our societies and peoples.

The journal is pleased to invite writers and researchers to contribute in one of the three languages (Arabic, English and French) to the material related to the objectives of the journal and Waqf horizons in the different sections such as studies, book reviews, academic dissertations abstracts and coverage of seminars and deliberations the ideas published on.

Materials intended for publication in AWQAF Journal should observe the following:

- The material should not have been published in any journal (electronic or printed)
- The material should abide by the academic ethics related to documenting the references and sources, together with conducting an academic handling.
- A research should fall in (4000 to 10,000) words, to which a summary of 150 words in both Arabic and a foreign language should be attached. Researches meant for publication shall undergo a secret academic refereeing.
- A researcher should attach the form of Work Originality to his research.
- An article should fall in 2000 - 4000 words.
- The Journal receives book's presentations and here priority is given to modern publications. The revision should fall in 500 to 1000 words. The presentation should include the main points about the book , for example the author, publisher, year, version, along with laying stress on the presentation, analysis through scientific method, interest in the essence of the book and its chapters, and assessing it in the light of other relevant works.
- The Journal receives coverages of seminars and conferences, provided that a report should mention the organizing body, the subject of the seminar, place and date of the seminar, the major axes, survey of the researches submitted with their main ideas. There should be a stress on the recommendations of the seminar, together with indicating the activities conducted on the sidelines of the seminar (if any).
- Materials sent to the Journal are not returnable if published or not.
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Project of AWQAF journal

AWQAF Project is based on a conviction that Waqf — as a concept and an experience — has a great developmental potential which entitles it to contribute effectively to the Muslim communities and cope with the challenges which confront the Muslim nation. The history of Islamic world countries also reflects on Waqf rich experience in devising a societal involvement which encompasses almost all diverse walks of life and helps primarily in developing solutions for emerging human difficulties. During the decline of the Muslim nation, Waqf provided shelter and support for a significant share of the innovations that Islamic civilization was famed for and secured their passing from one generation to another.

Nowadays, the Islamic world is witnessing a governmental and popular orientation towards mobilizing its material competencies and investing its genuine perceptions that culture makers' cherish in a spirit of scholarly innovation to arrive at fully comprehensive developmental models deeply rooted into the values of righteousness, virtue and justice.

Based on this conviction, AWQAF Journal embarks upon achieving a mission that would enable Waqf to assume the real and befitting standing in the Arab and Islamic field of thought. It therefore seeks to emphasize Waqf as a discipline those remotely or greatly interested in Waqf to uphold a scientific trend towards developing Waqf literature and link it to comprehensive social development considerations.

Since the basic concept of waqf is related to volunteering, such a requirement cannot prosper unless Awqaf Journal becomes concerned with the social work which is directly related to community issues, social work, volunteering and other relevant issues which, when combined together, accept that reaction between the state and the society and the balanced partnership in making the future of the society and the role of the NGOs in this effort.

AWQAF Journal Objectives

- Reviving the culture of Waqf through familiarizing the reader with its history, developmental role, jurisprudence, and achievements which Islamic civilization grew into until recent times.
- Intensifying the discussions on the scientific potentials of Waqf in modern societies through emphasis on its modern structures.
- Investing in current Waqf projects and transforming them into an intellectual and culture-based product for deliberation among specialists. This is hopefully expected to induce interaction among researchers and establish a linkage between theory and practice of the tradition of Waqf.
- Promoting reliance on the civilizational repertoire in terms of social potential resulting from a deeply rooted and inherent tendency towards charitable deeds at the individuals and nation's behavior levels.
- Strengthening ties between the Waqf school of thought, voluntary work and NGOs.
- Linking Waqf to other areas of social activities within an integrated framework to create a well-balanced society.
- Enriching the Arab library on this newly emerging topic, i.e. Waqf and Charitable Activities.

Abu Hurairah (may Allah be pleased with him) reported, The Messenger of Allah (peace be upon him) said: "When a man dies, his deeds come to an end except for three things: Sadaqah Jariyah (ongoing charity); a knowledge which is beneficial, or a virtuous descendant who prays for him (for the deceased)."

[Narrated by Muslim]

The views and opinions expressed in this journal are those of the authors and do not necessarily reflect the views and opinions of the magazine or Kuwait Awqaf Public Foundation.

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