イスラーム世界研究　第 15 巻（2022 年 3 月）49–70 頁
Kyoto Bulletin of Islamic Area Studies, 15 (March 2022), pp.49–70

Sociogenesis of Islamic Finance in Europe

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Abstract

Born in Muslim countries in the 1950s, the Islamic finance industry became a European social fact from the end of the 1970s. Islamic finance differs from conventional finance in its contractual practices of prescriptions issued from the Sharîa (Qur'an and Sunna). The European conventional use of financial capitalism contravenes these practices, such as the practice of interest, ribâ, hazard, gharar, speculation, maysir, and hoarding. This chapter observes the *plasticity* of Islamic and national norms in the European context and the arrangements needed to overcome the conflicts of norms, practices, and linguistics to create a European repertoire of Islamic finance. This repertoire is relayed by new European Muslim figures, including bankers, brokers, insurers, consultants, and jurisconsults, who root Islamic finance in Europe through their professional practices.

I. Introduction

The Islamic finance industry emerged in the late 1950s with economic experiments such as the establishment of an Islamic bank in rural Pakistan by landowners; in Egypt, the Mit Ghamr Savings Bank, created by the banker and economist, Ahmad El Najjar, in 1963; or, in Malaysia, the *Haj Pilgrims Fund Board*, better known as *Tabung Haji*, created in 1963 by the Malaysian government on the initiative of the economist, Ungku Abdul Aziz.[1] It takes a more industrial forms with the creation of the Islamic Development Bank in 1975, in Jeddah, based on the initiative of the Organization of the Islamic Conference, and by some Islamic financial institutions in the Gulf countries, including the Dubai Islamic Bank (1975), the Kuwait Finance House (1977), and the Bahrain Islamic Bank (1979).

Islamic finance emerged in Europe in the late 1970s with the creation of the Islamic Banking System in Luxembourg in 1978; Takafol S.A. in 1983, an Islamic insurance company; and Dar Al-Maal Al-Islami Trust in Geneva in 1981. Since then, Islamic banks and Islamic windows — conventional banks with Islamic financial activities — have offered products and services in several European countries, such as the UK, France, Germany, Denmark,

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1 Some research shows that in the late 1920s, Brahim Abu-Yaqdhan, an Algerian reformist, called for the creation of a 'modern' bank in Algeria based on sharîa principles. This call was followed by a study conducted by Algerian businessmen, but the experiment was unsuccessful (Belouafi and Chachi, 2014).

Switzerland, and Luxembourg. Most of these banks have oriented their business lines mainly toward capital markets, investment funds, and asset management of wealthy people. From the end of the 1980s, the Islamic finance market opened up to retail banking a high street public visibility offer that was accessible to Muslims and non-Muslims in European countries.

This offer was first developed in the UK before it appeared in continental European countries. The first retail offers were an Islamic account and a real estate financing in the form of an ijâra, as proposed by Al Baraka Bank, a Saudi Islamic bank, which opened two branches in London in 1988 and one in Birmingham in 1991. However, especially since the end of the 1990s and during the 2000s, Islamic windows opened their activities to Islamic retail banking. The United Bank of Kuwait diversified its loan offer in 1997 to propose real estate financing in the form of a murâbaha and an ijâra. Since 2003, HSBC, in all its national branches, has offered an account and an Islamic real estate loan product in the form of an ijâra, and thereafter a *mushâraka*. Since 2006, Lloyds TSB has been offering an Islamic current account on a national scale.[2]

The most significant development in the Islamic finance institution in Europe was the establishment of the Islamic Bank of Britain (IBB) by the Financial Services Authority in 2004. With its eight national high street publicly visible branches at the end of the 2000s, the IBB became the European symbol of Islamic finance. The offer of the Islamic finance products in France and Germany was embraced from the 2010s onward not only through banks originating from Muslim countries, including Kuveyt Türk (KT) Bank in Germany (2015), a Turkish participative Islamic bank with a Kuwaiti capital, and the Chaabi Bank in France (2011), a conventional Moroccan bank, but also through brokerage, insurance, savings companies, and Islamic crowdfunding Internet platforms.

Sociologist Nilüfer Göle and political scientist Patrick Haenni rightly observe a shift in the category of politics, from political Islam to market Islam (Haenni, 2005), to use the title of the political scientist's book. The fascination with political Islam — not that it no longer exists, but it is more criticized and nuanced — is giving way to a fascination of Islamic finance and entrepreneurship. These new Islamic professionals and entrepreneurs seek to build Shari'a compliant markets without opposing the neoliberal model (Göle, 2000; Haenni, 2005). The creation of Islamic finance markets in Europe stems from these social dynamics.

The studies and writings on the subject deal extensively with Islamic finance from an economic or normative approach. They mainly serve to elucidate the subject, present its principles and practices, and solve economic problems. Instead, we propose a sociological and anthropological approach by observing how European Muslims create links with their living environment and how they participate in the formulation of the place they inhabit in their own

2 HSBC has discontinued its Islamic finance business since 2014 in the UK and Lloyds TSB no longer allows new Islamic accounts to be opened.

Muslim and European subjectivities through the creation of a European Islamic finance offer.

The Islamic finance sector is being established in Europe in a particular context. The Islamist attacks of the World Trade Center (2001) still mark the spirits, as well as when two other attacks in Madrid (2003) and London (2005) hit Europe. The controversies around Islam in Europe are multiplying (Göle, 2015). The Stasi Commission (2003) in France attempted to legislate on the veils by Muslim women in public spaces, and as most of the European far-right parties, the National Front made the fight against Islam an electoral battle. Some denounce, under the expression of the *new Islamophobia* (Geisser, 2003), a religious racism, in this case, "on any visible sign of Islam," thereby contributing to the promotion and dissemination of stereotypes, prejudices of an imaginary and fantasized threat to Islam to the detriment of a experienced Islam (Geisser, 2003). It is in the context of enmity, even hostility toward Islam that, paradoxically, Islamic finance will experience its glory days in Europe. Similar to everything else related to Islam, it does not escape the prism of rejection or fascination.

The institution of an Islamic finance offer in a European context is not without conflict. Conflicts of language appear because of the symbolic charge linked to the Islamic referent and the visibility of the Islamic stigma, but above all, from the perspective of our subject matter, that is, conflicts of norms that oppose Islamic financial practices relative to conventional ones. The dominant financial uses of the practice of interest, speculation, or the practice of gambling in the insurance contracts, for example, contravene the Islamic prescriptions steming from the Sharîa, the Qur'an, and the Sunna (prophetic tradition). This article is based on my doctoral work on the genesis of Islamic finance in Europe that observes the conflicts of practice and the *plasticity of Islamic and secular norms* to enable the creation of an offer of Islamic financial products and services in France, the UK, and Germany.

The first part observes the development of a repertoire of norms and practices (Dupret, 2000) of Islamic finance in Muslim countries, as well as the conflicts involved in its circulation and institution in European countries. It analyzes the *interpenetrations* (Göle, 2005), that is, the forms of overcoming these conflicts that allow for the creation of an Islamic finance offer on a local scale thanks to the cooperation of secular and Islamic actors, a *world of Islamic finance* to use the title of Howard Becker's book, *Art Worlds* (1982). The second part studies the modes of institution and public visibility of the Islamic finance offer in Europe through the *metaphor of the moucharabieh* and the discursive repertoire that legitimize its use in European contexts. Finally, the third part observes the life trajectories of some European financial professionals and the reasons why they convert to Islamic finance market, paying particular attention to the way they articulate religion with secular ethics.

II. Conflicts of Practices and Plasticity of Norms

While an economic thought in Islam appears as early as the 8th century (Akalay, 1998; Verrier, 2009), we can only speak of 'Islamic economics' — at the origin of Islamic finance and its industry — from the end of the 19th century and during the first half of the 20th century, within Muslim reformism (Kuran, 2004; Islahi, 2015; Coste, 2015). This thought appears in the Indian subcontinent, which is first expressed in Urdu, the local vernacular language, and is elaborated in mirroring the two dominant ideological models, namely, capitalism and socialism (Coste, 2015). In this movement, Muslim intellectuals, economists, and theologians will seek, through Islamic reference, to define an Islamic economic system to refer to the title of Mawlana Maududi's book, *Economic System of Islam* (1961).

This 'Islamic economics' emerges as an Islamic critique of capitalism and socialism (Coste, 2015), an ethical way that balances the excesses of both (Islahi, 2015), as well as in a totalizing perspective of a de-colonial Islamic empowerment (Kuran, 2004) that presupposes the adoption of an Islamic lifestyle and the application of Islamic prescriptions from Sharîa (Qur'an and Sunna) to the social life including in the economic and financial field (Maududi, 1961; Qutb, 1949; Baqir al-Sadr, 1982). Thus, one can interprete its genesis as a *signature* of political Islam and the empowerment of an Islamic identity (Kuran, 2004), or as a dialogue between the dominant economic models through an ethical quest for an ideal economic model (Coste, 2015; Islahi, 2015).

2.1. Elaboration of Islamic Finance Repertoire

This thought of an Islamic economy has resulted an Islamic financial from not of norms and practices and the creation of a financial industry, with institutions and organizations that work to produce and disseminate standardized Islamic finance or insurance services and contracts on a large scale. The prescription of zakât, the legal alms, and the third pillar of Islam, has an important place in this thought. However, the most influential authors in the field will put two founding prescriptions — the prohibition of ribâ, interest, and the sharing of profits and losses as an alternative to the practice of interest[3] — at the center of this Islamic economy. The most important work vis-à-vis the definition of Islamic norms and practices related to the economy and finance will be produced from the 1990s to develop a normative repertoire of Islamic finance (Dupret, 2000). This repertoire constitutes the whole of Islamic normativity related to the Islamic finance industry, stems from the prescriptions of the Sharîa (Qur'an and Sunna, prophetic tradition), the contractual norms and practices, or the fatwas related to the field.

To relay the prescriptions that guide Islamic finance as defined in the Handbook of Islamic Banking (2007),[4] they refer to the prohibition of ribâ, interest (among other verses Sura

3 The prohibition of ribâ nevertheless takes a predominant place, such that Islamic finance is most often called interest-free banking in contrast to conventional finance.

4 Depending on the authors, the actors and the context in which they are expressed, certain prescriptions

II, verse 275–279; Sura III, verse 130; Sura IV, verse 160–161 and Sura XXX, verse 39); the prohibition of speculation, maysir (Sura V, verse 90 and Sura II, verse 219); the prohibition of acting in uncertainty, gharar (Sura V, verses 90 and 91); the prohibition of financing sectors or consuming illicit products, haram, such as arms, wine, pork, casinos, and prostitution; and the sharing of risks, losses and profits, as well as the obligation to pay legal alms, zakat, the third pillar of Islam. These prescriptions come from the Qur'an and are also reported by several hadiths from the Sunna.

Mohammad Akram Khan, a Pakistani civil servant with a passion for Islamic economics, and Monzer Kahf, a Syrian-American professor of Islamic economics and finance, compiled the teachings and prescriptions related to economics and finance in the Qur'an and the Sunna (Kahf, 1999; Akram Khan 2005). But above all, the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI)[5] produced and published a standardized corpus of semantic, normative, and contractual references relayed by industry professionals: the *Shari'a standards for Islamic financial institutions* (in Arabic, 2007; translated into English, 2010 and then into French, 2013).

This normative repertoire is at the origin of financing methods that unify, in a more or less homogeneous way, the industrial field of Islamic finance. It aspires to serve as a model of practices and instruments that are transferable to other regulatory contexts. It serves as a reference for Sharîa scholars, Muslim jurisconsults, who certify sharia compliance of Islamic finance transaction as it does for public authorities seeking to regulate these transactions. In France, for example, public authorities have relied on this model of contractual practices to develop tax instructions (2010), thus allowing the use of Islamic finance contracts. However, the circulation of this normativity, on a European scale, shows contrasting opinions (fatwâs) and plasticity of the Islamic norm according to the constraints of place, context, legal norms, and the market.

2.2. Conflicts of Practices in the Encounter of Islamic Finance and Europe

The circulation and institution of this normative repertoire in Europe create conflicts of norms and practices. The monopolies of European financial practices contravene the prescriptions of

are emphasized more than others. The Handbook cites the most well-known, but other prescriptions must also be taken into account, such as the obligation to endorse the transaction with a tangible asset and to finance the real economy, or to own the property (AAOIFI Standard No. 8) that is being sold, or the prohibition of hoarding (Sura IX, verse 34–35: "Announce a painful chastisement to those who hoard gold and silver without spending anything in the way of God. (...)"), for example.

5 The Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) is an international non-profit organization based in Bahrain and established in 1991 through the cooperation of the Islamic Development Bank (IDB), financial institutions and Islamic fiqh institutions. In 2002, another international standard-setting body for Islamic financial industry practices was established in Kuala Lampur, Malaysia, the Islamic Financial Service Board (IFSB). These two bodies are the main reference points for standards, practices and sharia compliance of Islamic finance and financial institutions on a global scale.

the Sharîa not only with regard to the practice of interest-bearing loans but also with regard to speculation and uncertainty as practiced in conventional insurance contracts. Taking only the example of the loan at interest, despite its common use in all civilizations, including in muslim countries (Rodinson, 1966), it has not always been a dominant practice of financial use in Europe.

The repulsion toward this practice is found in the three texts of monotheism: in the Old Testament, the practice of lending at interest is strictly forbidden within the Jewish community, between "brothers," whereas it is authorized in transactions between people of different faiths; with the nokrî or "stranger de passage" (Deuteronomy, chapter 23, verse 20); and the New Testament invites to charity and giving, as it is asked, "If you lend to those from whom you expect to receive, how much do you appreciate it?" (Gospel of Luke, chapter 6, verses 34 and 35).

The height of this contempt for money occurred during the Medieval Inquisition when ecclesiastical institutions led a "crusade against usury" and even condemned usurers as heretics (Clavero, 1984). In the Divine Comedy (1304–1321), Dante describes the usurer as a "foul image of fraud," a "beast with a sharp tail (...) that stinks the world (whose) face was the face of a righteous man, so benign did his skin appear, and the trunk was that of a serpent (...)."[6] Usurers are deemed to be in violation of the laws of nature and are punished alongside sodomites in the seventh circle, just before those who have committed homicide.

Today, with all critics towards the excesses of banking and finance, the movies Wall Street, directed by Oliver Stone (1987), and The Wolf of Wall Street, by Martin Scorsese (2013), illustrate the prestige and the social fascination that the contemporary era cultivates toward the banking and finance profession. The commercial revolution, beginnings of industrial transformations, and advent of the state have created a new context. The practice of interest, long forbidden and despised in Europe, became, with the advent of financial capitalism, a monopoly of use, a *monopoly of domination*, to use Norbert Elias' terms (Elias, 1975).

Fundamental texts by theologians, as well as philosophers and economists of the Enlightenment, led to "the religious subversion of the social paradigm in which the prohibition of usury was understood" (Clavero, 1984) and allowed, morally if not legally, the practice of interest. The Lateran Council (1515) and the writings on the practice of interest by authors with a major influence in Europe, such as Thomas Aquinas, John Calvin, Adam Smith, Jean Turgot, and Jeremiah Bentham, contributed to this paradigm shift, wherein money was no longer considered not only as a means of exchange[7] but also as a means of production, thus

6 Dante, *l'Enfer*, XVIIe chant, *la Divine Comédie*, translation in French Marc Mentré.

7 In its *Politics*, Aristotle puts forward the idea that money cannot give birth to money: it is a means of exchange, so it cannot become an end in itself. He denounces, under the name of *chrematistics*, the art of getting rich, of acquiring wealth for personal ends. In the Qur'an, we find the same Aristotelian consideration that money cannot produce money. Only activity, effort has value, in verse 39 of Sura 53 it is written that "Man

acquiring a teleological finality (Simmel, 2009).

Interest-bearing loans, as well as speculation and insurance based on gambling, become monopolies of conventional financial capitalism, that are forbidden in Islamic finance. The circulation of the repertoire of Islamic finance in Europe and the institution of an offer in France, Germany, and UK show conflicts of norms and practices between, on the one hand, the Islamic prescriptions stemming from the Sharîa, common to the three monotheisms, and, on the other hand, the European financial monopolies of practices, such as those established in the modern era with the advent of financial capitalism.

2.3. Normative Arrangements and Plasticity of Norms

The effort of standardization by the AAOIFI is accompanied by a diversity of interpretations of the norms and their translations. The conditions of their application in a given spatiotemporal context show this permanent tension between adaptation to the immediate environment and the search for technical and social innovations that allow conflicts to be overcome. “The reference to the sharia (sic) takes (then) more pragmatic contours. It becomes [...] a flexible norm whose general economy must be rethought in light of the experience of Muslim populations in a secularized context” (Frégosi, 2012: 76). There are multiple legal opinions on the use of Islamic financing contracts, including in Europe.

In this article, we will give an example of three normative arrangements that illustrate the *plasticity of the norm*, here Islamic, in its encounter with Europe. *Plasticity* is understood as a malleable characteristic of the law or norms that confers on norms the capacity to be manipulated according to the context of use to find, in each situation, the resources and tools that legitimize (or not) their use. Thus, the introduction in Islamic insurance contracts, takâful, of risks related to drunk driving; the formulation of the mushâraka contract according to the model of the German civil law association ‘Gesellschaft bürgerlichen Rechts’ (GbR); or the introduction in the Finance Act 2003 of the ‘Islamic mortgage’ testifies to the *interpenetration* of Islamic norms and practices in European contexts.

The first normative arrangement relates to the inclusion of mandatory European regulatory clauses that contravene Islamic prescriptions, such as drunk driving, in takâful contracts. Insuring today in Europe is a monopoly of use the formulation of European contracts of Islamic insurance must include mandatory clauses, even if they are illicit according to the Sharîa because “it is the European insurance law that prevails, and we are obliged to be in the framework” confides an Islamic insurer.

The insurer reminds that this is not changing the norm: the Islamic norm remains the same, it is only constrained by the local law that “imposes limits on Muslim law;” it then seeks

will not possess anything except what he has acquired by his efforts (...)”. In this sense, money can only be a means of exchange or a means of measuring value, but it cannot produce or generate itself. It is also in this spirit that hoarding is forbidden (Sura IX, verses 34–35).

common spaces to reconcile the two because “it is in these spaces that we can act.” This form of compromise articulates Islam to the constraints of the place and allows for the modulation of the Islamic norm to create a *European Islamic signature*, a hyphen that links financial Islam to Europe.

In Germany, Islamic finance contracts have not benefited from any specific legislative or regulatory framework. Therefore, financial institutions draw a framework that allows them to implement Islamic finance products and services from the national repertoire. The general manager of the German subsidiary of KT Bank explains that the bank uses the German partnership scheme, GbR, under German law, which is defined as “an association of individuals or companies united in the achievement of a common contractual objective” for the purchase of real estate, for example:

> With respect to the required banking license application, the bank cooperated closely with the supervisory authority to ensure that it complied with all regulatory, legal, and tax requirements applicable to conventional banks. For specific challenges, such as Islamic car buying and real estate financing, the bank had to develop approaches to comply with the German legislation. Islamic real estate financing products serve as an example: they are designed according to the model of the German civil law association GbR.

Finally, as a third example of a normative arrangement that demonstrates the *plasticity of the norm*, in 2003, the Finance Act 2003 considers the Islamic constraint of the prohibition of interest by legislating on real estate transactions. It provides for the lifting of the double property tax levied by Islamic mortgages with the exemption of the Stamp Duty and Land Tax for the second part of the sale if a financial institution retains ownership of a property until the end of the repayment of the loan by the individual granting the mortgage. The Finance Act 2003 incorporates the term Islamic mortgage into its legal repertoire and thereby recognizes the unlawfulness of the ribâ for Islamic financing.[8]

III. Interpenetration and Public Visibility of Islamic Finance

The performativity (Austin, 1970) of Islamic finance is materialized not only by a high street visibility offer of Islamic financing through financial intermediations but also by act speech of competent authorities who work for its achievement; the creation in the economic and civil society of structures accompanying its genesis (associations, consulting firms, institutes, etc.); the publication of legal texts in the national law, it circulates in the places of law, including parliaments and courts; and Europe becomes a place of training, teaching, and researching that

8 Clause 72 and 73, Finance Act 2003.

is privileged at the global scale.

3.1. Different Modes of Rooting Islamic Finance in the United Kingdom, France, and Germany

The first department of Islamic economics research worldwide was established in 1976, at the initiative of the Islamic Foundation, linked to the Jamaat-e Islami and based in Leicester, UK. This institution has produced several major publications in Islamic economics, a library, and a biannual journal — *Review of Islamic Economics*. In 1995, the Islamic Foundation collaborated with the Islamic Development Bank and the Islamic Research and Training Institute to establish a Master's degree in Islamic Finance at Loughborough University, which hosted the Fourth International Conference in Islamic Economics in 2000. In 1984, Durham University also established a research and training center for Islamic finance, economics, and management.

In addition, other European universities and Grandes Écoles developed training programs in Islamic finance in the 2000s, such as the Sorbonne (Paris), the Sapienza (Rome), and the University of Paris Dauphine (University Diploma in Principles and Practices of Islamic Finance, 2009).[9] The first one in France is the Executive MBA in Islamic Finance at the Strasbourg School of Management in 2008, which is associated with the '*Cahiers de la Finance Islamique*,' a French academic journal specializing in Islamic finance. In Germany, the University of Marburg offers an international master's program — Economics of the Middle East — where Islamic finance is taught. More recently, since 2014, the Geneva Business School (Switzerland), a private university, has been offering a master's program in Islamic finance in Geneva and Barcelona, Spain. Finally, since 2015, the Catholic University of Leuven has also offered an executive program in Islamic finance.

In France and UK, the development of Islamic finance has been conducted by public, governmental, and financial authorities. In the UK, the speech act was given by Lord Edward George, then Governor of the Bank of England, during a conference organized in 1995 by the Islamic Foundation of London, whereat he expressed his incomprehension that there was no Islamic offer for Muslims on a national scale and invited them to better define the standards and barriers and propose Islamic products that could be compatible with British legislation.

The Governor of the Bank of England promoted the establishment of a committee under the leadership of Andrew Buxton, the former chairman of Barclays Bank. The working group included representatives from the Treasury, the FSA, the Council of Mortgage Lenders, financial institutions, Muslim legal scholars, members of the Muslim community, and British experts to draft a report identifying the obstacles facing Islamic finance in the UK. In 2003, the Finance Act 2003 considered the Islamic constraint of the prohibition of interest by legislating

9 The training program ended in 2018.

on real estate transactions.

In France, in 2008, Christine Lagarde, then Minister of Economy, Industry and Employment, affirmed the government's willingness "to adapt the legal environment to (...) benefit Islamic finance."[10] The same year (2008), Paris Europlace, an important actor in the Paris financial market, created an 'Islamic Finance Commission' to welcome Islamic finance in the French territory. Within the framework of this commission, a partnership with the AAOIFI was signed to translate its standards into French.[11]

As in the UK, this commission was composed of public actors, representatives of French authorities, Muslim jurisconsults and French sharia board, law firms and legal experts, consulting firms in Islamic finance, and financial professionals. However, unlike in the UK, the legal standardization of murâbaha, sukûk, ijâra, and istisnâ' contracts was not achieved through legislation, but through the publication of tax instructions by the Direction Générale des Finances Publiques in August 2010[12] while the bill-aiming to "allow the issuance on the Paris stock exchange of products compatible with Muslim ethical principles" was rejected by the National Assembly and declared contrary to the Constitution.[13]

In Germany, Islamic finance language has less penetrated institutional fields. Notwithstanding the Islamic fund of Commerzbank (2000) the sukuk issued by the Land of Sachsen Anhalt (2004), neither the German Central Bank nor the BaFin—Federal Financial Supervisory Authority—were informed of the Islamic financial activities in Germany (Burghardt and Fuβ, 2004) in 2004. An Islamic banker who is an advisor on Islamic finance at the Zentral Rat Für Muslim confides in his interview:

> In Germany, as in Switzerland, there are no proper regulations for Islamic banks or restrictions for certain products (...) you have to trust the tax authorities who can change their mind in three years. You have no comfort. However, this is not specific to Muslims or non-Muslims. Everyone is subject to a change of opinion regarding the tax authorities.

3.2. The *Moucharabieh Metaphor*

In its quality of creating social reality, the *performativity* of Islamic finance in Europe is not only be materialized through the publication of legal texts, the creation of academic training,

10 Christine Lagarde during the Rencontres Financières Internationales de Paris Europlace, (Paris Europlace, 2009: 12).

11 Press Release Paris Europlace –Bahreïn Roadshow, Manama, 18 janvier 2009.

12 Tax Instructions of 23 July 2010 from the Direction générale des finances publiques « relatives au régime applicable aux opérations » of *mourabaha* 4FE/S1/10; *sukuks* 4FE/S2/10 ; *ijara* 4FE/S3/10 ; *istisna'* 4FE/S4/10, *Bulletin officiel des impôts*, n° 78, 24 August 2010.

13 Press release of Conseil Constitutionnel du 14 octobre 2009.

or the speech acts of competent authorities who work toward its achievement (Austin, 1970). Its *interpenetration* is *performative* in the sense that it is materialized through a financial offer products and services and in its mode of *agir public* (Göle, 2015). It becomes accessible to all Muslims and non-Muslims alike, and acquires public visibility in the streets of European cities.

To study the visibility of the Islamic finance offer in Europe, it is necessary to employ a phenomenological approach to public space as a "phenomenal reality, a reality that occurs, and manifests itself as a sensible phenomenon, through social practices" (Quéré, 1992: 80). The public visibility of its signs, products and services offered in leaflets or on the Internet, as well as the logos and slogans displayed in shop windows is an indicator of its presence and its European *interpenetration* (Göle, 2005). With the institution of Islamic finance offers in Europe, it is not only the conventional market that is being transformed but also what is seen in the public space of European cities.

The first field of observation in 2010 was to walk the streets of London to observe the banking visibility of the Islamic finance offer. At the time, retail offers were only available in the UK. Moreover, KT Bank in Germany and Chabbi Bank in France only announced the launch of their offer in 2011. Subsequently, different observations were conducted in Germany, in Mannheim (2011), Berlin (2015), France, Paris (2011), and Bordeaux (2014). A second fieldwork was conducted in 2017 and 2018 in the three countries by revisiting the previously observed agencies as well as those in Birmingham (UK) and Frankfurt (Germany) to observe the social transformations of the Islamic finance market in Europe.[14]

Public visibility is a mode of *agir public* (Göle, 2015); it is both a witness and an actor of social transformation. The public visibility of the Islamic referent disturbs and even offends the European secular environment. Words and symbols refer to a set of social, cultural, and emotional attributes. The French Islamic insurance company, Noorassur, for example, has had to face several acts of aversion or even violence: in Nantes, the window was vandalized, while in Nice, the mayor initially filed a complaint with the court because of the inscription "Noorassur.com finance islamique" on the store window, fearing that "the terminology 'Islamic finance' (could) lead to public disorder," and seeking to avoid the "communitarianism that the city of Nice refuses on its territory."[15]

The public visibility of the Islamic referent in European contexts may be offensive; therefore, the ostentation and discretion of the Islamic referent and symbols are discussed in

14 This fieldwork was conducted within the framework of the IEG research project *Norms, Practices and Politics. Islam in Europe in the Global Age* directed by Nilüfer Göle, ANR-10-IDEX_0001-02PSL

15 *À Nice, la «finance islamique» devant le tribunal.* Available at <https://www.lefigaro.fr/actualite-france/2017/06/26/01016-20170626ARTFIG00291--nice-la-finance-islamique-devant-le-tribunal.php>, Access Date: 30 July, 2019. *La polémique enfle à Nice autour d'une enseigne baptisée "Finance islamique".* Available at <https://www.francebleu.fr/infos/societe/la-polemique-enfle-nice-autour-d-une-enseigne-baptisee-finance-islamique-1496854995>, Access Date: 5th January 2022.

what is shown in public and have to be linked to the utterance context. Important regional disparities can be observed, and not all banks display Islamic referents in the same way. Thus, the UK, Germany, and France do not show the same degree of territorial visibility and, even at the national level, financial institutions do not communicate their Islamic finance offer in public in the same way. While some banks refer to Islamic symbolism ostentatiously, others prefer discretion.

We use the *metaphor of the moucharabieh* to analyze the degree of visibility.[16] This analytical tool makes a double reference to the Arab architectural window and the financial subsidiary that is the Islamic window. Pragmatically, it signifies the opening of conventional finance activities to Islamic finance markets and the opening of financial Islam to Western, in this case, European markets. Symbolically, this metaphor reciprocally represents the interrelations between Islam and the West through the case of finance. Islamic finance products can be visible and accessible to all or discreet, even invisible, by adopting the rules of the place or by being soberly distinguished by an Islamic symbol that becomes almost accessory.

The ostentation and discreteness can be seen in the naming. In the case of the IBB, Islamic Bank of Britain, its patronymic displayed on its sign in English and Arabic, mirroring each other, and linking Islam to the 'terroir' / teritory. Since its acquisition by the Masraf Al Rayan Group in 2014, its name, Al Rayan Bank, no longer refers to either Islam or the UK. While IBB ostentatiously displays the Islamic referent, most of the banks observed show more discretion, with some modulations. Some banks inform about their Islamic finance activities by using Arabic semantics, such as 'BNP Najmah,' najmah means 'star' in Arabic, and refers to the star trail of the logo of the parent bank BNP Paribas, or 'HSBC Amanah,' which refers to the act of entrusting an object to another person in trust.

Others still prefer to keep their Islamic finance activities discreet. They choose to create a subsidiary whose name makes no reference to the parent bank or to Islam, as is the case with Crédit Agricole. This is also the case of Chaabi Bank, who attributed to its Islamic finance offers, the name of Harmonis and Damanis, which refers to Greek terminology rather than Arabic one, and whose staff prefer to talk about "ethical products and services" rather than Islamic finance. However, there is also, for example, the Qatar Islamic Bank, which borrows Islamic references for its European subsidiary, 'European Finance House' and, in adopting the local linguistic canons, keep only the European one.

The ostentation and discretion can also be seen in the accessibility of the Islamic finance offer to the public. The Islamic and conventional finance offers of HSBC Amanah and Lloyds

16 This typical Arab-Muslim architectural window allows one to observe without being seen. Its complex structure acts as a trompe-l'oeil. Without being a window in the strict sense of the word, it has the same functions: it allows light, humidity, and wind to penetrate the interior of the home, the intimate, but also to observe, to open up to the outside. Unlike traditional windows, the moucharabieh has the function of hiding, protecting the interior from external view; it preserves the sobriety and discretion of the exterior facades typical of Islamic architecture.

TSB in the UK are contiguous; they share the same social space and are present in common (HSBC Amanah) or different (Lloyds TSB) leaflets on the display racks or in the drawers of bank branches. However, this offer is made 'on demand' by contacting a specialized advisor via e-mail. This is also the case with Chaabi Bank in France: to subscribe, you have to contact the person in charge of the bank's 'ethical' products by e-mail. Therefore, the Islamic offer is discreet. The Arab Banking Corporation (ABC), a conventional bank in Bahrain, presents another example of access to its Islamic finance offer. Through its branch, ABC's Islamic Financial Services, the bank is creating its own Islamic brand, Alburaq. Without a domestic branch network, it offers its products through other banks, including Bristol & West, Lloyds TSB, and the IBB (now Al Rayan Bank), for a fee for each contract signed.

Furthermore, KT Bank in Germany is also a witness to the ostentation and discretion of the Islamic referent. Neither the name of the bank, KT Bank nor its logo display the Islamic stigma, even though they refer to Muslim countries. You have to get close to the window to see the bank's maxim: Islamisch. Sinnvoll Handeln ('Islamic Responsible Trade'). Its Sharîa board is called 'Ethics Committee,' without any reference to Islam. In an interview conducted by Matthias Casper and Asma Ait Allali, the bank answers that "the expression 'Sharîa' has a negative connotation in Germany. To our interpretation: Ethical Board sounds smarter. For marketing reasons, this decision is more reasonable, but there is no doubt that the Ethics Council serves as SSB (Sharîa board)" (Casper and Ait Allali, 2017: 28).

The branch observed in downtown Frankfurt in 2018 exhibited the bank's various advertisements, one of which particularly caught our attention. It states that, "Jetzt gibt es ein Bank die nicht spekuliert, sondern sinnvoll investiert" ("Now there is a bank that does not speculate, but invests responsibly"). This slogan is a counter-culture to the speculation culture of the financial city. The contradiction of the verbs 'spekuliert' and 'investiert' and the display of this poster on the bank's windows suggest the penetration of the German financial and banking market through an ethical critique of the city's dominant practices, exhibited in its museum, such as speculation.[17]

The poster is addressed in German without reference to Islam. However, Muslims socialized in Islamic prescriptions will recognize the Islamic quality of the bank: it informs that the bank respects the prohibition of gharar (hazard) and maysir (speculation), ("ein Bank, die nicht spekuliert"), and the participation in the capital and the sharing of profits and losses ("sondern sinnvoll investiert"). Without being ostentatious, like the IBB, which links Islam to the nation in its name, KT Bank more subtly informs the Islamic referent: the moucharabieh is open, but remains discreet.

17 The city's historical museum devotes an entire section of its permanent exhibition to this Bankkultur, the culture of banking, making Spekulation, Konto, Kredit (speculation, account, credit) practices of the city's cultural heritage. For each practice, there is a staging, a gesture, objects, figures, a historical narrative of the stigma of conventional finance.

Because of ‘vocabulary prohibitions’ (Chantraine, 1955) and linguistic taboos, which are less pronounced in the UK than in France or Germany, the actors prefer the use of less controversial terms than social attributes that refer to Islam. The former president of an association that promotes Islamic finance in France and founder of a French Islamic brokerage firm, confides that “Islamic finance must be adapted to the context of its emergence. It is not the label that counts, it is the content, which can just as easily be defined as participative or ethical finance.” The founder and manager of a French Islamic insurance and savings company prefers to call it ‘traditional finance’ to join the ethical principles present in the three monotheisms without offending secular (laïcité) principles.

IV. Ethical Uses of Islamic Finance

The creation of an Islamic finance offer on a local European scale shows linguistic taboo and the need to refer to other language registers than those of Islam by traducing Islamic finance in the common language of the place. It does not seem that this is only a question of adapting to the constraints of the place. The interviews conducted with financial professionals and actors of Islamic finance show a double ethical concern for *the right behavior* (De Courcelles, 2014) both toward Islam and the world, which pushes them toward Islamic finance market. Their paths observe, in this sense, a *double conversion* — professional and ethical.

Most of the people interviewed were trained in conventional finance and gained experience in the sector before discovering the principles of Islamic finance and turning to this market. Others, such as a banker and manager of a London-based consulting firm, have never worked in the conventional finance sector. Socialized from an early age to Islamic financing requirements, he helped his father, a pious merchant, to find an alternative to interest-bearing loans to finance the family business. Marked by this unsuccessful research, after graduating from university, he became involved in the development of Islamic finance products and services for the IBB:

> I come from a business family and during my teenage years, I developed a curiosity about Islamic financing because my father has a small business. That business has had a lot of luck and many opportunities to grow, but my father has always faced financing-related problems. As a Muslim, he cannot engage in interest-based loans, so he tried to explore other alternatives in line with our religion, but he could not find...it left an imprint on me to explore and find alternatives to interest-based loans.

The creation of a European offer of Islamic finance gives the opportunity to Muslims to finance their personal or professional projects in conformity with the Sharîa, as well as the possibility for financial professionals, such as bankers, insurers, and brokers, to reconcile the practice of Islam with their professional activities and to observe the creation of new professions in Europe such as 'sharîa scholars,' Muslim jurisconsults, and certifiers of Islamic conformity.

Islamic finance markets are what the actors call 'niches,' opportunities to make money and represent new career opportunities for Muslims in Europe. As much as conventional finance, Islamic finance is rational in purpose and seeks to optimize financial returns, but the reasons why these professionals turn to these markets cannot be explained solely about making money; they are also motivated by what the sociologist Max Weber calls *Wertrationalität*, value, or axiological rationalities: they find an echo to their ethical quest for right behavior in Islamic prescriptions.

The development of the Islamic finance industry in Europe is based on the quest for an ethical financial model as well as on the expression of an 'Islamic identity' of Muslims seeking to reconcile their faith with their worldly and daily activities, including their professional activities. The founder and manager of a French Islamic insurance and savings company worked for several years in the banking and insurance field before turning to Islamic finance. To our question, "*For you, what is Islamic finance?*," he responds thus:

> It is the possibility of realizing oneself professionally speaking, the means of bringing my personal identity into line with my professional identity, it is a form of accomplishment. I have convictions. I worked in the world of banking and insurance, and I was a salesman of financial products. And I was not comfortable, there was a distortion between my convictions and my professional activities. So, either I changed sector, or I considered doing something else, so that my professional activity could be in line with my convictions. Knowing that you work in a system where there is usury, when I worked in banking, or gharar in insurance (made me uncomfortable).

Islamic finance is circulating in Europe in the form of an ethical, even *civilizational* discourse (Elias, 1975), as a critique of the 'drifts' practices of conventional financial capitalism, which are at the origin of financial and economic crises and which compromise the future of humanity. Paradoxically, there is a *reversal of stigma*, in which Islamic reference becomes an economic ideal of good practices — good morals — that avoid indebtedness, speculation, as well as the financing of arms, pornography, illicit substances, and so on: its actors present it as *an ethical alternative to the conventional financial capitalist system*.

A computer engineer in the banking sector and student from Paris Dauphine DU of Islamic finance to "develop the financial side" and the financing of projects in accordance with her personal convictions, notes that the practices of conventional finance are becoming improper that endanger the world. Conversely, Islamic finance does not allow these drifts of the conventional financial system: "The subprime crisis[18] and the securitization of the securitization of rotten debts, well in Islamic finance, it is just not possible." She explains her reasons for moving into the Islamic finance sector as follows:

> Clearly, the ethical side. I have always been attracted to finance, but I had my reservations, I could not see myself making a career as a trader because of the principles. It is a profession that is disconnected from reality; it is the casino, a rather rotten environment, completely disconnected from the real economy. (...) It is gambling, it is a game of chance (where) you speculate, in a way it is like playing monopoly, it is a game, you do not finance, like in Islamic finance, something tangible, something productive.

In this encounter of Islamic finance with Europe, Islamic finance is defined as a mirror of conventional finance and European financial *monopolies of use*. The analysis of the discourses shows two simultaneous dynamics: on the one hand, the will to weave links with Europe, the values common to the three monotheisms are reiterated, the heritage of the Judeo-Christian tradition, whose principles and norms converge with those of the Sharîa, such as the prohibition of usury, or the search for the 'common good' and the respect of 'good morals.' On the other hand, the conflict of norms, such as the practice of interest forbidden in Islam, ribâ, leads him to distinguish Islamic prescriptions from conventional financing practices. A sharîa scholar confides thus:

> We had with the current finance of Judeo-Christian origin convergences at the base, which were transformed into divergence. The norm in Islamic finance bans ribâ; therefore, credit is no longer the engine of the economy but an exceptional and free mutual aid, the hazard (gharar), as well as the hazardous speculation (maysir) are also forbidden. Immoral sectors, such as alcohol, gambling, pornography, and tobacco, are also forbidden. Finally, there is the sharing of profits and losses in participatory contracts, such as musharaka. The proposed means of financing and investment are based on contracts such as mushâraka, mudhâraba, salâm, or sukûks.

An Islamic banker interviewed in a London branch of Al Rayan Bank heard about Islamic finance in 2008, at the time of the financial and credit crunch. He became aware of

18 The economic and financial crisis known as the subprime crisis took place in 2007 and 2008 on a global scale. This financial crisis began in the United States in the sector of real estate loans granted with variable interest rates, before reaching Europe and the rest of the world. The increase in key interest rates set by the Federal Reserve led to an increase in the cost of repayment; households were financially unable to repay their loans, and many credit institutions and investment funds, which speculated on these loans, went bankrupt.

"the disproportionate risk taken by conventional financial institutions" and "by conscience," "because of his faith," he turned to Islamic finance. For this banker, the difference between conventional and Islamic finance "lies at the heart of the business": do not invest in alcohol, tobacco, pornography, and weapons, as well as "everything that is not ethical is prohibited," he says. Islamic current and savings accounts are not based on interest but on profit. It is a business, "that's why Islamic banks are commercial banks, they are *ethical* banks."

A manager of KT Bank's retail offer describes the job of an Islamic banker by insisting on the quality of the relationship between the bank and the client, which is based on partnership, the principles of sharing, commonality, and respect of the commitments made:

> A conventional banker sells money to his client, and an Islamic banker becomes a partner of his client. A conventional banker is not concerned with the purpose for which the customer would use the money he/she has taken on credit from the bank, whereas an Islamic banker has to be sure that the money will be used for the business that the customer has indicated to him/her. A conventional banker would get investments with a net interest rate from the clients; the Islamic banker would ask his client to be a partner of the bank and share the profits with his client (Invest together, win together). The conventional banker would agree with the customers for a delay in the payment of the loan to increase the interest income for the bank, while the Islamic banker would ask for timely payments. It is impossible for customers to delay their payments.

The general chairman of the same bank describes Islamic finance as "an ethical alternative to conventional finance." For the banker, Islam brings "an ethical approach to business" that concerns not only the Muslim community but also the entire German community, "the majority society," with socially responsible investments as the practice of interest-free and an ethical alternative to the debt practiced in conventional finance:

> The performance of the conventional financial sector over the past decades has shown that interest and artificial price inflation based on debt rather than real value are among the main reasons why bubbles form, burst, and then lead to recessions. (...) Islamic banking principles meet not only the requirements of the Muslim community but also the ethical standards of German law, the majority society. The Islamic banking sector offers a unique enrichment and alternative to the traditional Western banking system and business ethics: a faith-based, interest-free, asset-based banking model focused on socially responsible investments and ethical values, thus forming a subcategory of the ethical banking sector.

Religion or Islamic piety is not always what motivates these professionals to move into Islamic finance. Actuary, a student of Paris Dauphine, decides to complete her training by joining the DU of Islamic finance. She is Muslim, she believes in God but "does not know what it is to be a practitioner." She fasts, "prays in her own way, in her heart," but she is not "conventional, traditional." She explains that she is "sensitive to ethics," she prefers to consume more expensive but quality products, which correspond to her values and contribute to sustainable development and "to future generations." She compares, in these terms, the organic to Islamic finance:

> Personally, it has nothing to do with religion. I prefer, for example, if I have capital saved on a booklet X that it is invested in a socially responsible investment rather than in something contrary to my beliefs, for example, in the arms industry. It is like when I buy organic food, I know it is more expensive, it is a good comparison, that is what I do sometimes, compare organic and Islamic finance. That is how I see it, you take the best in terms of quality and price, but you also have convictions. If it is invested in sustainable energy, solar energy, in the development of all these types of energy, even if I know that it will be expensive, I prefer to contribute to these areas. We must also consider future generations.

V. Conclusion

The thought of an Islamic economy emerged during the first half of the twentieth century as a critique of capitalism and socialism (Coste, 2015; Islahi, 2015). This resulted in the development of an Islamic financial normative repertoire and the creation of a financial industry, that is, a set of institutions and organizations working to produce and disseminate standardized financing or insurance services and contracts on a large scale. The circulation of this normative repertoire in Europe creates conflicts of norms and practices between, on the one hand, the Islamic prescriptions stemming from the Sharîa — Qur'an and Sunna — and, on the other hand, the monopolies of European financial practices, particularly with regard to the practice of interest, speculation, and gambling as practiced in conventional financial contracts.

Its institution is also confronted with the symbolic charge linked to the Islamic referent in Europe, whose vocabulary prohibitions are translated into public (in)visibility of Islamic symbolism and echo the relations of social, cultural, and political dominance. The *metaphor of the moucharabieh* shows the quality of its presence by giving an account of the way in which the Islamic finance offer is visible and accessible to the public. It helps us to understand the challenge of communicating the Islamic attributes — semantics, symbols, and images — of the Islamic finance offer in Europe. The public visibility of the Islamic referent is thus discussed, arranged, and adapted to the local context of enunciation.

The will to institute an Islamic finance offer in Europe leads religious and secular actors, Muslims and non-Muslims, private and public, a *world of Islamic finance*, to cooperate together to translate, arrange laws, and norms to overcome the constraints of the place, legal, Islamic, and those of the market, thus facilitating the creation of an Islamic finance offer on a national scale. The *plasticity of Islamic and secular norms* allows for the creation of an offer and, in the words of Howard Becker (1982), the *production and consumption* of Islamic finance products on a local scale in the UK, France, and Germany.

The encounter of Islamic finance and Europe shows a flexibility of Islamic norms and practices to the local context to overcome the conflicts of norms and practices to create a local Islamic finance offer. The director and co-founder of the London-based Islamic finance consulting firm summarizes this genesis in the constant articulation between "the financial product and service needs of (European) Muslim users, which are the same as those of non-Muslim users, local legal norms, and Islamic norms." Its *interpenetration* testifies to both resistance and the dynamics of social creation, *European Islamic signatures*, which allow the constraints imposed by Islamic and secular norms, values, and linguistic and legal referential to be overcome.

Finally, the creation of a European Islamic finance offer is implemented by financial professionals — bankers, insurers, brokers and sharîa scholars — who link the Islamic referent to the European market in the exercise of their professions. By instituting Islamic finance through their professional activities, or by creating financial intermediations, they are creators of the society they inhabit. It is in the interpenetration of the two universes — Islam and finance — that they find the compromises, the arts of shaping the environment that surrounds them, and exercise their citizenship, their ways of inhabiting society, as *vita activa*, in the terms of Hannah Arendt (1983).

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Glossary:

Ijâra comes from the word oujra, which means rent. It is a rental contract with the possibility of purchasing at term (ijara bel tamleek).

Mudhâraba means "risk-taking" in Arabic and is a participation instrument in which the bank (rab al maal) finances the entire project while the mudhârib takes care of the management and implementation of the project.

Murâbaha is derived from the word ribh, which means gain or profit. It is a transaction of the purchase and sale of an asset with a profit margin.

Mushâraka is derived from the Arabic sharika, association, pooling, and enterprise. It is an instrument of the participation of two or more parties in the capital and management of the object of the contract.

Sukûk is derived from the word sakk, which is a financial document that entitles the holder to the amount of money stated on it. It is an Islamic bond backed by tangible assets.

Takâful or Islamic insurance is a common fund of solidarity between participants.