

VIII. CONCLUDING REFLECTIONS: ZAKĀT WITHIN AN ISLAMIC ORDER

Obligatory almsgiving is an intricate but at the same time an intriguing challenge for any observer. At the first glimpse, there is the simple notion that *zakāt* constitutes the third pillar in Islam, a moral obligation incumbent upon every adult, free and sane Muslim. The message of the Qurʾān is rather simple: give and you shall be rewarded in the hereafter. The demand of the Qurʾān is similar to that of many other calls for responsibility and reciprocity.

However, the question of *zakāt* becomes more complicated when almsgiving is given institutional and public aspects. What happens in a situation when there is a demand by some scholars that *zakāt* is to be collected and distributed as outlined in the manuals of Islamic government and law and, eventually, constitute the basis of taxation in an Islamic state? In such a situation, *zakāt* turns out to be a problematic subject and almost impossible to capture within one framework. Whereas the demand to give obligatory alms (*zakāt*) as such is similar to that of giving voluntary alms (*sadaqa*) and consequently to be left to the conscience and moral standard of the giver, the matter of giving and receiving in the public sphere raises questions which, according to Islamic ethics and legal opinions, cannot be left to the decision of the individual. Yet, as little as the individual is in the position to decide upon the giving and receiving of *zakāt* in the public sphere, those with political authority are not able to decide on matters arising in connection with *zakāt* either.

According to Islamic Law, *zakāt* should constitute both the third pillar and the only legal tax upon Muslims, but such a position immediately causes several problems. One problem, which seems to have been noted at an early state in the history of Islam, was that if a Muslim ruler tried to enforce the demands of the law, his government would soon face financial constraints as the income derived from *zakāt* would be rather low. Further, the political authorities would not be able to use the revenue collected through *zakāt* to strengthen their own position or to cover the expenses of the army. In fact, one could argue that there was a basic constraint with *zakāt*: its original formulation reflected the needs of a community of believers, not the needs of a state. Whereas *zakāt* could constitute the economic and financial backbone of a community with a limited population and territory, it very seldom – if ever – was to become the economic and financial backbone of an

Islamic state, let alone provide the framework for a pre-modern social security network that would have aimed at the eradication of poverty and misery within the society.

Several Muslim scholars noted that there was a rift between the ideal Islamic order and the political and socio-economic realities in the Islamic states. The ideal Islamic order would regard a total commitment of the state authorities in making provisions for the common good of the community of believers. However, Ibn Khaldūn, for example, noted that the revenue collected by the state was usually used to strengthen the position of the political authorities.¹ Al-Māwardī underlined that provisioning for the army was a (if not the most central) communal duty. Therefore, if there was not enough *kharāj*-revenue to cover the expenses for the army, the ruler was urged to make up the amount needed from other sources. On the other hand, according to al-Māwardī, the state authorities had only a limited responsibility towards the poor and needy, and al-Māwardī concluded that those having a right to the *zakāt* funds are only entitled to actually receive a share if such funds exist.² Several centuries later Muhammad Bello, among others, would raise a similar claim in his treatise on Islamic government, *Al-ghayt al-wabl fī sīrat al-imām al-‘adl*, namely that the best possible use for state funds is to use it to pay off the warriors.³

A crucial question is the nature of the state, especially when discussing the question of responsibility of the state towards its subject. A common definition of the state authority by Western academics is in terms of power. Haas, following a Weberian definition, claims that a state can be characterised as a stratified society in which a governing body exercises control over the production or procurement of basic resources, and thus necessarily exercises coercive power over the remainder of the population. Such a definition can be useful when discussing pre-modern political entities, for example those in the Bilād al-Sūdān.⁴ Legitimation for the governing body in most premodern states was provided by an ideology – namely Islam in the case of Islamic societies. However, the ideological foundation is a negotiated and contested one, as Lapidus notes for the development of Islamic states. Lapidus speaks about an institutionalisation of Islam, whereby he means the transformation of Middle Eastern society by a religious idea. Lapidus identifies the institutionalisation of Islam as a process whereby a particular reli-

1 Ibn Khaldun 1989: 239–241, 271.

2 al-Mawardi 1996: 50.

3 Boyd 1989: 66.

4 Haas 1982: 172. If, however, the state is understood as an abstract entity and as a corporation by itself, as, for example Van Creveld (1999: 1) suggests, then the state is a comparatively recent invention. What follows is that there existed governments but not states in different pre-modern civilizations.

gious vision of an elite provides the foundations for the religious dogma, the communal organisation and the political authority. However, different actors had their say in this process. On the state level, the caliphs and other rulers were eager to transform the existing institutions into what were to become Islamic states. On the other hand, the *'ulamā'* as well as the *ṣūfīs* tried to establish alternative orders and superstructures, sometimes within existing states, sometimes outside the control of the rulers.⁵

Consequently, one could claim that the process of the institutionalisation of Islam resulted in two political spheres, namely the sphere of the ruler on the state level and the sphere of the *'ulamā'* and the *ṣūfīs* on the communal level. Only the ruler had the right (and opportunity) to exercise coercive power over the population, the power of the *'ulamā'* and the *ṣūfīs* being a spiritual, ideological and legal. However, to exercise power over subjects has always been a delicate matter for rulers. Political scientists have argued that the development of the state in Europe – and by extension that in the Middle East – rested in the control of territory. A totally different situation prevailed in sub-Saharan Africa where political power rested in the control of humans and in property rights over people. The nature of political authority in precolonial African states – and also the Islamic states of the Bilād al-Sūdān – was in itself a consequence of the low density of population and therefore was a non-territorial one. As a result, it proved difficult for any precolonial African ruler to tax his subjects, a matter of fundamental importance when discussing the possibilities of the existence of a tax system based on Islamic models. Any African ruler would have faced fiscal as well as political problems in generating enough revenue from land rents or land taxes such as *kharāj* because the subjects could always vote with their feet and escape the tax collectors. Nor was *zakāt* a good solution, as has already been pointed out. Not surprisingly, therefore, the usual policy that was applied by most – if not all – precolonial Muslim rulers was to generate income through the booty from warfare as well as to tax traders and trade goods. In the end, one could argue that the Muslim rulers in the Bilād al-Sūdān faced similar problems which the caliphs and Muslim rulers in the Middle East had faced earlier, namely how to bridge the obvious gap between an ideal setting and the pragmatic demands of a specific political reality. Many of the treatises on government written by Muslim scholars in the Sudan savannah, such as the *Ḍiyā' al-ḥukkām* of Abdullahi dan Fodio and the *Bayān wujūb* of Usman dan Fodio, are outlines of the theoretical basis of an Islamic government, but neither these or earlier legal and political treatises were able to solve the inevitable conflicts of idealism versus pragmatism, of the universal claims for truth against the practical needs of politics.

⁵ Lapidus 1987: 126–128.

The Muslim rulers' dilemma was in a sense the Islamic political order. This order was the product of a specific political and ideological development, namely the transformation of a small community of believers into a political-cum-religious entity under the guidance and rule of the Prophet. The Islamic political order that was to develop was a communitarian one; the public space was the community, the responsibility of the political authority was to work for the common good of the community and all of its members. The key factors between the political authority – the Prophet – and the community were reciprocity and shared responsibilities. Each member of the community had to work for the common good but first and foremost to take care of his kin and neighbours. Consequently, they would all share the fruits of the common good – or defend it. The task of the head of the community was to supervise the division of the fruits of the common good as well as to act as a mediator in internal conflicts and to defend the integrity of the community. However, with the transformation of the community into a state – the Caliphate – the public duties and responsibilities of the political authority changed. From then on, the most important task of the political authority was to secure the public interest and political order by defending the borders of the *Dār al-Islām*, whereas the reciprocal links between the ruler and the commoners were weakened, if not lost.

The division of the political (state) and the “communal” sphere was already evident in al-Māwardī's legal treatise. Thus, various Muslim scholars from al-Māwardī to the Fodios in the Central Sudan would still claim that the ruler (caliph or imam) was in charge of matters of *public* nature, such as the collection of *fay'* (‘the fifth of the booty and the *kharāj*’) and *zakāt*. However, no single political authority – be it the caliph or any other Muslim ruler – could alone supervise and control all aspects of public life in society due to simple practical reasons: the territory was too large, the population too numerous, and the distance between rulers and ruled was in most cases a huge one. Public responsibility had to be delegated if the political authority would successfully be able to control the state. This delegation of political responsibility was already a reality during the times of al-Māwardī and therefore one has to regard his *Al-aḥkām al-sultānīya* as an ex post facto justification of the political order. The collection of *kharāj* and *zakāt* taxes, the appointment of tax collectors as well as the distribution of what was collected to those entitled to it were some of the public duties that could be – and were – legally transferred to the governors.⁶ But at the same time as the delega-

⁶ al-Mawardi 1996: 20, 48. Muslim jurists and political scientists distinguish between the general and the special amirate, the latter one being restricted to the organisation of the army, the establishment of the public order, and the defence of the territory. According to the legalists, the special amirate does not cover responsibility for the judiciary and the rulings of jurisprudence, or for the collection and distribution of *kharāj* and *zakāt* (al-Mawardi 1996:

tion of political authority was a pragmatic way to guarantee the public interest and to run state affairs, it also meant that there was a division of responsibilities within the state. From then on, it was no longer the ruler himself who was in charge as head of the/a community but as head of an increasingly complex political and military organization – the state. Again, this process cannot only be identified in case of the transformation of the Islamic community to an Islamic state (the Caliphate), but also among most, if not all, precolonial Muslim societies in the Bilād al-Sūdān.

Consequently, the shift from the community to the state resulted in a narrowing of the public duties of the political authorities. However, within the Islamic order there existed another fundamental concept apart from that of the need to work the common good, namely that God, not the state or any other authority, was the provider of life and livelihood. One could argue that the Islamic state was (and is) not a *Civitate Dei* but a worldly affair; its rulers have political but not religious or spiritual authority. The political authorities might urge their subjects to follow the path of the *sharī'a* and could set an example by their acts, but their main, if not only, responsibility was to defend the territory of the state. In the end, what followed was that the state as well as the political authorities had no direct responsibility for the social welfare of their subjects. If the political authorities acted to provide relief or help to the needy, such an act was not a public but a private one: it was not the state but the ruler as a pious individual who acted.

Another question is the difference between the public and the private spheres of the acts of Muslim rulers. What belonged to the public sphere and what to the private? Such a division is clearly recognisable, at least in the scholarly treatises where the division of private and public wealth was discussed. For example, al-Māwardī reflected upon the example of the second caliph, 'Umar, to illustrate the difference between a private gift and a public act: "... the gift he ('Umar) made was from his own wealth, and not that of the Muslims, as his gift would not be of benefit to other than him, and was therefore not to be counted of public interest."⁷ Al-Māwardī's example has two points of interest. First, al-Māwardī notes that the private wealth of the ruler was not to be mixed with the common wealth of the Muslim community, namely the Public treasury or *bayt al-māl*. Second, if the use of money by the ruler was not in line with the common or public interest, then it has to be regarded as a private gift. However, what would be of public interest? Would it be the provision of relief for the poor and the needy? Not likely, as almsgiving as such always could be defined as a private act. But does this mean that the giving of gifts was analogous to that of voluntary almsgiving or *ṣadaqa*?

51). See Hodgson 1974b for a discussion on the formation of the Islamic political and social order during the ninth to the 12th century.

⁷ al-Mawardi 1996: 188.

One consequence of the discussion above would be that there existed a very specific but dual notion of the public space in the Islamic order, namely that of the state and that of the community or communities within the state. Eventually, these two public spaces do not necessarily have to overlap, and in most, if not all, precolonial Islamic states in the Bilād al-Sūdān they did not. The provision of social welfare was not regarded as the domain of the state but of the community.

Having put forward a rather critical interpretation of *zakāt* as the basis of a social security network, one reaches a crossroads: was it all a chimera or what really existed? It would be wrong to argue that *zakāt* never existed in the Islamic world, let alone in the Bilād al-Sūdān. There is ample evidence to the contrary: *zakāt* existed. It was reflected in scholarly treatises, in oral texts; it was distributed by those who could to those who had nothing and sometimes it was even collected by the state. However, it never constituted the framework of a social security network as outlined by modern scholars because such an idea would be an anachronistic one. Whereas one could argue that there was a general, if not fundamental, notion among Muslim scholars but also Muslim (as well as non-Muslim) rulers about a certain amount of responsibility for the general welfare or *maṣlaḥa* of their subjects, it was never the case that such a position would have replaced the responsibilities of kin, family members and relatives towards their less fortunate members. The ruler was the last resort of the poor and needy – never the first one. In fact, one could argue that no concept of an institutionalised form of public social welfare in pre-modern societies could exist, first, because God and not man was believed to be the ultimate resort of humanity, and second, because it was God and not man who determined the destiny of humanity. Thus, in an Islamic setting, the first action in times of distress would be to organise a communal prayer to influence the turn of the divine order.

Consequently, as has been argued in this study, the Islamic order that existed in pre-modern Muslim societies, such as those in the Bilād al-Sūdān, was first and foremost a communal one. A similar claim has been made by Bourdieu in his study on Berber (Kabyle) society and the formation of social capital in North Africa. Bourdieu's discussion on the duties and norms that govern the activities of the affluent, powerful and influential members of the society – among others, those of the Muslim scholars and *ṣūfī shaykhs* but also those with political, economic and social prestige – underlines their communal characters. Thus, Bourdieu emphasises that wealth implies responsibilities, especially in a situation when there is the belief in an immanent justice that on one hand understands generosity as a sacrifice but, on the other hand, acknowledges the blessing of one's material welfare in return. What follows, according to Bourdieu, is a collective pressure on the affluent to participate as much as possible in, if not guarantee, the performance of communal duties such as catering for the poor or giving accommodation

to those in need. For the affluent, these duties and responsibilities must not be negative ones as they enable the affluent to accumulate social capital. The investment of someone's wealth in communal social activities is, according to Bourdieu, a precondition for someone to accumulate social capital, or, following an Islamic interpretation, by spending it, wealth is "purified". What follows, therefore, is that – in an extreme case – the accumulation of symbolic capital would be regarded as the only legitimate and recognized type of accumulation at all.⁸

In one respect, however, the ruler was to be the first resort of a special group of the poor, namely the Muslim scholars. Although few of the Muslim scholars had no other trade than being a scholar, their poverty was relative. Even if a scholar was "only" a scholar, he was in a special position by virtue of his religious and social status, especially when serving as *imām*: it was through him that *zakāt* could and should be channelled. In almost all societies of the Bilād al-Sūdān, Muslim scholars were to establish communities that could be labelled as "islands of Islam". Some of these communities received certain kinds of immunities and special rights, such as tax exemptions. Whereas the reciprocity between the Muslim scholars and the rulers soon developed into a religious or spiritual one – the Muslim scholars praying for the welfare of the ruler – the reciprocity within these scholarly or holy communities was of a different kind. What emerged within these communities was a realisation of the Islamic order and the reciprocal aspect of *zakāt*: the kin and tenants of the scholar paying *zakāt* to him, the scholar giving out alms to those in need. However, with the emergence of these "islands of Islam", the dichotomy between the ideal setting, namely the holy community, and the rest of the society became evident. For some scholars, this rift between ideal and reality was a challenge, the goal being to replace the order of the society with the order of the holy community.

The demand to replace what might be termed a "secular" order with an ideal or Islamic order is not a peculiarity of the Bilād al-Sūdān. In fact, one could argue that such a demand had been already present during the early days of Islam. One of the crucial questions that was debated among Muslim scholars in the Bilād al-Sūdān, as well as elsewhere in the Islamic world, was in what way should the community of believers, the *umma*, be ruled: Who was to be its ruler and what was the relationship between the ruler and the ruled? One could argue that even before the fall of the Abbasids the realisation of the Islamic order had become a scholarly matter whereas daily politics and economics were handled in a rather profane way. But whereas Christianity left the idea of God's empire to the next world, the argument of the fusion of religion and politics in Islam and the

⁸ Bourdieu 1976: 350–351, 372.

establishment of the true *umma* remained as a key argument, if not an ideal, in the teaching and preaching of Muslim scholars. Thus Muslim scholars would argue that it was not right to give to God what is due to him and to the worldly ruler what was due to him – in the ideal Islamic setting there would be no such division. In praxis, however, there was such a division which was painfully evident to the scholars – also to those in the Bilād al-Sūdān. The outcome was Ibn Khaldūn's and Gellner's "permanent revolution". One of the cornerstones in the argumentation of those scholars who criticised the way of life of the rulers and the state of Islam in their societies was the demand for the introduction or revitalisation of *zakāt*, i.e., the establishment of what could be labelled as a "genuine" Islamic economy.

In a sense, therefore, the demand to introduce *zakāt* as a public institution was seen as an important step in establishing an Islamic order. One could argue that the political authorities had no interest in the establishment of such an Islamic economy because it would not strengthen their own position but rather that of the Muslim scholars, who would be in the position to interpret the law and be the guarantees of the Islamic order. However, the situation was difficult for the scholars, too. Would they be able to maintain their independent position in the society if they were to take over some of its worldly affairs? Generally, two positions seemed to have emerged in the Bilād al-Sūdān, which were not untypical of the rest of the Islamic world either: one could be labelled as Suwarian one, the other as Jihādīst. The former position would imply that the scholars would not mix with politics, the latter one that the scholars would take the lead in a sometimes forceful change of the structures of society. In the former case, *zakāt* would exist within the community of the scholars, but this community would remain as an "island" within the society whereas in the latter, the scholars would try to enforce their concept of an ideal community upon the rest of the society. The propagators of *jihād* were in some cases able to establish an Islamic order, but what was the outcome in the long run? Most of the societies that emerged from or were changed through a *jihād* had to adjust to the economic, financial and political realities of the surrounding world. The introduction of *zakāt* as a public institution, especially if *zakāt* was introduced as a tax – if not the only tax – to be collected from the inhabitants, made it possible for the state to finance the building of mosques, to pay salaries to the tax collectors as well as the officials in the mosques and the Qur'ānic schools and sometimes to store grain to be distributed among those in need in times of ecological and political stress.

However, few of the states in the Bilād al-Sūdān were able to strengthen their political, economic and financial foundations by becoming Islamic states. Whereas some 20th-century scholars would like to argue about the possibilities of these states developing into "modern" states had it not been due to the negative impact

of imperialism and colonialism, the conditions in the Islamic states at the eve of the colonial era do not leave any room for such arguments. *Zakāt* as a public institution had not developed into what would have resembled a “modern” public social welfare system. It therefore seems unlikely that the key idea of some of the propagators of Islamic economics in the post-colonial world, namely that of the possibility of *zakāt* becoming the basis of an Islamic social welfare system, would be a realistic one without changes in the concept of *zakāt* – although such changes would need a debate about, if not a re-opening of, the rules that govern the giving and receiving of *zakāt*. The various cases from the precolonial Bilād al-Sūdān discussed in the previous chapters do not support the idea of “pre-modern social welfare system”. It can, on the other side, be argued that the colonial system did destroy much, if not all, of whatever existed of the structures of the forms of precolonial Islamic welfare. Colonial taxation eroded all forms of public welfare that were based on the collection and distribution of *zakāt* as a tax as all precolonial forms of taxation were abolished. However, as has been pointed out, the giving and receiving of *zakāt* was not prohibited during the colonial era and *zakāt* as such was not abolished. Instead, *zakāt* emerged in many Muslim communities as an additional levy that was paid by the believers to scholars, *ṣūfī shaykhs* and local *imāms* as a sign of their membership in the Muslim community. In this respect one could argue that *zakāt* was – again – a private act, out of reach of government and public control.

But if *zakāt* turns out to be a chimera when applied as a public institution, what is left? Clearly, one could argue that the idea of an Islamic social welfare system is an un-Islamic concept. Alms, i.e., *zakāt*, or perhaps to put it in a more general term, *ṣadaqa*, are given for God’s sake and not man’s. Almsgiving as such does exist and is a central cornerstone of Muslim religiosity. Muslim scholars have time after time made the same claim: Those, who fail to make obligatory religious expenditure will have to answer for it on the Day of Judgement. According to Muslim religiosity, the “ideal human person” is someone who loves his or her kin and cares for all people, and who is gracious and generous to the extent that he or she possesses almost nothing at all.⁹

There is a strong case to be made about almsgiving as a communitarian act or an act of affection. Muslim scholars, such as Nana Asma’u, who was one of the most influential female scholars in the Sokoto Caliphate during the 19th century, would underline that the affection for the Muslim community is realised, among others, by working for the public good and that such an affection is realised

⁹ See, for example Boyd (1989: 7, 48, 87, 89) on the virtue of almsgiving within the Muslim community in the Sokoto Caliphate. All the examples referred to by Boyd are acts by individuals, and there is no reference to any state or public involvement. See also her published and translated poems in Boyd & Mack 1997.

through acts of charity and good works like the feeding of relatives and strangers alike.¹⁰ 20th-century African (Muslim) intellectuals and writers, such as Ahmadu Hampaté Bā and Amiata Sow Fall have made a strong case for the existence of the “almsgiving of every day life”.¹¹ In his autobiography Hampaté Bā gives a vivid description of the way of life of his parents and relatives, where the giving of alms and gifts was a daily action. Thus, there was, in a sense, nothing special about his family supporting famine victims during the 1914 drought in the Sudan savannah – one could even claim that the “alms of everyday life” still constituted the backbone of what might be labelled as a pre-modern or at least precolonial communal social welfare network, if not system. Amiata Sow Fall, on the other hand, discusses in her novel “The Beggars’ Strike” the religious foundations of begging and almsgiving. In her novel, she makes a strong case for the need for almsgiving: If there would be no beggars, then nobody could give any alms anymore and if you cannot give any alms then the link between Man and God is broken and the foundations of society are shaken. The beggars are needed for the rich and affluent to “purify” their wealth. Thus, one could claim that for an Islamic order to function, both poor and rich people are needed. However, the ultimate goal of almsgiving – *zakāt* or *ṣadaqa* – has not the eradication of poverty as its aim but is rather an act of solidarity and a sign of belief.

¹⁰ Boyd 1989: 48–50.

¹¹ Bā 1993; Sow Fall 1996.