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ON THE PROBABLE INFLUENCE OF ISLAM ON WESTERN PUBLIC AND INTERNATIONAL LAW

On the occasion of the fifteenth century of the *hijra*, many scholarly publications will deal with various aspects of Islamic history, among which is the contribution of the Arabo-Muslim culture to Western civilisation. Philosophical and scientific contributions have already been discussed many times. The legacy of Islam in the field of international law has, however, not yet been studied at length.

Given the size of the subject, which I have approached from a perspective up till now little explored, this paper represents a modest attempt. As the fruit of long considerations, it may prove to stimulate more thorough historical research, if my premises are judged to be plausible. I have presupposed a knowledge of the international philosophy of classical Islam¹ and of the difficulties encountered in the ordering of relations between Christian nations during the Middle Ages.

THE PENETRATION OF IDEAS

For at least seven centuries, Islam represented the quasi-totality of the culture of the Mediterranean Basin. Its relations with Christianity were both many and complex. There was reciprocal hostility and distrust, some peaceful exchange, and some humanistic and cultural intermingling. The information that we possess regarding the mutual relations are quite numerous, if scattered and uncertain. For several decades now specialist research has once more been trying to demonstrate how the influences and acquired knowledge of various kinds passed from one civilisation to another.²

To analyse the influences in the field of law is a difficult task. Identical ideas may be generated spontaneously without showing any imprint whatsoever. What is more, the time lag, generally fairly long, that spans the time between the impact of a symbol and its concrete acceptance is a further source of difficulty. Metaphysical speculation evolves more rapidly than the legal theory that flows from it, and yet, events, in their social complexity, are leavens of legal innovation. We must therefore place our observations in truly historical perspective, that is to say, in relation to the general evolution of ideas deeply embedded in social reality. In considering the period preceding the modern era,

when the concept of the State had only just been formulated and when international law was based on a different series of principles from those of today, it is difficult not to superimpose current ideas on those of previous eras.³

The influence of Islam on the West awakening from the Middle Ages merits examination in its totality. To estimate that most subtle of penetrations, that of ideas, leads one of necessity to make estimates or, at best, presumptions. Since we cannot follow them in their passage through the system, we must assume that this passage took place. Ideas, and in particular legal ones, were propagated by travellers, pilgrims, and those engaged in commerce, by warriors of various social categories, and by philosophers and intellectuals whose writings have not come down to us. Apart from psychological prejudice which led to the omission of reference to sources, the fanatic zeal of a Christianity passing to the counteroffensive led to the absurd destruction of innumerable works in the reconquered territories. This makes it even more difficult to rediscover concrete traces of intellectual penetration. We must therefore imagine rather than prove.

It is widely held that the search for points of similarity between the essentially religious aspects of Islamic law and that of a rationally constructed Western legal theory would be a barren course, given that identical terms had different meanings and indicated different concepts. The legal influence of Islamic Arabic civilisation on Europe at its awakening seems, however, to be incontestable. Certainly, the coexistence of two civilisations, when seen in the perspective of time, encouraged the temptation to make a superficial juxtaposition of notions and to conclude that there had been an influence. We will therefore limit ourselves to a brief mention of the diverse points and modes of contact so that we can then bring up some precise examples that involve international law.

In approaching the subject from a narrow perspective, we shall have recourse most of all to information gleaned mainly from the specialised works of modern authors. A more complete study would necessitate the consultation of such original sources as the documents relating to the Crusades, to Norman Sicily, and to "reconquered" Spain. Other possible sources would be the archives of religious orders, the pilgrim accounts, and those of diplomats and traders as well as the appraisals of Islam by Catholic theologians, by reformers and humanists, for example. In our opinion this is a task that remains to be done.⁴

WAR AND TRADE

Means of transmission were varied, personal or collective, peaceful or violent. The most fruitful points of contact were in those territories which changed hands, the most constant vectors being soldiers and traders. War and negotiation brought about communication between cultures. Before going into the analysis of the three major events – the "reconquest" of Spain and of Sicily and the Crusades – which put Islam and Europe into contact over a long period, we should mention the occasional relations that were able to exert a direct influ-

ence on the development of Western international law and in particular, of course, on the "law of war."

"Buffer zones" were created between Christian and Muslim, leaving an extremely, fluid definition of frontiers. The vicissitudes of war caused urban centres, even entire towns, to pass from one set of hands to another. In the actual conduct of hostilities, if not in the field of the intellect, influences were thus infiltrated. For nearly three centuries raids and privateering expeditions as well as temporary invasions were frequent between the Mediterranean and the Swiss Alps. It was noted that there was a succession of "murders, pillage and burnings"⁵ or, in contrast, a benefit for those "régimes where the cuttings of Arabic civilisation would later take root".⁶ The immediate impact was undoubtedly of no great importance, since the invaders were usually nothing but adventurers in search of booty rather than conquerors with the ultimate idea of permanent colonisation.⁷

Parallel to this, the cultural level of the European population was too low, initially, to see in the invaders anything other than a divine punishment for men's sins. With the passing of time, however, there came to be an affirmation of Islamic influences in a Europe that was gradually ending its confrontation with Islam, and a beginning of interest in its culture. On the field of battle, the invader began to introduce the practice of giving quarter, followed by the systematic and regular ransom of prisoners. If concrete influences are difficult to determine, and if they were, incontestably, much less important than those coming from Spain or Sicily, it is nonetheless certain that they deeply affected the popular mind. The literature of the period⁸ imagined the glorious exploits of Muslim leaders who were presented as paragons of nobility and of chivalric spirit, perhaps to increase the gallantry of the Christian knights. This glorification of the "unbelieving" Emirs had the effect of conserving in the French mind an image that presented only the civilising aspect of the invader. He was attributed such merit that the Roman remains were, by a naïve deformation of history, denoted as "Saracen."

The direct victims of combat – hostages, prisoners of war or those kidnapped and taken into slavery – in all probability also contributed to a transmission of certain conceptions and ideas that had been encountered in the Orient. The author of *Don Quixote* was imprisoned at Algiers. A century later, at the dawn of the seventeenth century, he who was to become St. Vincent de Paul, a former slave in Tunisia, founded a congregation for the moral succour and repurchase of captives. Certain members of European noble families were taken hostage and sent to Muslim courts. Treated as guests, they probably cannot but have been impressed by Muslim culture of which they were the direct propagators upon their return home. Muslim women were captured and taken into the West where they made a contribution towards the refinement of feudal courts. Finally, nobles, adventurers, local chiefs, and princes of the blood sometimes had to exile themselves in the Arab world.⁹ On the individual level, it is evident that cultural transmission took place from the more to the less cultivated, in other words from Islam towards the West.

War always brings a cortège of unfortunate victims in its train. Refugees of different origins took their science and their knowledge with them. After being persecuted many “Almudajares” (*Al-Mudajjanin*) Muslims fled to the other side of the Pyrenees, taking with them all the refinement of the Arabo-Muslim civilisation of Andalusia. In contrast, the expulsion of the Spanish Muslims by Philip III had the effect of pushing towards France and Italy a section of the highest placed Arabs and Jews, contributing to a transmission of the knowledge of the philosophic writings of antiquity. By these few brief reminders, presented in a somewhat brutal and anecdotic form, we hope we have shown that East and West did not remain as if they were two facing monolithic blocs. On the contrary, there was an incessant intermingling of different sections of the population. We can further show a significant number of marriages between princes and princesses of different religions.¹⁰ Fortun Garsias, the successor to the throne of Navarre (at an unknown date at the end of the ninth century), was the great-grandfather of the greatest Omayyad Khalif of Spain, Abdel Rahman III. King Alphonse VI of Castille married an Arab, the daughter of the Khalif. In the Islamic East, the wives of the fourth and eleventh Shiite Imams were, respectively, Sassanide and Byzantine.¹¹ At the heart of the Crusades, it was imagined that Richard the Lionhearted would marry Saladin’s sister. These examples illustrate vividly the frame of mind that prevailed at the time.

The influence of Islam infiltrated feudal Europe along the commercial routes. Trade was a particularly effective vector of progress and law. The very liberal Muslim legislation facilitated the passage of foreigners across the Muslim world and that of Muslims to the outside. Whilst Italy was beginning to awaken intellectually from the tenth and eleventh centuries on, the rising standard of living provided a demand for oriental products. Contacts between Islam and Europe grew progressively through Spain, Salerno, and Sicily, as well as through the ports of Venice, Genoa, and Pisa. European traders spent several months in the Levant at the beginning of autumn and half of the spring every year, thus introducing themselves to Muslim morals and customs. These activities brought about the creation in embryo of an international commercial law. Islam, as a great merchants’ power, recognised the principle of the freedom of the seas. From the twelfth century onwards, free circulation of river traffic became the rule in medieval Europe, and commercial treaties multiplied. Closely connected with the freedom of commerce was a reinforcement of the respect due to the person of the foreigner and to the guarantee of diplomatic immunity. The commercial agents, who preceded the diplomats, were installed to give birth to European consulates on Islamic soil, a system that was perfected after the period of the Crusades.

Italians, Catalans and merchants from southern France (Provence) were the first to start the establishment of consulates in the Muslim Levant.¹² As early as the thirteenth century, Marseilles stated in its municipal consitution its full respect for foreign property, even in time of war, to emulate that granted to French merchants on Egyptian and Syrian coasts.

As a matter of fact, the protection of foreign travellers and merchants has been an imperative obligation on the Muslim community since the rise of Islam.

“Classical” legal theory developed it at length.¹³ Consequently, such practices, derived from Muslim law, were later included in commercial treaties. We could here quote, as an example, the treaty of 1489 between the Republic of Florence and the Mamluk Sultan Qa’itbay.¹⁴ Signed after three years of negotiation, this treaty appears rather as a decree from the Sultan to his administration in Egypt and the Syrian Levant than as a bilateral and reciprocal international instrument binding the two parties. Apart from the mere safeguard of the merchants and a guarantee of their rights, the treaty enters into many details, such as customs taxes (14 percent), administrative fees, the establishment of a consul among the merchants in their own *funduq*, ways of settling credits, and so on. It even includes the possibility of arbitration by the Sultan between Florentines and any other nation or race on Mamluk territory or seas. Even if it introduces some juridical principles which follow European practices, this commercial treaty adheres closely in content to Muslim law and traditions, referring for instance to the *Shar’i law* (art. 8 and (6) and to the *huquq shar’iyya* (art. 18 and 20).

Trading practices with the Muslim Levant not only led to the signing of international treaties but also to the development of customs and laws with Western Europe. It was, indeed, also from the Iberian Peninsula that originated, in 1340, the *Consulate of the Sea*, a codification of traditions and rules, some of which had already existed since the eleventh century. Drawn up at Barcelona, it gave a definition of the rules of maritime commerce, even in wartime – stating that “liabilities of cargo and ship did not affect each other”¹⁵ – dispositions confirmed during the nineteenth century, after the Crimean war.

The *Consulate of the Sea* “refers to the two main areas of marine law. The first area . . . is concerned with the generally accepted customs of marine and trade, while the second area . . . relates to privateering piracy, armed naval expeditions, convoys, marine insurance, bills of exchange and other sundry matters.”¹⁶ It, of course, also defines the juridical competences and the procedure of electing the *Consuls of the Sea*. It is considered as a main contribution to early international law, as a codification of maritime rules and customs prescribing duties and rights of shipowners, merchants and commanders of vessels from different countries, in their mutual intercourse and disputes in maritime matters. Further research will more clearly show that it was not merely by chance that the *Consulate of the Sea* blossomed in a region of the world that was most sensitive to exterior influence and Muslim domination.

It would be unfair to ascribe to pure coincidence that such a convention – corresponding to “classical” Islamic laws and practices – appeared in this region of Europe, one which was the most influenced by Muslim culture. Traders of repute, the Catalans, quickly faced commercial competition with Venice, Genoa, and Pisa. Trade with Levantine ports was stimulated after the Crusades and the breaking of Arab sea power. Moreover, up to the end of the fifteenth century, most of the commercial routes crossed Muslim lands. The intercourse between East and West brought not only new goods from distant countries but also knowledge of navigation and navigational instruments¹⁷ making travelling less hazardous and spreading commercial rules and practices in use in Arab

harbours. A kind of *corpus juris* made of the ordinances of commercial cities, the decrees of local kings, the decisions of urban arbitration courts and the customs of merchants, grouped in guilds¹⁸ since the eleventh century, progressively gained general acceptance. Codification started at the beginning of the eleventh century. In the thirteenth century, Louis IXth, on his return from Palestine, promulgated laws regarding naval affairs and trade. The movement towards codification was general in commercial Western countries, but can always be referred back to experiences and relations with the Levant.

To conclude these few lines on the transmission of Islamic culture to the West by peaceful means, we should note the role played by the Jews. Their intermediary role was considerable, their history subtle and confused. They acted as direct and indirect agents of transmission. Besides their activities as translators and diffusers of Arab works, they were also transmitters on a "secondary level", since Islam forced them to reform themselves before bringing with them to the West a Jewish humanism impregnated with Muslim precepts. The teaching of classical Judaism offered more in the way of concrete principles of action than it did metaphysical maxims liable to nourish intellectual speculation. The awakening of Jewish philosophy, which was equally a departure from its usual particularism, was provoked directly and from the inside by Islam. The Arab conquest and the Islamification of the Middle East freed the Jews, who then left the countryside and regrouped themselves in homogeneous urban communities. This movement led to a veritable "bourgeois revolution" of Jewish society.¹⁹

On the plane of ideas, the fiercely individualistic Karaite reformation erupted in the eighth century, borrowing numerous arguments from the disputations of Muslim philosophers on the question of free arbitration. The position they took led to the blossoming of a new Jewish liberalism and a critical humanism confident of the power of man. Karaite and Mutazilite ideas so resembled each other that "works of one of the groups could be accredited to the other one."²⁰ Accepted and absorbed by orthodox Judaism in Egypt at the end of the ninth century, the ideas borrowed from Islam led to the birth of a new rationalistic philosophical school to which was attached Maimonides, among others.

The influence of Jewish thought on European civilisation cannot be objectively understood if it is isolated from the Arabo-Muslim context that impregnated and spurred it on. Arabic influence, of determinate importance for the "reformation" of Judaism, continued to assert itself on a Jewish thought which was anxious, as was Muslim philosophy, to harmonise divine revelation and reason. Thus we can consider that during the fourteenth and fifteenth centuries "Jewish philosophy nourishes itself totally from problems and argumentation which were inherited from the Arabs."²¹

CULTURAL OSMOSIS

Having briefly summarised the action of particular, occasional, and individual elements, we should first give some attention to the three principal centres of the diffusion of Muslim culture in the West before going on to the Crusades.

The main points of contact between Islam and medieval Europe were through Spain (where we see the emergence of an embryonic Western international law), Sicily, and southern part of Italy and its ports. After Spain and Sicily had been conquered, both presented a common aspect of primary importance: the coexistence, at least for a time, of the victorious Christians and the subject Muslim populations. In military defeat, Islam gave to the West all its cultural treasure. This superimposition facilitated the diffusion of both knowledge and techniques. Historians recognise that the seven centuries of Muslim domination in the Iberian Peninsula exerted not simply a fruitful influence, but rather an intellectual and social “impregnation” which was to radiate throughout the continent.

Spain confirmed itself as the privileged “bridgehead” for the relaying of a culture born in the East, to which it gave certain original formulations, especially in philosophy. An endless flow of European students²² crossed the Pyrenees to listen to the teachings given in various provincial capitals. In the ninth and tenth centuries, Cordoba was the most cultivated town in Europe. Its destruction at the beginning of the thirteenth century made Toledo one of the principal intellectual centres of Spain, a position it held until the Christian conquest in 1085. As a centre of translation of oriental works into Latin, it became an essential link between the Muslim and Christian cultures. The civilisation’s osmosis was facilitated by the existence of Spanish Mozarabs who had remained Christian, even if they were linguistically and culturally Arab, and by the fact that Arabic had continually existed side by side with dialects of Latin origin.²³

Pertinent in this context is the work of Alphonse IX, the “Wise One.” Imbued as he was with Muslim civilisation, he was in the second half of the thirteenth century the patron to the production of an impressive number of volumes compiled from Arab sources. The greatest part of the available documents he had translated into the vernacular and built a grandiose observatory. He created the University of Salamanca, the role of which is known in the elaboration of what was to become modern international law. Alphonse IX drew up the first codified volume of laws in Europe: *Las Siete Partidas*.²⁴ It is a mixture of civil, public and ecclesiastic laws, with political, as well as procedural rules regarding foreign relations. It expressed his will to unify the country and impose an absolutist regime. It rapidly gained authority and appeared as common law.

The second *Partida* deals with armed conflict. It was, in fact, preceded in Muslim Spain around 1280 by the *Villâyet*, a text that enumerates the centuries-old Muslim laws of war. Mentioned were the protection of children, old people, women, invalids, and the mentally ill, the safeguard of political representatives and those in need of safe conduct, as well as injunctions against bad faith, and perfidious and disloyal actions.

The Prologue states that *Las Siete Partidas* is a compilation of the “sayings of Saints and of wise men of Antiquity”, but in fact, it appears both in form and content as a direct adaptation of Muslim law. It is arranged in casuistical form, dealing with the prerogatives of the King and his duties before God, his family,

his people. It includes considerations on the legitimacy of a “just” war, of military organisation and rules and practices applied in armed conflict. The basic content sounds like a Muslim treaty of *siyar*. A few examples are sufficient to illustrate the phenomenon: Spanish military institutions are copied from the Muslim system, including the fighting tactics of the *ghazzia* (*q̣hazwah*: the conquest), described as *cavalgada*. The corps of frontier guards (chap. xxii), the *almogavares* (from *al-mujawirun*, frontier guards) were organised and had the same functions as the Muslim soldiers in Ribat, an institution of a military and religious nature. Stipulations assess the value of animals, arms, and goods brought by a private soldier into battle for indemnifying him in case of loss.²⁵ Last but not least, the proper naming of the leading officer is an Arabic term: *Almucadem* (from *al-muqaddam*, the one presented at the front).

A full chapter (chap. xxvi consisting of 34 articles) dealing with the distribution of booty expresses Koranic rules and laws developed by legal speculation in the Muslim world during the eighth and ninth centuries. For example, a fifth of the booty should be reserved for the king, as well as the rights of *postliminium* and of repossession of the prize. This means that booty recaptured before arriving at the destination belongs to the initial owners.

Chapter xxx deals at length with the treatment and ransom of prisoners of war. An officer, *alfaqueqe* (from *al-fakik*, the ransomer), was given special charge of negotiating and ransoming prisoners in enemy or Muslim hands. And, finally, in the seventh *Partida*, stipulations are found regarding the security of foreign and “infidel” envoys, which are clear copies or direct translations of the detailed Muslim rules on safe conduct (*aman*). The importance of *Las Siete Paridas* in the birth of modern Western international law is acknowledged by specialists. The direct and obvious influences it received from Muslim law and customs remain to be brought to light.

The taking of Granada, in 1492, then the persecution of the Muslim and the banishment of Islam, could not efface the marked traces left in Spain by 850 years of Arabo-Muslim civilisation. As a presence in all fields of intellectual activity, both scientific and artistic, it continued to influence the West. Charles V probably transported it throughout Europe, imposing his political “preponderance” over Italy and the Netherlands – two centres of humanism and the Renaissance – and over Austria and Belgium, thus nourishing Western intellectual movements.²⁶

By the Norman victory, Sicily experienced, as did Spain, the phenomenon of two superimposed civilisations. Its experience differed, however, because here the two cultures blossomed in coexistence, although the Islamic legacy was less vast than in Spain. Two centuries after Alphonse IX of Castile in Spain, Frederick II of Hohēnstauffen drew widely on Sicily’s Muslim heritage. He attempted a political reconciliation and achieved a cultural symbiosis. In 1224 he founded the University of Naples, including a rich library with numerous works translated from Arabic. Thomas Aquinas was to be counted among its students. It is in the field of state organisation that Frederick is considered above all as the “first modern sovereign”; he was an innovator by copying Arab methods. Among these methods were army structure, indirect and direct taxation, cus-

toms duties and, the public monopoly on mines and certain goods. These principles, known to Muslim law since the ninth and tenth centuries, became a model for the entire West.²⁷

BEYOND THE VIOLENCE

The Crusades were brutal conflicts between West and East, a mixture of politics and religion.²⁸ The armed hostilities did not permit strong interpenetration of the cultures – the disputes and ideological differences were too marked to allow dialogue. It is doubtless true, though, that the European implantation in the East had an effect on the art of war, on military architecture, and on the conduct of the hostilities. Cut off as they were from the Arab intellectual élite, the Franks in Palestine gleaned ideas that were not so much scientific or meta-physical as material and technical, for example, in the fields of agriculture, commerce, the organisation of public health. The influence on what was to become the European law of war was transmitted by the personal practice and the visual and oral knowledge of the knights. These experiences were made possible because a certain spirit of tolerance, comprehension, and even of friendship in the end asserted itself side by side with acts of violence. The Franks who installed themselves in Palestine and Syria went to great lengths to imitate the Muslims.²⁹ They went to the enemy camp to be healed, in spite of the reprobation and prohibitions pronounced by the Church. And not without a certain irony and feeling of superiority, the Muslim physicians visited the sick and wounded Franks in their own camps.³⁰ It would also be appropriate to mention here the role of Christian Arabs as intermediaries between the invading Crusades and the Muslims. Their effect on the assimilation of the European colonizers – through mixed marriages – has been overwhelming.

These mutual contacts provoked a desire among the Crusaders, and especially among their leaders, of emancipation and individual freedom, concepts that were to transform the Western conscience. Europeans also discovered the chivalric spirit in their contact with the refined Muslim society. Saladin was quickly glorified in Christian literature. The Franks born in Palestine were so imbued with this spirit that misunderstandings arose with newly arrived Crusaders who considered them Christians who had been assimilated into Islam and thus, potentially, traitors, whilst these former considered the newcomers as dangerous fanatics.³¹ Such a spiritual and popular climate was not without influence on the formation of a code of war and on the establishment of chivalry in the West.

THE ROLE OF THE CHURCH

A major route taken by ideas that influenced the evolution of international law was via the Church. As the strongest institution in medieval Europe, the Church, in self-defense could not avoid spreading Islamic humanism. She had indeed to learn Muslim political organisation, philosophical theories, and legal institutions, to better fight them. The Church's main strength was that only she

had been spared by the barbarian invasions. In the twelfth century, she was an uncontested force and was inaugurating a reform movement sponsored by the Benedictines of Cluny.³² She exercised an authority that was unifying, was above all states, and strived to impose the application of such principles as the respect for a man's word of honour and the protection of civilians during hostilities. She mediated feudal quarrels. If she did not create an international law, in today's sense of the term, she nonetheless sowed the seeds of its later development.

Today it is difficult to grasp the extent of the intensity of the spiritual and intellectual influence of the cloisters and preachers of that period.³³ As a practically exclusive depositary of culture, the Church had to assimilate influences and get them accepted by justifying the innovations to all levels of the population.³⁴ She received a continuous flow of information on Islam through diverse channels. The monasteries often served as rest places for travellers, students, scholars, pilgrims and soldiers, on their ways to and back from the Arab world. Cluny was particularly well placed for this role, situated as it was on the highway between France and Spain and on the route taken by pilgrims travelling to St. John of Compostella. The Benedictine Order was the richest and most prestigious of the Middle Ages. In spite of its intolerance and aggressively proselytising spirit, Cluny, the home of many great Spanish monks, was an active participant all during the twelfth century in the diffusion of Muslim Arab culture. Peter the Venerable ordered a first translation of the Koran in 1141.

Mendicant religious orders also played a part in the transfer of ideas; the Dominicans and the Franciscans³⁵ became university professors, philosophers and scholars, missionaries and active in humanitarian causes on the battlefield between Islam and Christianity. Each order was in itself a meeting place and one of transmission of the influences received in the East. In the fourteenth and fifteenth centuries their preachings stimulated aspirations for social change among the masses and the intellectual élite since they participated in the revival of the universities. The Dominicans exercised a considerable influence in the West. The enumeration of several names is a convincing exercise: Thomas Aquinas, Roland of Cremona, Vincent De Beauvais, Albert-le-Grand and, later, Vittoria.³⁶ The order had a deeper interest than any other in Islam, and established Arab language schools in Palestine and then in Spain. Raymond Marti (a Catalan), William of Tripoli (an oriental Christian) and Ricoldo di Montecroce (a Florentine) contributed to a knowledge of the Muslim Arabic civilisation in Europe. The last in this list, Ricoldo, was especially important because of his admirable knowledge and sympathy for Muslims, in spite of his aversion for Islam.

The influence of the two combatant religious orders – the Templars and the Hospitallers³⁷ – has yet to be fully understood. Their foundation was inspired at the beginning of the twelfth century, probably by the Muslim organisation, the Ribat mentioned earlier. Even their rather naïve missionary proselytism had the beneficent effect of opening a pseudo-dialogue between the West and the Muslims from which the West had everything to gain. So it was then that the

Church came to know the Muslim Arab civilisation in order to better combat Islam.

PHILOSOPHY AND PERCEPTION IN THE WORLD

Islam and Christianity were never closer intellectually than during the thirteenth century, aside from their own and specific expressions of belief in monotheism. The science and philosophy of the Arabs had been transmitted in their entirety to Europe and had encouraged that critical spirit, scepticism and scientific attitude which was beginning to overcome naïve piety among the élites. Marked changes in public administration took place where a “revolution” touched legislation on work, finance and justice.

In daily life the image of a more refined Muslim civilisation fed the thought of medieval Europeans. From the twelfth century onwards, popular literature assumed a freer form and took on a deeper aspect. It became more human.³⁸ The fresh poetry of the troubadours who criss-crossed Europe from their sudden appearance in the south of France manifested a romanticism whose themes forecast chivalric spirit and courtly love.

Arab influence was most perceptible in the fields of experimental science and philosophy. Enumerating the scholars and their discoveries is beyond the scope of this essay. The essential contribution of Islamic philosophy was its harmonisation of the great Hellenistic traditions with religious monotheism. Aristotle and his most brilliant annotator, Avéroès, penetrated the European university, inspiring debates on the law, the city, man and politics. In assessing the influence of Islam in the formation of Western law at this time, we could postulate that apart from the pure transmission of ancient thought, it introduced the idea of a link between law and morality. In other words, we could speak of a correlation between and a mixture of legal norm and the ethical precept. By roundabout means, Islamic influence has reconfirmed the conviction of the theoretical equality of men. The philosophers anticipated the institutions. Doctrine, often developed from what had been heard of or seen in Muslim lands, preceded law, particularly in the evolution of international law. Islamic thought grafted itself to the historic reality and determined the creation of isolated, even accidental, institutions; through their principles, which became progressively clearer, they ended up constituting a coherent normative system.

Muslim scientific contribution played its part in the development of humanism, since all is linked in the world of the mind.³⁹ A new curiosity pushed back frontiers and the forbidden. Man worked to have knowledge and to understand himself, thus freeing himself from the burden of tradition. Law developed out of a need for security and foresight in social and human relations. By affirming himself, man put the authority of the Church and of political institutions into question. The concept of the State evolved progressively by a double phenomenon of liberation from the Empire and the Church and, simultaneously, by the suppression of the pyramid of responsibilities at the heart of the feudal system. The duality of power was contested: political and legal problems were posed

from a new optique, that of relations between the individual and government. Man asserted himself as an independent personality, trying to create, through law, the social conditions that would define his dignity and responsibility. The first "legal revolution" took place precisely in Europe in the thirteenth century, a period during which the East and the West found themselves intellectually closer.

Certain rules of common law came to supplement custom and, parallel to this, a legislative movement made itself felt. The legal spirit was born, the child of the spirit of the time and of the practical necessities imposed by states in a process of formation. It is certainly not by chance that these developments appeared in Italy. The University of Naples had been created to fulfill official requirements in the field of law and justice. Academic treaties dealing with law and administration were translated in Italy from Arab texts and circulated all over Europe, with professors passing them according to tradition, from one university to another, or they were being spread by religious orders. These usually had the monopoly of university teaching in general and particularly of legal instruction. So it was also in Italy that the didactical teaching of law was at its most refined, at Bologna; to there students rushed from all over the West.

It was above all the very high ethical standard of Islamic law that impressed the medieval West and provoked the development of a more refined legal thinking. This aspect is undoubtedly the most durable merit of Muslim influence, as illustrated by the administration of justice. Until the Crusades, legal procedure in the West consisted of "God's judgments" by boiling water or by duel, or by "ordeal" during which people were burnt with red-hot irons or boiling oil and, if they survived, declared "not guilty." In contrast, we have only to quote the instructions given by Omar in the seventh century to the Muslim judges to show what a chasm separated the two conceptions: "Only decide on the basis of proof, be kind to the weak so that they can express themselves freely and without fear, deal on an equal footing with litigants by trying to reconcile them."⁴⁰ From Islam's beginnings the suspect was presumed innocent until it could be proved otherwise. It is certainly not a coincidence that Louis IX was the monarch who created the French legal administration by appointing "royal inquirers," by instituting testimonial proof, and by permitting the recourse of "making a plea to the King." The legislation he introduced marked a turning point in the history of law in Europe. Popular imagery was not mistaken on this point, since it is that above all which was remembered.⁴¹ Louis IX had frequented the philosophic theologians of his time; he had received St. Thomas Aquinas at his table. The influence of Islam was, however, even more direct. We can make this presumption since it was on his return from Palestine that the King undertook his major legal reforms. Joinville gives us fairly clear proof when he writes:

One day, it happened that a good Franciscan friar came before the good King in the Castle of Yères where we were abiding. This Friar told him by way of teaching that he had read of the Bible and other good books talking of unbelieving Princes: he had found that Kingdoms (be they believing or unbelieving) were lost except by a lack of respect for the law. So it is, said the Friar, that the King I see here and who is to go to France, takes care

to deal out a Fair Justice and a good law to his people. . . . The good King did not forget the teaching of the good Friar. . . .⁴²

It is interesting that the saying of the Franciscan friar is even a hadith of the Prophet Muhammed, who is quoted by Al-Bokhari to have said: "The people before you were only lost because they used to apply the law on the weak and poor and leave the strong and the rich." The Friar's statement was undoubtedly a major incident since Joinville took care to note it down. It is equally noteworthy that the man who was giving counsel to the King was a member of a religious order, that played so large a role in the elaboration of international law in the middle ages. He was, what is more, honest enough to mention the "unbelieving" princes, that is to say, the Muslims.

The representation of St. Louis under an oak at Vincennes is more than a naïve picture. It demonstrates a desire to guarantee individual rights and to improve legal organisation by keeping the simple and sacred character of royal justice and introducing a greater equality to it. The direct administration of justice was for a very long time an Arab and Muslim tradition. The Spanish Omayyads received those of their subjects who wished to make complaints once a week.⁴³

Doctrine dominated law during this period. The Christian medieval symbolism of a society founded on charity grew blurred in favor of a justice based on reason. Roman law was referred to in dealings between individuals, and on the "international" level the system developed independently of any political hegemony; scattered elements were reassembled to form, ultimately, a cohesive system. At each stage of this process, the influences must have been multiple. Theories transcended frontiers; students of all lands joined together under the teaching of the most famous masters in the new Western havens of culture. Customary law was rejected in the search for a system that could assume greater equity.

INTERNATIONAL RELATIONS

The feudal chiefs became legislators and builders of the State: social structures were simplified, power centralised. Relations between coexisting political entities had to be defined. The first theoreticians of international law certainly drew from the doctrines of the time, be they Arab or Jew or even Greek, which had been transmitted and commented on by Muslims. It appears impossible, in fact, that the Spanish canon scholars, and Grotius who succeeded them, should not have borrowed anything from the Muslim civilisation whose power in the Mediterranean maintained itself until the end of the sixteenth century. In the field of international relations, we can imagine that there was a real contribution, since "international law" was an integral part of Muslim legal science and must not have been unknown to European universities. It was nonetheless a transmission of a more general character. Indeed, in its ethical expression and its abstract approach, Muslim law offered two fundamental principles to the West, on which were to later stand the future structure of law: equity and good faith. So it is that Islam not only reinforced the validity of the axiom *pacta sunt*

servanda, but also introduced it to international relations, making possible the systematic development of conventional law, which became a partial substitute for custom.

Diplomacy, in the modern sense of the permanent legation, also grew from the thirteenth century onward. It is probably not by chance, once again, that the initiative for it was taken by the Italian commercial towns, and in particular, by the Republic of Venice which had continuous contacts with the Muslim world. Permanent representation, in the form of consulates, were by contrast already operational in the Muslim world in the twelfth century. They were established thanks to the Islamic principle of the personalisation of law which, by extension, allowed the territorial State to concede privileges of jurisdiction to Western nations. Along the same lines we can assume that Islam probably contributed to the notion of the "foreigner", since the Muslim community was, in the Middle Ages, the only "state" where homogeneous minorities of non-Muslims existed. This coexistence helped in time to create an atmosphere of tolerance and indulgence which showed itself later in an embryonic philosophy of international law.

We can trace the influence of Muslim law on the international law of our own time in modern commercial law and in certain dispositions dealing with the status of foreigners. But it is in the law of war that we find the best elaborated rules of the West as influenced by the East. Indeed, various institutions of European medieval civilisation bore an indelible imprint, if not purely and simply of their oriental origin, at least of their strong dependence on the analogical military institutions of the Muslim East.⁴⁴ This influence, in a period when war played a particularly important role, affected the general atmosphere as much as the specific dispositions for dealing with the defeated and the attitudes towards combatants and certain technical clauses, such as the exchange of prisoners and care for the wounded. The transmission of influences naturally took place where Islam and Christianity confronted each other on the field of battle; in Spain and in the Palestine of the Crusades. Westerners, who had scarcely any code of warfare, found that their enemies had extremely elaborate rules of conduct, whether concerning the declaration of war or means of damaging the enemy. The psychological impact was such that, for a while, there were two kinds of Christian warrior: those who had been impressed by the chivalric spirit during their previous encounters with Muslims and those who only knew of the barbaric practices of the Middle Ages!

Apart from influences of an essentially spiritual and moral nature, westerners also absorbed from the East specifically Muslim military institutions. Not only did the Franks borrow their military techniques such as the *ghazzia* from their Muslim warrior counterparts, the use of luminous signals during the night combat, and the use of carrier pigeons for communication purposes,⁴⁵ but they also took up the Muslim habit of division of booty among all the soldiers.⁴⁶

The Muslim contribution was therefore not limited to the strictly doctrinal context. Numerous empirical examples could be quoted. The Arabic Muslim world undoubtedly contributed to the creation of one of the noblest medieval military institutions, that of chivalry. Its origins have been discussed and ar-

gued. For some, it was grafted onto a Germanic tribal initiation rite for the introduction of a young warrior into the larger body of fighting men.⁴⁷ This is an explanation we must reject since it is preoccupied with form rather than with basis, and it denudes the institution of its substance and spirit. It appears, on the other hand, that, like the French and the English, the German knights drew their humanitarian inspiration from contacts with Muslims. The founders of the Teutonic Order were frequent visitors to the court of Frederick II in Sicily and most of them spent time in Palestine. It was probably in imitation of Muslim traditions encountered there that they began their *Reisen*, seasonal *ghazzias* against neighbouring pagan areas.⁴⁸ Incidentally, the chivalric medieval romance and later literature, which had so profound an influence on the spirit of the time, did not fail to emphasize the Arab Muslim roots of the institution. Even if there was an attempt to camouflage them, as in the story of the knight Cifar, which appeared in Spain at the end of the twelfth century and which was attributed to "Chaldean" sources, historical research has been able to correct the record. As for the institutions themselves, Europeans found them in Spain, Syria, and in Palestine. It was, indeed, on these battlefields that the knightly orders acquired their reputation and the esteem of Western society. What is more, in the operational field, the members of esoteric orders of knights accepted reciprocal initiation without taking religious differences into account.

Another example is the treatment of prisoners of war. To our knowledge, it is only from the time of the Crusades that the West seems to have been preoccupied with this problem. This fact certainly reflected a considerable evolution of ideas about the intrinsic value of mankind. Islam undoubtedly contributed to this idea in consequence of its overall efforts as well as by its direct and immediate concern to liberate Muslim hostages in enemy hands. The stipulations of the Koran⁴⁹ opened up the way towards a system of protection and liberation of prisoners of war. History has clearly shown this: at regular intervals military campaigns were interrupted by truces to allow the exchange of captives. A custom was thus established based on motives that were both material and humanitarian: a respect for prisoners of war and the need to treat them well and keep them alive so that they could be ransomed for captives of one's own religion.

Ransom treaties were certainly not an innovation of the Arabic Muslim world. Islam, however, gave them particular importance by systematising the ancient spontaneous practice. The precision of depositions for ransom taken and the frequency of the number of possible occasions released a feeling of individual and collective charity in the West that was assimilated by the Church and later organised by the religious orders. At the end of the twelfth century the Tertiary order was created to help captured Christians. In groups of two or three, the monks crossed the Muslim world from Spain to Asia Minor.⁵⁰ These fraternities continued their action until the French Revolution, and they certainly had a continual and increasing effect of influencing Western public opinion in the idea that a defeated enemy, be he wounded or disarmed, should be spared and subsequently repatriated. Large sections of the population were informed of that practice by the monks since, indeed, the financing of the religious orders depended on public generosity which they solicited.

Succour given to the wounded was closely linked with ransoming prisoners. Moreover, the religious orders, given the job of looking after captives, often founded, in the East, the first hospitals. The Hospitallers of St. John of Jerusalem, for example, organised medical treatment on the battlefield, and, from the end of the eleventh century, Saladin authorised them to come into his camp to aid wounded Crusaders. It is undoubtedly true, what is more, that Frankish wounded were tended in the field hospitals of the Muslim armies. The contrary was also true, if we are to believe the embittered and ironic Muslim commentaries of the period.

The medical ethic of the Muslim Arabs defined the duties of the physician: to “care for his enemies in the same spirit, with the same interest and solicitude as he would towards those he loves.” From its classical origins in the ninth and tenth centuries, Islamic legal doctrine stipulated precisely and in extreme detail the neutral status of ambulances, of the sick, and of the wounded. It also guaranteed protection for medical and nursing personnel, and stipulated the care that a Muslim could give to an enemy warrior. It is indeed noteworthy that in Spain at the end of the fifteenth century appeared the first Western field hospitals, housed in tents and intended for the care of sick and wounded soldiers. This initiative was not imitated in France until the end of the eighteenth century.

INFLUENCE ON WESTERN “FOUNDERS” OF INTERNATIONAL LAW

Thomas Aquinas came from a Lombard family known to have been very influenced by the Saracen influence on Sicily. In the mid-thirteenth century, after attending the University of Naples, he went to study in Paris where he settled to teach. He used his time to combat Avéroism, by separating Aristotle from his Muslim commentator and by harmonising ancient philosophy with Christian theology. So it was that he came to use the same approach as his adversary and to follow certain of his interpretations. The coincidence of arguments and the similarity of ideas are so numerous that we cannot put them down to the sole explanation of chance. The influence of the *Summa* taught at the University of Paris was to become, as we all know, decisive for the future evolution of European thought. The West was going through a difficult transition from decentralised feudalism to centralised state. The role of the *Summa* was determinant in its harmonisation of individualism and collectivism and by its balancing of Aristotelian rationalism and the divine will of Christian monotheism.

In one way Thomas Aquinas de-Islamised the form rather than the basis of the Aristotelian thought transmitted by Arabic Muslims to adapt it to the new Christian society which was in the process of being created. In other words, the Islamic influence on him was “incontrovertible.” On the metaphysical level, Aquinas set down a coherent system leading back to higher principles. In an identical advance, the jurists of his time effected a progressive regrouping of diverse customs and isolated institutions into a normative body of thought. The philosophers, then, played a determinant role in the first elaboration of public law. Moreover, at the time most of the thinkers who dominated the scene were

Spaniards and Dominicans. So we can presume a double Islamic contribution: directly from the Iberian Peninsula and indirectly through Thomas Aquinas and the Dominican order to which he belonged. The jurists of the period were, on the whole, in Europe at least, theologians or moralists who drew their ideas from external sources. These ideas did not exist in a vacuum. The first legal doctrine taught in both Spain and Italy was Muslim law; what was borrowed from Roman times and canon law came later. It is therefore not unreasonable to suppose, nor is it unhistorical to advance such ideas without material proof, that European ideas were deeply influenced by Islam. It is also without doubt that jurists were able to find sentimental and ethical arguments in Christianity to stimulate a humanisation of armed conflicts. It is nonetheless true that the mystery of charity and solidarity preached by the Gospels for nearly a millennium and a half⁵¹ was not to show itself until it had experienced a long maturing process of ideas fertilized during contacts with the Muslim world.

Two Spanish Dominicans, Vittoria (sixteenth century) and Las Casas (seventeenth century), were to make a profound mark on the development of humanitarian law. In reproaching the Spaniards for their massacres of the Indians in South America, Las Casas examined carefully the laws applicable in time of war – then a veritable anticipation of the Geneva Conventions. Among these were the protection of women and children, of members of religious orders, of workers, peasants, travellers and foreigners. This list is not unreminiscent, in its very formulation, of the rules of Muslim law. Legal reflexion remained very tightly linked to great movements of the moral, philosophical and religious ideas that rocked the West. Humanitarian principles had the tendency to become universal and not be limited by the frontiers of Christianity. Vittoria conceived a universal law, an affirmation of the need to respect treaties, and preached for the freedom of communication. He dared to suggest that the suppression of paganism was not sufficient cause for a just war. Side by side with the influence of philosophic ideas, it is probable that the magnanimity of Arab Muslim troops, as reported in popular literature, left a lasting impression on the age, especially in areas that had been dominated by these same Muslims.

Suarez was also a Spaniard. Born in Granada, he was a professor at various universities in the Peninsula and subsequently in Paris and Rome. Whether borrowed or by coincidence, the exposition of his ideas seems to be laid down on the principles of Islamic legal philosophy; God is the legislator, human reason corresponds to a natural law that ordains what is good and forbids what is bad. There is thus an unchangeable and universal blending of the Divine Will with that of an intrinsically good or bad nature of things. The existence of an international community is a necessity from which there is no escape, since every collectivity cannot exist as an island, and must enter into relations with entities outside itself. State authority is thus necessarily limited by morality and public law, which contain a large number of rules relative to diplomatic exchange and to the conduct of war, since even wars between states were supposed to be included within the limits fixed by the law.

Through the fundamental conceptions and the experimental and rational methodology that they transmitted to the West, the Muslims contributed to the

thought of Francis Bacon, the philosopher René Descartes, and their legal contemporary, Grotius, at the beginning of the seventeenth century. Certainly, there were important happenings in Europe, notably the Renaissance and the Reformation. We must, however, underline the fact that Grotius, the “founder” of modern international law stayed faithful, in form as well as in the basis, to a very traditional, therefore medieval, conception of public law. He borrowed much from his predecessors. For objective, as well as subjective, reasons owing to the reality of his time, he conquered his age and posterity to such a point that he was – and often continues to be – considered as an absolute innovator. He was nevertheless stating ideas that had for long been known and accepted. His works are full of quotations, often incorrect, borrowed from the Bible or ancient times.

Grotius’s works are immensely extensive. The question could be put as to whether they are a point of departure or arrival. They are probably neither one nor the other: perhaps they are basically an intelligent synthesis of borrowed ideas and an innovation in their formulation. If it is true that he took certain ideas from the writings of Spanish canon specialists, rarely mentioning his sources, it is also almost certain that he had a knowledge of Muslim law. He was indeed astonished to find the principle of the *preliminium* therein.⁵² It is probably from the perspective of knowing the moral superiority of the Muslim law of war that he wrote in the preface to his work that “the Christians act in a way that would have made the barbarians blush.” He claimed to have observed the facts of an antiquity whose image he had reconstructed for the needs of the present rather than to have listed the laws applied during his age. We nonetheless have evidence that neither the Greeks nor the Romans had reached a universal legal concept, apart from philosophically, nor had they developed the idea of a solidarity between “nations”.

We are in no way trying to cast doubt on the decisive contribution made by Grotius to the formation of international law. It is nonetheless true that we now know how many Western authors in fields other than the law drew from Muslim works without mentioning their sources, so that it does not seem absurd to ask that there at least be a study of the direct or indirect influence of Islam on Grotius.

There are many explanations for the general refusal of European authors to recognise their borrowings from the Muslim world. We must first mention human vanity.⁵³ The most general explanation – aside from the fact that most European writers of the time never referred to their sources – lies in the religious prejudice, even fanaticism, of a West that could not admit to itself that it owed anything to the “infidel.”⁵⁴ This prejudice prevented any just appraisal of the contribution of Islamic culture. This is a repulsion that has even yet not been overcome, outside of the specialised literature.

PERSPECTIVES FOR FURTHER RESEARCH

Islam’s contribution to the formation of the Western, modern civilised conscience will probably never become fully apparent. Apart from the fact that the

traces have been lost or deliberately effaced, a number of precepts from the Hellenistic civilisation have passed into Islam. The multiplicity, richness, and diversity of the ideas borrowed by the medieval West from Islamic culture is impressive. For nearly a millennium Muslims carried the torch of civilisation to Christianity's western, eastern and southern boundaries. They formed the first truly universal culture, one based on monotheism supported by an extremely elaborate social, political, and legal organisational structure. Its splendour lasted twice as long as that of Ancient Greece, which had only known a system of City-States grouped around a polytheistic culture, and which had long ceased to be a "present" reality. As for the Roman Empire, it undoubtedly had kept the peace over an immense territory by uniting it all with the same sword. This Empire became the symbol of stability for the thinkers of the Middle Ages, a symbol reinforced by the use made of Latin as the language of the culture that had been preserved by the Church. The Roman legal system was certainly very elaborate, but what did it have to contribute to international relations? The West had to look elsewhere as well as to its own experience to find the institutions which were to constitute international law. This, and particularly its rules relating to the conduct of hostilities, had been born well before Grotius, on Muslim soil in the seventh century.

It is not in the least surprising that there was no mention of a "Muslim" or "Arab" source. The oldest Spanish work devoted to chivalry is attributed to the Chaldeans. The faithful of Islam for long continued to be called by doubtful titles, such as "Saracens", "Turks", "Persians", or even "Indians". To go on from there to claim that Grotius was referring to Muslims when he quoted the "Hebrews" is only a short step that future historical research will perhaps allow us to make.

In concluding this undisciplined race across the long period between the seventh and the sixteenth centuries, we should insist that Islam did not confine itself only to the "transmission" of the best thought and science of ancient times. Most of all, it brought a rich originality of spirit. Confining oneself to considering the Muslim Arab civilisation as a "mediator" is to commit the sin of intellectual laziness. This is particularly true when we consider international law. Indeed, Islam assimilated, completed, and developed the rules of the law of war by making them "international" since they were to be applied in just the same way in favour of non-Muslim communities and external civilisations. This conception has no counterpart in the Graeco-Roman legal literature, one whose limits are known to us.

The remarkably tolerant and open attitude of Islam, the greatest military power and the most refined civilisation of its time, allowed for diplomatic and commercial relations and gave credence to the idea that certain rules of law should be respected even during a period of armed conflict. Men and societies were thus encouraged to be conscious of their mutual solidarity and to take a new look at the world. To try and synthesize the contribution of Islam would be impossible, since it was first of all *the image that humanity provided* that later stimulated the development of international law in the Christian West. It would not be possible, however, to separate this kind of approach from the whole. It

suffices to emphasize that Grotius, the founder of "public international law," lived in the seventeenth century, whereas Shaybani, who wrote a treatise⁵⁵ at least as complete and systematic, taking into account the generally casuistical presentation of Muslim law, died at the beginning of the ninth!

GENEVA

NOTES

¹ See Muhammad Hamidullah, *Muslim Conduct of State* (5th ed.; Lahore: Ashraf, 1968); Mohammad T. al-Ghunaimi, *The Muslim Concept of International Law and Western Approach* (The Hague: Nijhoff, 1968); Marcel A. Boisard, *L'Humanisme de l'Islam* (Paris: Albin Michel, 1979).

² Among the numerous available publications, see the various works of Norman Daniel, esp. *The Arabs and Medieval Europe* (London: Longmans, 1975); Thomas Arnold and Alfred Guillaume, eds., *The Legacy of Islam* (Oxford: University Press, 1965; repr. of 1931 ed.); and, from a less scientific approach, Abbas M. Akkad, *The Arab Impact on European Civilisation*, Ismail Kashmire and Mohammad El Hadi, trans. (Cairo: Supreme Council for Islamic Affairs, n.d.).

³ Georges Duby, *Des sociétés médiévales* (Paris: Gallimard N. R. F., 1971), p. 46.

⁴ One that we are trying to undertake. This essay is a résumé of a wider research, to be published later.

⁵ G. de Ray, *Les invasions des Sarrasins en Provence* (Marseille, 1971; repr. of 1878 ed.), p. 203.

⁶ Sigrid Hunke, *Le soleil d'Allah brille sur l'Occident: notre héritage arabe*, Solange de Lalène and Georges de Lalène, trans., from the German (Paris: Albin Michel, 1963).

⁷ We should perhaps extend this idea further. Muslims were installed for more than one century in Provence, maintaining continuous contacts with their fellow Muslims in Spain. It is probably from Catalonia that the bull was imported into Camargue, to use an example that does not directly concern our argument.

⁸ Haroun K. Sherwani, *Muslim Colonies in France, Northern Italy, and Switzerland*, being an English translation of Reinaud's "Invasion des Sarrasins en France, et de France en Savoie, au Piémont et en Suisse" (2d ed. rev.; Lahore: Ashraf, 1964), pp. 236 ff.

⁹ Such was the case of Alphonse VI who, upon becoming king and victorious, married the Khalif's daughter.

¹⁰ See Evariste Lévi-Provençal, *Histoire de l'Espagne musulmane* (new ed.; 3 vols.; Paris: Maisonneuve, 1950), I, 396 ff.

¹¹ Seyyed H. Nasr, *Islam: Perspective et realities*, H. Cres., trans. (Paris: Buchet/Chastel, 1975), pp. 201–203.

¹² Alexandre de Clerq and C. de Vallat, *Guide pratique des Consulats* (5th ed.; 2 vols.; Paris: Pedone, 1898), I, 2 ff.

¹³ Majid Khadduri, *The Islamic Law of Nations*, trans. of Shaybani's *Abwab al-Siyar fi Ard al-Harb* (Baltimore: Johns Hopkins Press, 1966), esp. pp. 158–194.

¹⁴ John Wansbrough, "A Mamluk Commercial Treaty Concluded with the Republic of Florence, 894/1489" in S. M. Stern, ed., *Documents from Islamic Chanceries*, Oriental Studies III (Oxford: B. Cassirer, 1965), pp. 39–79.

¹⁵ Julius Stone, *Legal Control of International Conflict* (rev. ed.; Sydney: Maitland, 1959), pp. 457 ff.

¹⁶ Stanley S. Jados, *Consulate of the Sea and Related Documents* (Alabama: University Press, 1975).

¹⁷ Mohamed Fahmy, *Muslim Naval Organisation in the Eastern Mediterranean from the Seventh to the Tenth Century* (2d ed.; Cairo: National Publication, 1966).

¹⁸ Massignon has shown the Muslim influence on the creation of such "guilds" in Western Europe. It is beyond the scope of this article to elaborate on this aspect.

¹⁹ S. D. Goitein, *Jews and Arabs: Their Contacts through the Ages* (5th ed.; New York: Schocken Books, 1970), pp. 89 ff.

²⁰ Jacob B. Agus, *L'évolution de la pensée juive des temps bibliques au début de l'ère moderne* (Paris: Payot, 1961), pp. 183–184.

²¹ Alfred Guillaume, "Philosophy and Theology" in Arnold, *Legacy*, p. 268.

²² One of these, an Auvergnat monk called Gerbert, became Pope, taking the name of Sylvester II, between 999 and 1003.

²³ Levi-Provençal, *Espagne*, I, 76.

²⁴ *Las Siete Partidas del Sabio Rey Don Alonso el IX*, edited with Latin comments by Gregorio Lopez (3 vols.; Madrid (Leon Amarita) 1829; impression of the edition of 1555 in old Castilian), I, 399–702.

²⁵ Practices that had been introduced also in the Latin Kingdom of Jerusalem. See Ernest Nys: *Etudes de droit international et de droit politique* (3 vols.; Brussels: Castaigne, 1896), I, 84.

²⁶ Henri Hauser, *La prépondérance espagnole, 1559–1660* (3d ed.; Paris: 1973), introduction by Pierre Chaunu.

²⁷ Hunke, *Soleil d'Allah*, pp. 285 ff.

²⁸ Aziz S. Atiya, *Crusade, Commerce and Culture* (New York: 1966).

²⁹ For example, the striking of Muslim maxims onto gold pieces and exhortations to abstain from the eating of pork.

³⁰ Philip K. Hitti, *Memoirs of an Arab-Syrian Gentleman: Translation of the Memoirs of Usamah ibn-Munqidh (Kitab Al-l'tibar)* (Beirut: Khayats, 1964,) pp. 213 ff.

³¹ René Grousset, *L'épopée des Croisades* (Paris: Plon, 1957), p. 199.

³² We should be reminded that one of these abbeys was an open window onto Muslim Spain.

³³ Romano Guardini, *La fin des temps modernes*, trans. Jeanne Ancelet-Hustache (Paris: Seuil, 1952), pp. 32–33.

³⁴ The fact that the names of the principal philosophers and learned Muslims passed into the West under latinised forms, not only proves that they were known there before the Renaissance, but also leads us to suppose that they had an influence on the clergy, by a process of cultural transmission.

³⁵ For a review of their contribution to a knowledge of Islam, see Joseph Henninger, "Sur la contribution des missionnaires à la connaissance de l'Islam surtout pendant le moyen âge," *Nouvelle revue de sciences missionnaires* (Fribourg), IX (1953), 161–185, esp. pp. 174 ff.

³⁶ The Franciscans counted among their number St. Bonaventure, Robert Grossetête, Raymond Lull, Duns Scotius, and Bacon, by way of example.

³⁷ With their successors. See Léon Gorny, *Croisés et Templiers* (Paris: André Bonne, 1974).

³⁸ See Henri-Paul Eydoux, *Saint-Louis et son temps* (Paris: Larousse, 1971,) pp. 154 ff.

³⁹ Guardini, *Temps modernes*, pp. 35 ff. He shows that both humanist criticism and experimental science drew from the same sources.

⁴⁰ Emile Tyan, *Histoire de l'organisation judiciaire en pays d'Islam* (2d ed.; Beirut, 1961,) pp. 23 ff.

⁴¹ We have even been able to read that it was not "a pure coincidence that the palace of Louis IX . . . became . . . the Palace of Justice" (in Paris). In Jean-Marie Dunoyer, "La force de Saint-Louis," *Le Monde* 18/19 October 1970.

⁴² Quoted by Charles Klein, *Saint-Louis, un roi aux pieds des pauvres*, Paris: S. O. S., 1970,) pp. 60–61.

⁴³ To enable this a gate was opened called "The Gate of Justice" or Bab El Adl, under which they came to sit for a weekly audience. It is not without interest to mention in this context that the popular contemporary press unconsciously rejected any notions of value for those Muslim traditions which were maintained, out of a necessary desire to draw an ethnocentric parallel. We can read, for example, concerning the audience given by the King of Saudi Arabia in the work by Michel Clerc, "Le roi Fayçal ne reverra pas Jérusalem," *Paris Match*, no. 1349, April 1975: "It was St. Louis at the foot of the oak, seven centuries late" ("c'était, avec sept siècles de retard (sic), Saint-Louis au pied du chêne"!).

⁴⁴ Baron Taube, quoted by Hamidullah: *Muslim Conduct*, p. 64.

⁴⁵ Hitti, *Islam and the West*, pp. 80 ff.

⁴⁶ Grousset, *Epopée*, p. 79.

⁴⁷ Philippe Dupuy Declinchamps, *La Chevalerie*, "Que sais-je" (3d rev. ed.; Paris: P. U. F., 1973), p. 11.

⁴⁸ Hunke: *Soleil d'Allah*, pp. 282 ff.

⁴⁹ (After capture) "either liberation or ransom, until the war lays down its burden" (XLVII [Mohammed] 4).

⁵⁰ Gaston Zananiri, *Eglise et Islam* (Paris: Spes, 1969,) who demonstrates on pages 208–209 that "these monks wore habits of white wool and a cloak and scapular emblazoned with a red and blue cross". The concordance of evidence is interesting even if we cannot extrapolate from this the influence that this might have had on the organisation created by Dunant seven centuries later.

⁵¹ See critical commentaries of a very incisive nature in Abul Hassan A. Nadawi, *Islam and the World* (2d ed.; Lahore: Ashraf, 1967,) pp. 118 ff.

⁵² Hamidullah: *Muslim Conduct*, pp. 67–68.

⁵³ The Spaniard Michel Servet, for example, paid with his life in the Calvinist Geneva of the sixteenth century for his "discovery", which was in fact nothing but a compilation or even simple translation of a thirteenth-century Arab work.

⁵⁴ Did not Erasmus have to explain himself after having put the "holy" nature of war against Islam into doubt?

⁵⁵ *Abwab al-Siyar fi Ard el-Harb*, trans. into English with the title: *The Islamic Law of Nations Shaybani's Siyar* by Majid Khadduri (Baltimore: Johns Hopkins Press, 1961).