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Auf der Suche nach ihren Gemeinsamkeiten  
und Unterschieden in religiösen Grundlagen,  
praktischen Zwecken und historischen Transformationen

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## Vorwort

Der vorgelegte Sammelband ist aus einer Tagung hervorgegangen, die der Bundesverband Deutscher Stiftungen e. V. und das Institut für vergleichende Geschichte Europas im Mittelalter am 13. und 14. Juni 2003 an der Humboldt-Universität zu Berlin durchgeführt haben. Unter dem Titel „Stiftungen in den großen Kulturen des alten Europa“ war dem Kolloquium die Aufgabe gestellt, Wege einer vergleichenden Erforschung des universal verbreiteten Stiftungswesens zu erkunden und zu erproben. Da sich die Stiftungen der Vormoderne zweifellos danach unterscheiden lassen, in welchem religiösen Milieu sie entstanden sind, kamen in Berlin neben den Mediävisten – den Experten für die lateinisch-katholische Welt –, Byzantinisten und Osteuropahistoriker – die Kenner der orthodoxen Christenheit –, Islamwissenschaftler und Judaisten zu Wort. Allerdings zeigte sich bald, daß der interkulturelle Vergleich auf der Grundlage der großen monotheistischen Religionen nicht auf Europa beschränkt werden kann; die Traditionen der antiken Mittelmeerwelt, die auch sonst in der Geschichte Europas nachwirken, bedingten vielmehr eine Ausweitung des Horizonts bis nach Ägypten und Kleinasien bzw. Anatolien. Historisch liegt der Schwerpunkt auf der Periode des Mittelalters, obschon ein Beitrag auf die augusteische Zeit im antiken Rom zurückblendet und auf der anderen Seite der Zeitskala die osmanischen Stiftungen bis zur kemalistischen Revolution von 1923/24, die russischen gar bis zur Gegenwart einbezogen werden.

Mit Referentinnen und Referenten aus Deutschland allein hätte das anspruchsvolle Vorhaben nicht bewältigt werden können; interkulturelle Studien gelingen, wenn überhaupt, nur im internationalen Austausch. Es war deshalb sehr erfreulich, daß an Tagung und Publikation neben den Kolleginnen und Kollegen unseres Landes hervorragende Fachleute aus den USA, Israel, Großbritannien, Frankreich bzw. Spanien und Österreich bzw. Griechenland mitgewirkt haben.

Die Berliner Tagung hat Forschungen zum Stiftungswesen fortgeführt und ausgeweitet, die am Lehrstuhl für Geschichte des Mittelalters I der Humboldt-Universität seit mehr als einem Jahrzehnt betrieben werden. Unmittelbar angeregt wurde sie durch ein

day. Still, the historian can draw several conclusions based on a study of the charitable *awqāf* of the medieval Islamic world. First, it is clear that *waqf* became increasingly important as a way to provide charity. This process began in the eleventh and twelfth centuries C.E. and accelerated in the late Middle Ages. Second, Islamic endowments stood on the fault line between the public and private in medieval Islamic society. As such, their role was always contested between states and private individuals. The role of the sultan as a founder of *awqāf* only serves to underline the ambiguity of his role as public figure and private individual. Third, the growth of charitable endowments, and of *waqf* as a whole, was closely related to the privatization of state owned resources and the weakening of the authority of the state. In the process, new forms of charity, such as the “tomb *awqāf*”, spread over the last one hundred years of the Mamluk sultanate. Although these endowments were the poorer cousins of the monumental *awqāf* established by sultans, amirs, and occasional religious scholars, they constituted an important development in the history of Muslim charity. The history of *waqf* is an index to many aspects of medieval Islamic society – the interplay of public and private, the ability or inability of the state to control its resources, the competition between elites, to name a few. As such, its study still has a lot to tell us.

## The Role of Endowments in the Framework of Andalusian Society

By

*Ana María Carballeira-Debasa*

The Islamic pious endowment (*waqf*, pl. *awqāf*; *ḥubs*, pl. *aḥbās*) as a social, economic, and juridical institution has undergone considerable development in the Islamic world and played an important role in society. The investigation of this phenomenon naturally involves the study of Muslim world from the dawn of Islam until the present day. Conscious its importance, many scholars have sought to advance our knowledge about this type of institution.<sup>1</sup>

In general terms, the *waqf* or *ḥubs* is an endowment in perpetuity, in which the proprietor renounces the rights with the condition that the profit or usufruct be dedicated toward the immediate or future benefit of some pious charity. Normally, the properties cannot be transferred, this being one of the restrictions that characterize this institution.<sup>2</sup> As we shall see below, the choice of recipient to obtain the benefits determines the categorization of this type of endowment.

An act receives the designation of “public” *ḥubs* (*ḥubs khayrī*) when it has an essentially altruistic character, being an endowment with a pious purpose in the benefit of institutions of public utility, whether it be a service of a religious or a social order. Through the institution of pious endowments, the founder assured himself not only of

1 Regarding the present state of scholarship on Islamic pious endowments, see *Ana María Carballeira*, *Legados pios y fundaciones familiares en al-Andalus (siglos IV/X-VI/XII)*. Madrid 2002, 30-34, and *Alejandro García Sanjuán*, *Hasta que Dios herede la tierra. Los bienes habices en Al-Andalus (siglos X-XV)*. Huelva 2002, 22-24. The works mentioned constitute the only existing monographs on the subject for al-Andalus.

2 See *Carballeira*, *Legados pios* (as n. 1), 13-18; *Sanjuán*, *Hasta que Dios* (as n. 1), 21f. In what follows I shall use the term *ḥubs* and its plural *aḥbās* to refer to the pious endowments of al-Andalus, since it is the term most frequently employed in the documentation I have studied. In fact, the usage of this term is attested in the Islamic West, in contrast with the more common employment of the term *waqf* and its plural *awqāf* in the East.

achieving some religious merit in the eyes of God, with the hope of gaining the recompense of the hereafter, but also of acquiring social prestige before his peers.<sup>3</sup>

Moreover, the *hubs* is a measure that the founder adopts with the view toward covering the necessities of his relatives, thereby responding to a fundamentally material interest. When the beneficiaries designated by the founder die out, the goods assume a pious usage and are transformed in a "public" *hubs*. This is what is called a "family" *hubs* (*hubs ahli*). In this case, the *hubs* provides an easy means of eluding the Quranic prescriptions on matters of inheritance and constitutes a method of bequeathing the patrimony or, more precisely, the usufruct proceeding from the donated items. The objective here is to safeguard the integrity of the property within the midst of a group of persons. This type of *hubs* could also respond to the founder's desire to protect the patrimony against confiscation by the rulers in turbulent times.<sup>4</sup>

Given the broad scope of the theme in question, this paper shall focus on the role played by *hubs khayrī* and the influence that it exercised upon Andalusian society during the period comprising the tenth to twelfth centuries C.E.<sup>5</sup> With this in mind, one must inquire to what extent did pious endowments condition the socio-economic development of al-Andalus, and what repercussions did they have on the daily life of its inhabitants. To answer these questions we will have to consider the institutions (mosques, cemeteries, walls, fortresses, holy war), as well as the population groups (the poor, the sick, prisoners, slaves, pious women, ascetics) that were implicated in this type of endowments and in whose interest reverberated the income generated from them.

I have relied fundamentally upon Arabic juridical sources that are among the documents which, to a certain degree, help mitigate the archival impoverishment of Western Islam in the Middle Ages. These are collections of juridical opinions pronounced to elucidate obscure points of the law, as well as models of documents that served as guide for notaries in the writing of contracts. Although the exploitation of texts of this type furnishes much useful material for the study of Andalusian society and economy, one cannot ignore the lacunas and deficiencies of the documentation concerning the institution of the *hubs* in al-Andalus. For this reason, in many cases it has not been possible to obtain as complete and detailed information as one would have liked. The juridical sources, while being the most explicit on this question, only supply an incomplete picture of this institution. They record a very concrete situation relating to the pious endowment, thus removing it from its broader context and omitting other data that are irrelevant for the subject under discussion. Moreover, in the majority of cases, they do not furnish a complete transcription of the endowment deed and omit a detailed description of the management of this type of property, as well as of the various business

3 On *hubs khayrī* in al-Andalus, see *Carballeira*, *Legados píos* (as n. 1), 67-202; *Sanjuán*, *Hasta que Dios* (as n. 1), 169-254.

4 Regarding *hubs ahli* in al-Andalus, see *Carballeira*, *Legados píos* (as n. 1), 203-272; *Sanjuán*, *Hasta que Dios* (as n. 1), 139-168.

5 Given that I have dealt extensively with this question in a chapter of my book, this paper offers a summarized version of the issue, relying mainly upon the existing bibliography.

transactions that they engendered.<sup>6</sup> Although all these factors do not diminish the importance of this type of documentation, one must not ignore other sources (historical, biographical, literary...), which supply additional information and reinforce the content of the juridical texts, since they all complement one other.<sup>7</sup> Only thus may we obtain a somewhat detailed view of the diverse aspects of the *hubs* institution. From these sources I shall attempt to determine how the *hubs khayrī* has affected the dynamics of the Andalusian population.

### The Constitutive Elements of Pious Endowments

It is the individual who establishes the pious endowment about whom we have the least information. Except for specific cases relating to donations made by Andalusian sovereigns or members of the elite, there exist no data on their identity. Nevertheless, the corpus of material gathered enables us to observe that the founder is usually a sole individual and specifies that s/he should bear the condition of proprietor of the donated item. With this criterion in mind, s/he may donate a part or the totality of the patrimony. S/he may execute the donation in the ordinary manner or through the execution of a will of testament, although the first option is the most frequently used. The founder should not only be of sound body and mind, but must also express clearly and unequivocally the pious objective that underlies an act of these characteristics, referring explicitly to the object and the beneficiary of the endowment that is being established.<sup>8</sup>

The characteristic perpetuity of Islamic pious endowments implies that the donation of real estate properties is preferable, since, by definition, they are imperishable. Obviously, the perishable character of personal property would go against this condition, converting the endowment into a temporary deed. For this reason, some juridical doctrines of Islam have pronounced against the donation of personal property. The Mālikīs, however, manifested greater flexibility on this question, for they sanctioned the temporariness of *hubs*, admitting the donation of all kinds of property. This is clear from the sources consulted, which reveal the existence of this practice in al-Andalus.<sup>9</sup> In many cases the income obtained from leasing real estate properties is dedicated directly to the pious object.<sup>10</sup> Also, the use of personal properties donated may be effected via the direct delivery of the object to the beneficiary or through a temporary loan, as we shall see below.

6 On Islamic jurisprudence and its use as a documental resource, see *Carballeira*, *Legados píos* (as n. 1), 34-40, 46-62; *Sanjuán*, *Hasta que Dios* (as n. 1), 49-72.

7 See the summary of Arabic sources consulted in the writing of this paper in the appendix.

8 See *Carballeira*, *Legados píos* (as n. 1), 273f.; *Sanjuán*, *Hasta que Dios* (as n. 1), 101-106.

9 See *Carballeira*, *Legados píos* (as n. 1), 16, 275f.; *Sanjuán*, *Hasta que Dios* (as n. 1), 118-124. Of the four juridical doctrines of orthodox Islam, the Andalusians followed overwhelmingly the legal principals of the Mālikī school; on this see *Maria Isabel Fierro*, *El derecho mālikī en al-Andalus: siglos II/VII-V/XI*, in: *Al-Qantara* 12, 1991, 119-132.

10 Regarding the leasing of *ahbās* in al-Andalus, see *Carballeira*, *Legados píos* (as n. 1), 297-309; *Sanjuán*, *Hasta que Dios* (as n. 1), 130-137.

The beneficiary entity of a pious endowment in al-Andalus could be a public institution or a collectivity of persons, but only an Islamic institution or members of the Muslim community may benefit from a pious legacy instituted by a Muslim. In contrast with the requisites of the founder of a *hubs*, the beneficiary does not have to demonstrate physical or psychological capacity.<sup>11</sup> The establishment of *ahbās* recognizes the distinction between the primary beneficiaries of a direct pious endowment and the ultimate pious object of a family endowment following the death of the first series of beneficiaries. In general, one notes that those who proved to be most favored by the last returns of the *hubs ahli* (the poor, the sick, and mosques) were so as well by the constitution of the *hubs khayri*.<sup>12</sup> I shall now focus my attention on the beneficiaries of direct pious endowments, for which we have the greatest amount of information. Sometimes various objects would appear combined in the same donation, although most often an endowment would be destined toward a sole purpose.

### Religious Purposes

The construction of mosques and public cemeteries are pious acts deemed worthy in the eyes of God. Rulers and high dignitaries are those capable of financing the most important constructions, especially the Great Mosques of each city. Nevertheless, one must not overlook the activities of wealthy Muslims in this regard, who supply funds for the construction of minor mosques or the foundation of public cemeteries.<sup>13</sup>

In addition to the references to the establishment of pious endowments for the purpose of raising new religious buildings, the sources examined indicate the predominance of cases in which these donations had as their objective covering the necessities of the mosques. Among the most pressing needs that appear in the documentation under study, one must highlight the reparation and reconstruction of mosques, the provision of combustible fuel and matting, and the payment of the salary of the individual who directs the prayer (*imām*) and of the personnel charged with the domestic chores. A large number of Andalusian mosques held pious legacies to cover the costs derived from their function and maintenance. Mosques that did not have such resources had to defray their costs by relying on neighbors in the vicinity, at least for the expenses relating to the salary of the *imām*. The juridical sources reveal that mosques located in urban areas, and especially the Great Mosques, were more favored by this type of donation than the rest of Andalusian mosques, although they also were the ones that sustained the highest expenses.<sup>14</sup>

11 See Carballeira, Legados pios (as n. 1), 274f.

12 On the ultimate pious object of the family endowments, see Carballeira, Legados pios (as n. 1), 221-227.

13 One could highlight the endeavors of the women of the ruling dynasty in Umayyad Cordoba. See Carballeira, Legados pios (as n. 1), 221-227.

14 See Carballeira, Legados pios (as n. 1), 71-84; Sanjuán, Hasta que Dios (as n. 1), 215-228. For detailed information on the maintenance of Andalusian mosques in the fifteenth century, see María Isabel Calero, Afectación de las rentas de los habices de las mezquitas en fetuas nazaries

Regarding the manner in which the surplus of mosque *ahbās* should be used, generally Andalusian jurists advocated reserving the remainder of the income of a mosque for whatever necessities that might arise there. They could, however, consent to its transference to other mosques in cases of extreme necessity. A similar posture was adopted regarding both the pious legacies and the debris of mosques in ruin for the purpose of their future reconstruction, given the immovability of both elements.<sup>15</sup>

Furthermore, the documentation analyzed reveals that the Christians, as well as the Jews of al-Andalus established pious endowments in benefit of their respective religions. Both communities followed the Muslim regulation in relation to the institution of the *hubs*, although with some fundamental differences: for example, in their case the properties so established did not possess the character of inviolability and were susceptible to transference and even expropriation.<sup>16</sup>

Cemeteries could be of public or private construction. Given that a private cemetery is not a public good, this type of endowment served as a means to render inviolable a personal property.<sup>17</sup> As for pious legacies established for the benefit of public cemeteries, there is evidence of their existence to repair whatever might have deteriorated on these properties and to use the remainder to pay the salaried personnel in charge of caring for the cemetery.<sup>18</sup>

As in the case with the mosques, the majority of the juridical texts deal with the subject of inviolability, here referring to the tombs and sites where these are placed. That is to say, they discuss the usurpation or inappropriate uses of cemeteries. In the situation of burial sites that have fallen into disuse, the reuse of this terrain to raise or expand mosques was usually approved, but the “recycling” of the materials of construction of abandoned tombs was not permitted under any circumstances. There are no references to how the revenues proceeding from pious donations designated to cover the expenses of cemeteries that had been abandoned should be used.<sup>19</sup>

The terrain upon which mosques were built and where burials took place was not always the recipient of a pious endowment. Yet this circumstance did not pose an obstacle to the attribution of both elements a status that was based upon their inviolability, in function of the utilitarian ends that they served for the entire Muslim community. The identification of *hubs* with the concept of public property is explained by the inalienable character of both and by the fact that they are in the service of the interests of Muslims.

del siglo XV. El caso del poeta-alfaquí al-Bastī, in: Celia del Moral (ed.), En el epílogo del Islam andalusí: la Granada del siglo XV. Granada 2002, 157-183.

15 See Carballeira, Legados pios (as n. 1), 90-96; Sanjuán, Hasta que Dios (as n. 1), 242-244, 321-327.

16 See Carballeira, Legados pios (as n. 1), 190-192.

17 See Carballeira, Legados pios (as n. 1), 124f.

18 See Carballeira, Legados pios (as n. 1), 122.

19 For detailed information on the inviolability of Andalusian cemeteries, see Carballeira, Legados pios (as n. 1), 117-132; María Isabel Fierro, El espacio de los muertos: fetuas andalusies sobre tumbas y cementerios, in: Patrice Cressier/María Isabel Fierro/Jean-Pierre van Staével (eds.), L'urbanisme dans l'Occident musulman au Moyen Age. Aspects juridiques. Madrid 2002, 155-174.

This assimilative character is seen also in the case of walls, roads, bridges, fountains, wells...

### Military Objectives

The determination to safeguard the interests of the community is reflected also in the reaction of the most pious Andalusians to the progressive advance of the Christians from the north of the Iberian Peninsula. Establishing pious endowments was one means of confronting some of the expenses accrued from various military activities, offensive (attacking the enemy through holy war), as well as defensive (reparation of walls, construction and maintenance of rural fortresses).<sup>20</sup>

An individual contribution to holy war (*jihād*) could be made through the personal participation of volunteers in military engagement or in the form of the pious donation of horses, armament, and slaves for the use of those fighting the Christian enemy in the cause of Islam.

The Andalusian sources demonstrate that one possible means of supplying mounts and weaponry for military action was the establishment of pious endowments for those purposes. The allocation of objects usually was carried out personally, since the military equipment was transferred from one individual to another, with or without intermediaries. Such endowments offset the elevated cost of horses and swords. If the volunteers of *jihād* did not have the necessary funds to acquire this type of material and the government did not provide them with it, they would have been obliged to go to the front devoid of military equipment. Bearing this in mind, it is probable that the pious donations of horses and weapons responded to the lack of a systematic intervention on the part of the authorities, who had no economic interest in supplying mounts and weaponry to individuals of scarce military capability in the field of war.<sup>21</sup>

Based on what may be inferred from the juridical texts, another way to contribute to the *jihād* was the designation of slaves through the *hubs* to carry out tasks in the service of the combatants, provided this circumstance did not entail any risk to the physical integrity of the individual. In any case, the laconism of the sources on this matter seems to indicate that the designation of slaves for the *jihād* via the *hubs* must not have been a common practice in al-Andalus.<sup>22</sup>

As we have already seen, the walls of Andalusian cities were public property, available for the use of the Muslim community and having the same inviolable character of the *ahbās*. Since they are public installations, they could never be destroyed, only rebuilt. In principle, the maintenance of walls required the presence of a governing power

20 See Carballeira, Legados píos (as n. 1), 131f.; Sanjuán, Hasta que Dios (as n. 1), 335-339.

21 See Carballeira, Legados píos (as n. 1), 150-160; Alejandro García Sanjuán, Frontera, Yihād y legados piadosos en Al-Andalus (siglos X-XV), in: Francisco Toro Ceballos/José Rodríguez Molina (coords.), III Estudios de Frontera. Convivencia, defensa y comunicación en la Frontera. Jaén 2000, 317-330; *idem*, Hasta que Dios (as n. 1), 322f.

22 See Carballeira, Legados píos (as n. 1), 150-160; Sanjuán, Frontera (as n. 21); *idem*, Hasta que Dios (as n. 1), 322f. On the provision of slaves through *hubs*, see *infra* n. 33.

that could finance the construction. Yet this was not the only means to carry out this activity, as may be deduced from the establishment of pious endowments to cover the costs derived from the reparation of walls.<sup>23</sup>

Undoubtedly, the frontier zones were the areas most exposed to external aggression, and thus they were especially endowed with fortifications. Rural fortresses located on the Christian-Muslim frontier likewise benefited from the pious legacies founded by individuals to cover their necessities. This is made evident in the juridical documentation, although it does not specify the nature of those needs. Nevertheless, it is not difficult to imagine that those resources would have been used for the maintenance of the constructions, for supplying provisions to the inhabitants, and for providing weapons. On the other hand, there is less information about defraying the costs of building constructions of this nature, which suggests that the *hubs* would have been allocated a wide margin of income to undertake such an enterprise.<sup>24</sup>

### Charitable Objectives

The authentic and most significant dimension of the institution of the *hubs khayrī* is that it is destined toward some pious endeavor, which implies that many *ahbās* whose purpose is unknown, due to the loss of the endowment deed, would have been directed toward the needy. It is important to understand these endowments within the context of the Islamic notions of equality and social justice. Andalusians would make these kinds of donations in accordance with certain prescriptions revealed in the Quran that exhorted them to carry out charitable and benevolent acts on behalf of those who found themselves in a manifestly disadvantaged social position.

The poor, the sick, pious women, and ascetics were counted among the beneficiaries of pious endowments in al-Andalus. Regarding the latter two collectivities, the material under study mentions retreats set aside for devout persons<sup>25</sup>, although the references are quite sparse and contrast notably with the abundant information concerning the poor and the sick. Nor can one ignore the absence of data on the institution of pious legacies for the benefit of widows and orphans who lacked sufficient economic means of survival.<sup>26</sup>

From the standpoint of social welfare, medieval Islamic societies lacked public institutions and services to alleviate the suffering of the indigent and incapacitated. Personal charity was therefore essential, since social assistance was provided through the

23 See Carballeira, Legados píos (as n. 1), 138-140; Sanjuán, Hasta que Dios (as n. 1), 194f.; Manuela Marín, Documentos jurídicos y fortificaciones, in: Actas del I Congreso Internacional de Fortificaciones en al-Andalus. Cadiz 1998, 79-87, here 81f.

24 See Carballeira, Legados píos (as n. 1), 140-148; Sanjuán, Frontera (as n. 21), 324f.; *idem*, Hasta que Dios (as n. 1), 195f.; Marín, Documentos jurídicos (as n. 23), 81f.

25 See Carballeira, Legados píos (as n. 1), 189f.

26 There is evidence, however, that widows and orphans received alms in al-Andalus in the period under study. On this see Ana María Carballeira, Pobres y caridad en al-Andalus, in: Cristina de la Puente (ed.), Identidades marginales. (Estudios Onomástico-Biográficos de al-Andalus, vol. 13.) Madrid 2003, 53-91, here 67f.

establishment of pious endowments, although this was not the only means of supplying such aid.<sup>27</sup> In this way, at least some of the effects stemming from poverty<sup>28</sup> and disease (leprosy, blindness...)<sup>29</sup> were alleviated and mitigated in al-Andalus. The sources show that the poor and the diseased in urban areas, especially the Umayyad capital, were most favored by this type of endowment.

Yet it was not only a matter of assuring the subsistence of the most disadvantaged; pious endowments also had other aims. They served to make available to the lowest social classes certain items whose elevated cost made them indicators of a higher socio-economic status. These could be, for instance, jewelry and sumptuous clothing in order to appear elegantly dressed at weddings, given the social importance attached to the institution of marriage in Islamic society.<sup>30</sup> One also encounters the pious donation of books that served to promote science, culture, and knowledge among the *ulema* of humble social background. The delivery of these books would be accomplished in the form of a loan, at the end of which they would be returned so that other persons in the same condition could benefit from them.<sup>31</sup> Hence the endowments constituted a means of avoiding that the use of certain items would be restricted to the most privileged social classes by facilitating the integration of those most deprived into the midst of society.

The ransom of captives was the political responsibility of the government, as well as a praiseworthy deed for Muslims. The juridical documents demonstrate that it was the custom of some individuals to show their solidarity by establishing pious endowments whose principal aim was the release from captivity of their co-religionists who had fallen into Christian hands. The care of prisoners of war by means of the institution of pious legacies, whether it be for their ransom or the assuagement of their physical con-

27 Regarding other types of donations in Islam, see *Yvon Linant de Bellefonds*, *Des donations en droit musulman*. Cairo 1935.

28 On the establishment of pious legacies for the poor in al-Andalus, see *Carballeira*, *Legados pios* (as n. 1), 169-177; *Sanjuán*, *Hasta que Dios* (as n. 1), 180-183. For detailed information on this type of endowment for indigents in the fourteenth and fifteenth centuries in al-Andalus, see *Ana María Carballeira*, *Pauvreté et fondations pieuses dans la Grenade nasride: aspects sociaux et juridiques*, in: *Arabica. Revue des Études Arabes* [forthcoming].

29 Regarding the establishment of pious endowments for the sick in al-Andalus, see *Carballeira*, *Legados pios* (as n. 1), 183-189; *Sanjuán*, *Hasta que Dios* (as n. 1), 184-187. We only have record of the existence of one leper colony in Cordoba during the reign of al-Hakam I (796-822 C.E.) and of one hospital in Nasrid Granada; on this see *Francisco Franco Sánchez*, *La asistencia al enfermo en al-Andalus. Los hospitales hispanomusulmanes*, in: *Camilo Alvarez de Morales/Emilio Molina López* (coords.), *La medicina en al-Andalus*. Granada 1999, 135-171; *Christine Mazzoli-Guintard*, *Notes sur une minorité urbaine d'al-Andalus: les lépreux*, in: *Homenaje al profesor Carlos Posac Mon*. 3 vols. Ceuta 1998, vol. 1, 319-325, here 320; *Juan Antonio García Granados/Fernando Girón/Vicente Salvatierra*, *El maristan de Granada: un hospital islámico*. Granada 1989.

30 See *Carballeira*, *Legados pios* (as n. 1), 173f.; *Sanjuán*, *Hasta que Dios* (as n. 1), 123.

31 See *Carballeira*, *Legados pios* (as n. 1), 178-183; *Sanjuán*, *Hasta que Dios* (as n. 1), 198f.

ditions, was undertaken quite early in the history of al-Andalus, due to the intense military exchanges between Muslims and Christians in the Iberian Peninsula.<sup>32</sup>

The same procedure was applied in al-Andalus to the *manumissio* of slaves, according to the juridical sources. In Islam the liberation of slaves is also a praiseworthy act, since it is considered one of the most pious deeds in the eyes of God. A slave could be manumitted from his/her owner during his/her lifetime or obtain the status of freedom following his/her death through a variety of systems established for this purpose, including the founding of pious endowments. Here, however, it is necessary to point out the dual function of the *hubs khayrī* in relation to the status of individuals who found themselves under the yoke of servitude: on the one hand, they could be assigned to a pious purpose via the *hubs*, and on the other hand, they could be liberated from slavery.<sup>33</sup>

### Final Considerations

The sources consulted reveal that the *hubs khayrī* in al-Andalus was above all a phenomenon whose repercussions were felt in urban areas and through which private property came to form a part of the economic system of the community. Such endowments proved to be a means of subsidizing the maintenance of the social and economic infrastructure of Andalusian cities in the tenth to twelfth centuries C.E..<sup>34</sup>

Aside from certain donations given by the political authorities, social welfare was assumed for the most part by private initiatives channeled mainly through pious endowments. Charity and social welfare were thus intimately tied, and this type of endowment well reflects the personal and non-institutional character of Andalusian social services. This personal dimension actually reinforces the notion of community, that is, the internal cohesion of the Islamic community willing to make available resources to cover the basic necessities of all its members. Yet one must remember that, while certain activities (the financing of mosques, poor relief...) hardly enjoyed any institutional

32 See *Carballeira*, *Legados pios* (as n. 1), 161-164; *Sanjuán*, *Frontera* (as n. 21), 323f.; *idem*, *Hasta que Dios* (as n. 1), 188f.; *Francisco Vidal Castro*, *El cautivo en el mundo islámico. Visión y vivencia desde el otro lado de la frontera andalusí*, in: *Francisco Toro Ceballos/José Rodríguez Molina* (eds.), *II Estudios de la frontera. Actividad y vida en la Frontera*. Jaén 1998, 771-823, here 788.

33 In theory, *Mālikī* doctrine allows neither the provision of slavery through *hubs* nor the institution of pious endowments for the purpose of *manumissio*. In the first case, the inviolable character of *hubs* could impede the slave from obtaining liberty, while in the second case, if the slave lacked the means of subsistence after obtaining his/her freedom, s/he would be condemned to misery. See *Carballeira*, *Legados pios* (as n. 1), 164-168; *Cristina de la Puente*, *Entre la esclavitud y la libertad: consecuencias legales de la manumisión según el derecho malikī*, in: *Al-Qantara* 21, 2000, 339-360, here 358.

34 I shall go on to provide a general outline of the socio-economic repercussions derived from the institution of the *hubs khayrī* in al-Andalus in the period under study. For more detailed information on this subject, see *Carballeira*, *Legados pios* (as n. 1), 193-202, 347-355; *Sanjuán*, *Hasta que Dios* (as n. 1), 371-374.



support and mainly depended upon individual contributions, in the provision of other services (*jihād*, the ransom of captives, the *manumissio* of slaves...) personal contributions played a secondary and minor role, due to the existence of alternative means toward these ends. Moreover, one should not forget that these institutions particularly favored the ruling elites, who in the end benefited from the management and administration of the properties.<sup>35</sup>

Apart from the social function of the institution of the *hubs khayrī* in al-Andalus, one cannot ignore its religious impulse. To a certain extent, the establishment of pious legacies must be understood in relation to the necessity of Muslims to comply with the precepts imposed by their religion. In fact, the various pious objectives of such donations responded to the obligations that every practicing Muslim had toward the Islamic community (almsgiving...) and toward God (prayer...).

In addition to considering the social and religious repercussions of the institution of *hubs* in al-Andalus, one must also inquire about the role that pious endowments played in the Andalusian economy. Of course, the phenomenon of the *hubs khayrī* reveals the material conditions of the founders. There must have existed a fairly prosperous economy for beneficence to rely fundamentally upon individual charity. Yet on the basis of the data obtained from the sources examined, it is not possible to quantify the extent of the economic impact that this institution had, although one may suppose that it must have been quite considerable, due to the repercussions of the immobilization of so much property. These repercussions would have been offset by a series of economic activities (rentals, sales, barter...), which affected the goods, with the aim of guaranteeing their profitability and thereby avoiding their unproductiveness or ruin.<sup>36</sup> These business transactions could provoke conflictive situations, due to the non-transferable and inviolable nature of pious legacies – characteristics that also applied to public property. To these circumstances one must also add that of taxation, since, in theory, these goods and properties were tax exempt, even if in practice this condition was not always respected.<sup>37</sup>

Finally, one must consider the extent of the diffusion of pious endowments among the Andalusian population of the tenth to twelfth centuries C.E. Based on the information from the texts analyzed, one cannot determine with precision the scope of this institution or the efficacy of the actions provided by it. Yet the fact that a large part of social welfare was effected through the voluntary donations of individuals certainly contributed to the institution's diffusion. In this way, *hubs khayrī* came to generate substantial economic income for the wellbeing of the Muslim community in al-Andalus.

35 Regarding the administration of pious endowments in al-Andalus, see *Carballeira*, Legados píos (as n. 1), 283-296; *Sanjuán*, Hasta que Dios (as n. 1), 255-287.

36 On the leasing of *ahbās*, see supra n. 10. Regarding the sale and barter of these properties in the case of unproductiveness, see *Carballeira*, Legados píos (as n. 1), 309-333; *Sanjuán*, Hasta que Dios (as n. 1), 295-304.

37 Regarding the taxation of this type of goods, see *Carballeira*, Legados píos (as n. 1), 353f.; *Sanjuán*, Hasta que Dios (as n. 1), 361-365.

## Appendix: Consulted Arabic Sources

ʿAbd Allah Ib. Bulughghin, *Kitab al-tibyan*, ed. *Evariste Lévi-Provençal*, in: *Min mudhakkirat al-amir ʿAbd Allah akhar muluk Bani Ziri bi Gharnata al-musammāt bi Kitab al-tibyan*. Cairo 1955; trans. *Evariste Lévi-Provençal/Emilio García Gómez*, El siglo XI en primera persona. Las „memorias“ de ʿAbd Allah, último rey zirí de Granada, destronado por los almorávides (1090). Madrid 1981.

Una Crónica anónima de ʿAbd al-Rahman III al-Nasir, ed./trans. *Evariste Lévi-Provençal/Emilio García Gómez*. Madrid/Granada 1950.

Dhikr bilad al-Andalus. Una descripción anónima de al-Andalus, ed./trans. *Luis Molina Martínez*. 2 vols. Madrid 1983.

Ibn al-Abbar, *Al-Muʿjam fi ashhab al-qadi al-imam Abi ʿAli al-Sadafi*, ed. *Francisco Codera*. Madrid 1885.

Ibn ʿAbd al-Raʿuf, *Risala fi adab al-hisba wa al-muhtasib*, ed. *Evariste Lévi-Provençal*, in: *Documents arabes inédits sur la vie sociale et économique en Occident musulman au Moyen Age (Trois traités hispaniques de hisba. Texte arabe)*. (Textes et traduction d'auteurs orientaux, vol. 2.) Cairo 1955, 67-115; trans. *Rachel Arié*, Traduction annotée et commentée des traités de hisba d'Ibn ʿAbd al-Raʿuf et de ʿUmar al-Garsifi, in: *Hespéris-Tamuda* 1, 1960, 5-38, 199-214 and 349-386.

Ibn ʿAbdun, *Risala fi al-qadaʾ wa al-hisba*, ed. *Evariste Lévi-Provençal*, in: *Documents arabes inédits sur la vie sociale et économique en Occident musulman au Moyen Age. (Trois traités hispaniques de hisba. Texte arabe)*. (Textes et traduction d'auteurs orientaux, vol. 2.) Cairo 1955, 1-61; trans. *Evariste Lévi-Provençal/Emilio García Gómez*, Sevilla a comienzos del siglo XII: el tratado de Ibn ʿAbdun. Sevilla 1981.

Ibn al-ʿAttar, *Kitab al-wathaʾiq wa al-sijillat*, ed. *Pedro Chalmeta/Federico Corriente*. Madrid 1983; trans. *Pedro Chalmeta/Marina Marugán*, Formulario notarial y judicial del alfaquí y notario cordobés Ibn al-ʿAttar, m. 399/1009. Madrid 2000.

Ibn Bashkuwal, *Kitab al-mustaghithin bi Allah* (En busca del socorro divino), ed. *Manuela Marín*. Madrid 1991.

Ibn Bashkuwal, *Kitab al-sila*, ed. *Izat al-ʿAttar al-Husayni*. Cairo 1955.

Ibn Bassam, *Al-Dhakhira fi mahasin ahl al-Jazira*, ed. *Ihsan ʿAbbas*. 8 vols. Beirut 1979.

Ibn al-Faradi, *Taʾrikh ʿulamaʾ al-Andalus*, ed. *Francisco Codera*. Madrid 1891-1892.

Ibn Habib, *Kitab al-taʾrikh*, ed. *Jorge Aguadé*. Madrid 1991.

Ibn Harith al-Khushani, *Akhbar al-fuqahaʾ wa al-muhaddithin* (Historia de los alfaquíes y tradicionistas de al-Andalus), ed. *María Luisa Ávila/Luis Molina Martínez*. Madrid 1992.

Ibn Harith al-Khushani, *Qudat Qurtuba*, ed./trans. *Julián Ribera*. Madrid 1914.

Ibn Hayyan, *Min Kitab al-muqtabis*, ed. *Mahmud ʿAli Makki*. Riyadh 2003; trans. *Mahmud ʿAli Makki/Federico Corriente*, Crónica de los emires Alhakam I y ʿAbdarrahman II entre los años 796 y 847 [Almuqtabis II-1]. Zaragoza 2001; partial ed./trans. *Joaquín Vallvé/Francisco Ruiz Girela*, La primera década del reinado de Al-Hakam I. según el Muqtabis II,1 de Ben Hayyan de Córdoba (m. 496 h./1076 J.C.). Madrid 2003 [Muqtabis II/1].

Ibn Hayyan, Al-Muqtabis min anba' ahl al-Andalus, ed. *Mahmud Ali Makki*. Beirut 1973 [Muqtabis II/2].

Ibn Hayyan, Al-Qism al-thalith min Kitab al-muqtabis, ed. *Melchior Martínez Antuña*. Paris 1937 [Muqtabis III].

Ibn Hayyan, Al-Muqtabas V, ed. *Pedro Chalmeta/Federico Corriente/Mahmud Sobh*. Madrid 1979; trans. *María Jesús Viguera/Federico Corriente*, Crónica del califa 'Abdarrahman III an-Nasir entre los años 912 y 942. Zaragoza 1981 [Muqtabis V].

Ibn Hayyan, Al-Muqtabis fi akhbar balad al-Andalus, ed. *'Abd al-Rahman 'Ali al-Hajji*. Beirut 1965; trans. *Emilio García Gómez*, El Califato de Córdoba en el „Muqtabis“ de Ibn Hayyan. Anales palatinos del califa de Córdoba al-Hakam II, por 'Isa Ibn Ahmad al-Razi (360-364 H. = 971-975 J.C.). Madrid 1967 [Muqtabis VII].

Ibn 'Idhari al-Marrakushi, Al-Bayan al-mughrib fi akhbar al-Andalus wa al-Maghrib, ed. *Georges S. Colin/Evariste Lévi-Provençal*. Vol. 2. Leiden 1951; trans. *Emile Fagnan*, Histoire de l'Afrique et de l'Espagne intitulée Al-Bayano'l-Mogrib. Vol. 2. Algiers 1904 [Bayan II].

Ibn 'Idhari al-Marrakushi, Al-Bayan al-mughrib fi akhbar muluk al-Andalus wa al-Maghrib, ed. *Evariste Lévi-Provençal*. Paris 1930; trans. *Felipe Maíllo*, La caída del Califato de Córdoba y los Reyes de Taifas. Salamanca 1993 [Bayan III].

Ibn 'Idhari al-Marrakushi, Kitab al-bayan al-mughrib fi akhbar al-Andalus wa al-Maghrib. Al-juz' al-rabi': qit'a min ta'rikh al-murabitin, ed. *Ihsan 'Abbas*. Beirut 1967 [Bayan IV].

Ibn 'Iyad, Madhahib al-hukkam fi nawazil al-ahkam, ed. *Muhammad ibn Sharifa*. Beirut 1990; trans. *Delfina Serrano*, La actuación de los jueces en los procesos judiciales. Madrid 1998.

Ibn al-Kardabus, Al-Iktifa' fi akhbar al-khulafa', partial ed. *Ahmad Mukhtar al-'Abbadi*, in: Ta'rikh al-Andalus li Ibn al-Kardabus wa Wasfu-hu li Ibn al-Shabbat. Madrid 1971; trans. *Felipe Maíllo*, Historia de al-Andalus. Madrid 1993.

Ibn Mughith, Al-Muqni' fi 'ilm al-shurut (Formulario notarial), ed. *Francisco Javier Aguirre Sádaba*. Madrid 1994; partial trans. *Salvador Vila*, Abenmoguit. Formulario notarial, in: Anuario de Historia del Derecho Español 8, 1931, 5-200.

Ibn Rushd (al-Jadd), Fatawa Ibn Rushd, ed. *al-Mukhtar ibn al-Tahir al-Talili*. 3 vols. Beirut 1987.

Ibn Rushd (al-Jadd), Kitab al-bayan wa al-tahsil wa al-sharh wa al-tawjih wa al-ta'lil fi masa'il al-Mustakhraja, ed. *Muhammad Hajji et al.* 20 vols. Beirut 1988-1991.

Ibn Sahl, Al-Ahkam al-kubra, ed. *Rashid al-Na'imi*, in: Diwan al-Ahkam al-kubra: al-nawazil wa al-'alam li Ibn Sahl. Riyadh 1997.

Ibn Sahl, Watha'iq fi ahkam qada' ahl al-dhimma fi al-Andalus mustakhraja min makhtut Al-Ahkam al-kubra li al-qadi Abi al-Asbagh 'Isa ibn Sahl al-Andalusi, ed. *Muhammad 'Abd al-Wahhab Khallaf*. Cairo 1980.

Ibn Sahl, Watha'iq fi ahkam al-qada' al-jina'i fi al-Andalus mustakhraja min makhtut Al-Ahkam al-kubra li al-qadi Abi al-Asbagh 'Isa ibn Sahl al-Andalusi, ed. *Muhammad 'Abd al-Wahhab Khallaf*. Cairo 1980.

Ibn Sahl, Watha'iq fi shu'un al-hisba fi al-Andalus mustakhraja min makhtut Al-Ahkam al-kubra li al-qadi Abi al-Asbagh 'Isa ibn Sahl al-Andalusi, ed. *Muhammad 'Abd al-Wahhab Khallaf*. Cairo 1984.

Ibn Sahl, Watha'iq fi shu'un al-'umran fi al-Andalus „al-masajid wa al-dur“ mustakhraja min makhtut Al-Ahkam al-kubra li al-qadi Abi al-Asbagh 'Isa ibn Sahl al-Andalusi, ed. *Muhammad 'Abd al-Wahhab Khallaf*. Cairo 1983; partial trans. *Thami Azzemmouri*, Les Nawazil d'Ibn Sahl. Section relative à l'Ihtisab, in: Hespéris-Tamuda 14, 1973, 7-107.

'Iyad b. Musa, Tartib al-madarik wa taqrib al-masalik li ma'rifat a'lam madhhab Malik, ed. *Muhammad ibn Sharifa et al.* 8 vols. Rabat 1983.

Al-Jaziri, Al-Maqsad al-mahmud fi talkhis al-'uqud (Proyecto plausible de compendio de fórmulas notariales), ed. *Asunción Ferreras*. Madrid 1998.

Al-Maqqari, Nafh al-tib fi ghusn al-Andalus al-ratib, ed. *Ihsan 'Abbas*. 8 vols. Beirut 1968.

Al-Saqati, Kitab fi adab al-hisba, ed. *Georges S. Colin/Evariste Lévi-Provençal*, in: Un manuel hispanique de hisba. Traité d'Abu 'Abd Allah Muhammad b. Abi Muhammad As-Sakati de Málaga sur la surveillance des corporations et la répression des fraudes en Espagne musulmane. Paris 1931; trans. *Pedro Chalmeta*, El „Kitab fi adab al-hisba“ (Libro del buen gobierno del zoco) de al-Saqati, in: Al-Andalus 32, 1967, 125-162, 359-397 and ibid. 33, 1968, 143-195, 367-434.

Al-Sha'bi, Al-Ahkam, ed. *Sadok Haloui*. Beirut 1992.

Al-'Udhri, Kitab tarsi' al-akhbar wa tanwi' al-athar wa al-bustan fi ghara'ib al-buldan wa al-masalik ila jami' al-mamalik, partial ed. *'Abd al-'Aziz al-Ahwani*, in: Nusus 'an al-Andalus min Kitab tarsi'. Madrid, 1965; partial trans. *Fernando de la Granja*, La Marca Superior en la obra de al-'Udri. Zaragoza 1966; partial trans. *Emilio Molina López*, La cora de Tudmir según al-'Udri (s. XI). Aportaciones al estudio geográfico-descriptivo del SE. peninsular. (Cuadernos de Historia del Islam, vol. 3.) Granada 1972.

Al-Wansharisi, Kitab al-mi'yar al-mu'rib wa al-jami' al-mughrib 'an fatawi ahl Ifriqiya wa al-Andalus wa al-Maghrib, ed. *Muhammad Hajji et al.* 13 vols. Rabat 1981-1983.

Yahya b. 'Umar, Ahkam al-suq, ed. *Mahmud 'Ali Makki*, Nass jadid fi al-hisba: Kitab ahkam al-suq li Yahya ibn 'Umar al-Andalusi, in: Revista del Instituto Egipcio de Estudios Islámicos 4, 1956, 59-151; trans. *Emilio García Gómez*, Unas „ordenanzas del zoco“ del siglo IX. Traducción del más antiguo antecedente de los tratados andaluces de hisba. por un autor andaluz, in: Al-Andalus 22, 1957, 253-316.