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*The Islamic Finance between Modernity and Tradition*

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## THE ISLAMIC FINANCE BETWEEN MODERNITY AND TRADITION

According to Jouaber-Snoussi Kaouther<sup>1</sup>, Professor of Finance at Paris Dauphine University, the Islamic finance conveys an ethical idea of economy which is based on five concepts described in the Koran: usury ban (that is to say the variable interest rates that have profitability unconnected with the underlying project), risk management and gambling bans, the necessity to match transactions with tangible assets, ban over bargaining some products and activities whatever the funding arrangements may be (such as games of chance, tobacco, alcohol, pig breeding, arms and pornography).

After a long practice and then a partial break within the Muslim countries, the Islamic finance met with success again in the second part of the twentieth century: the birth of contemporary Islamic banks dates from the seventies when OPEC's (Organization of the Petroleum Exporting Countries) power started rising. Organization of the Islamic Conference (OIC), which was founded in 1970 with the Muslim countries, re-established the principles of the Islamic finance. In 1974 just as the oil prices were being quadrupled, OIC decided to found an Islamic Development Bank in order to establish the basis leading to the fulfillment of the principles of the Islamic finance. Thus the first private Islamic bank was born in Dubai in 1975.

Today there are Islamic banks in about fifty countries. In Iran and in Sudan only the Islamic banks are allowed. In other states both systems, conventional as well as Islamic, can be found (United Arab Emirates, Indonesia, Malaysia, Pakistan).

Some analysts of the Foreign Office<sup>2</sup> assess *“that today the assets managed by the Islamic finance come to about 800-900 milliard dollars (60% in the Gulf and 20% in South Asia) mainly deposited exclusively in Islamic banks (50%) or the “ Islamic windows “ of the conventional banks (40%). Those assets reach only 1% of the assets belonging to the first thousand world banks “but the sector has got a growth rate of 10% per year since 2000 onwards, the present economic crisis included.*

The States and the European private banks, which are attracted by the potential profits, are getting interested in the sector. The United Kingdom and France, that we are going to study accurately, have both started to discuss so as to find the way to attract these capitals (since 2004 for UK, from 2007 for France).

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<sup>1</sup> Jouaber-Snoussi, « *La finance islamique* », Paris, La Découverte « Repères », 2012, 128 pages

<sup>2</sup> Pastré Olivier, Gecheva Krassimira. “La finance islamique à la croisée des chemins”. In: *Revue d'économie financière*. N°92, 2008. Les nouvelles frontières de la finance, pp.197-213.

It seems relevant to point out that, because of the financial interest provoked by the Islamic finance, the religious aspect does not concern the press<sup>3</sup>. Contrary to many subjects related to Islam (such as veiled women or mosque building), the intensity of the debate about how to consider the Islamic banks seems to be decreasing within the mentioned European countries. Anyway it does not entail any heated argument about its compatibility with “western values”. At that point, let us notice an interesting paradox. Indeed, the fact mentioned above contradicts the usual analysis of the challenges of Islam towards the European countries, as Nilüfer Göle<sup>4</sup> sums it up when talking about France: *“In accordance with the account of modernity, the religious actor is expected to disappear and to stop being a force of social change with secularization. According to this contradictory view, the Islamic religious fact appears to be a challenge for the French secular republican public space. The French framework, which is fixed by republicanism and neutralized by secularism, is now contravened by the overflowing religious expression from below, as well as from above. The religious actors coming out of the private space and belonging to numerous transnational spaces, of linguistic, political, humanitarian natures, unsettle the secular and national landmarks by weakening the feeling of republican identity”*. In the case in point, the Islamic finance does not provoke much turmoil in France and is even sometimes presented as a potentially modern political object.

Let us question that point: to what extent does the economic aspect of the Islamic finance enable us to discuss the so-called dichotomy between political modernity<sup>5</sup> and the lasting religious fact?

We will try to demonstrate, by summing up the debates which are taking place in Europe first, then between the different Muslim States<sup>6</sup>, that the Islamic banks provoke various dividing lines between the secular and the religious. Far from being opposed, those two spaces of values get cross-bred in an interesting way within the countries.

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<sup>3</sup> In most articles on the Islamic finance we could read, the press chooses the noun rather than the adjective of the phrase. For the French media, the non-“secular” nature of these financial instruments does not really matter. We did not find any article underlining a risk of communitarian slide in the introduction of the Islamic finance, as it is usually the case for other subjects.

<sup>4</sup> Nilüfer Göle « La visibilité disruptive de l’Islam dans l’espace public européen : enjeux politiques, questions théoriques », *Cahiers Sens public* 1/2013 (n°15-16), p.165-184

<sup>5</sup> Considered both as a principle of separation between the religious and state fields, and as a principle of subordination of the religious beliefs to the rational, technical and economic beliefs.

<sup>6</sup> While being careful as our methodology requires. The press articles referred to are actually in English or in French. As a consequence we are aware of the angle of our analysis, so we will avoid being too bold.

## **In Europe: a new financial approach is widely welcomed**

### **A quick overview of the theoretical process of the Islamic finance<sup>7</sup>**

In a conventional bank, a client comes to ask for funds in order to buy some property, then repays the establishment. An Islamic bank operates through an unusual contract (*murabahah*) signed with the client: it buys the wanted property on its own, then rents it. The monthly installments, which are set by the agreed contract, enable the client to repay the loan and to own the property at the end.

When a manager is offered a loan by a conventional bank, he has to repay it with interest on it. The installments are set in advance regardless of the economic situation of the business, so the manager has to pay back the same sum every month. On the contrary, when a manager chooses an Islamic bank, both parties are bound to share the profit and loss of the financed project. Thus the bank is not paid by the rates of interest but through an agreed percentage of the company earnings. In other words, if the project turns out to be unprofitable, the Islamic bank will not have any gain, unlike the conventional loan.

That process is also used for equity financing trade, "*Sharia compatibles*"<sup>8</sup>. "*So as to avoid the interest once more, the Islamic finance invented a kind of bond, the *susuk*, which pays the holder with a percentage of the company earnings. Although they are paid like shares, the *susuk* does not allow the holders any political right in the company management: no vote at the general assembly, no place in the boardroom*" Melody Enguix explains. A company which wants to issue stock in the form of *susuk* must safely secure the sold asset (whether it is a building or machinery). Theoretically a listed stock must refer to the worth of a real object; it is thus impossible to determine the worth of a stock in connection with another stock<sup>9</sup>. Before being proposed to the public, those financial products must be approved of by the committee of the *Sharia* that is composed of financial experts of the Islamic law. "*Each bank must be able to explain that each product is linked to a tangible asset, and that it is not subject to interest. Giving explanations to Sharia scholars, who belong to the economic*

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<sup>7</sup> Examples drawn from the article: Melody Enguix et Tiffanie Osswalt "La finance islamique débarque en France", *Alternatives économiques* 10/2009 (n°284), p.43-43.

<sup>8</sup> According to the phrase used by financial analysts.

<sup>9</sup> It is an essential point to understand the enthusiasm for the ethics advocated by the Islamic finance. The deviation of securitization is actually the cause of the economic world crisis in 2007. This speculative practice is forbidden in the theory of the Islamic finance.

sphere, enables to keep connected with reality and to prevent excesses” Elyès Jouini<sup>10</sup> underlines in her report of the developing Islamic finance in France. Despite the excessive bureaucratic procedures and the ever-present religious references, it is interesting to notice the French and British good will to adapt their national standards to the demanding religious object. Few actors express their discontent or fear towards that point.

### **The secularization of a religious object in the European countries**

The United Kingdom, as the first financial place in Europe, as well as France, as the main land of the Muslims’ refuge in Europe, are the two countries concerned with the issue. In 2004, private initiatives were taken in the UK in order to seize the capital in accordance with Islamic finances. Thus there are already three banks which provide only services compatible with the Islamic finance (such as the Islamic Bank of Britain, IBB). Numerous initiatives were also achieved to try and develop products in accordance with the *Sharia*. For instance the International *Islamic Financial Market* signed two *memorandums of understanding* in London: the former with the International Capital Markets Association in January 2007, the latter with the International Swaps and Derivatives Association in April 2008. After Ghassem Bousslama<sup>11</sup>, a financial analyst, both agreements aim at establishing the most standardized products while respecting the principles of the Koran. In 2008, the British treasury suggested going further ahead by recommending a *sukuk* issue (a part of public debt stamped “Islam compatible”). In October of that year, the UK announced the issue of those financial products.

If, according to some specialists, France seems to be late in this field, it has shown the will to make up for lost time since 2008<sup>12</sup>. On July 17, 2007, the financial Markets Authority wrote that it was allowed to approve UCITS, (a financial product) on the grounds of non-

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<sup>10</sup> « Enjeux et opportunités du développement de la finance islamique pour la place de Paris. Dix propositions pour collecter 100 milliards d’euros », by Elyès et Olivier Pastré, available on [www.paris-europlace.net/files/rapport\\_finance\\_islamique.pdf](http://www.paris-europlace.net/files/rapport_finance_islamique.pdf)

<sup>11</sup> Bousslama Ghassem. « La finance islamique : une récente histoire avec la France, une longue histoire avec ses banques ». In : *Revue d'économie financière*. N°95, 2009. Les pays émergents, Mondialisation et crise financière. Pp.325-350

<sup>12</sup> As many reports testify : [www.senat.fr/rap/r07-329/ r07-3291.pdf](http://www.senat.fr/rap/r07-329/r07-3291.pdf) : rapport n°329 du Sénat sur la finance islamique by Jean Arthuis, May 2008.

« Enjeux et opportunités du développement de la finance islamique pour la place de Paris. Dix propositions pour collecter 100 milliards d’euros », by Elyès Jouini et Olivier Pastré, available on [www.paris-europlace.net/files/rapport\\_finance\\_islamique.pdf](http://www.paris-europlace.net/files/rapport_finance_islamique.pdf)

« Islamic Finance Outlook 2009 », the annual report by Standard & Poor’s rating agency, available on [www.gcc.standardandpoors.com/islamic\\_finance/Islamic\\_Finance\\_Outlook\\_2009.pdf](http://www.gcc.standardandpoors.com/islamic_finance/Islamic_Finance_Outlook_2009.pdf)

exclusively financial criteria. It then gave the opportunity to refer to religious criteria when assessing financial products.

Ghassem Bousslama noticed however that no French bank has taken the initiative so far to develop Islamic products on its own, especially those which could interest the national Muslims. "*They fear for their reputation or for endangering their brand equity, which no bank wants at the moment*" he wrote. The banking institutions are afraid of being blamed for supporting communitarianism. According to Anouar Hassoune, an analyst at Moody's, the challenge consists of "*demonstrating that the Islamic finance is neither communitarian nor liable to criticize the dogma of religious neutrality*". For this expert, France should follow its British counterpart by issuing sovereign *sukuk*. In order to follow the same way, France started legal and fiscal reforms in 2009.

Though more tangible initiatives are delayed in France, it is interesting to note that, apart from some bankers' disapproval, there seems to be a relative consensus among the financial and political leaders about the necessary development of the Islamic finance. The parliamentary debates and the reports, we could read, do not consider the risk of "communitarianism" but are concerned with further technical legal points. The press seems to agree as well. How can we explain this unusual approval of a religious problem within the British and French public spaces.

This paradox raises an issue, especially as the definitions of public space enable to theorize dissensus rather than consensus. Indeed, if we follow the definition of public space theorized by Habermas<sup>13</sup> as the space "*of rational discussion on public affairs*" open to everyone and allowing the training of "*public opinion as consensus on the common good*" or the one updated by social science researchers that N.Göle described as follows: "*a space becomes a "public" space when various social groups fight over it, and when its control becomes a matter in dispute between conflicting perspectives and mental representations, especially between the secular and the religious*"<sup>14</sup>, the lack of disagreement on the Islamic finance was not expected.

We put forward that the mode of emergence of "the Islamic finance object" must be taken into account to grasp this aspect. It is indeed difficult to find press articles about some request of the British or French Muslim community for the development of the Islamic finance.

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<sup>13</sup> Cited by : Munera Luis Fernando « Quelle place dans l'espace public ? », *Projet 5/2008* (n°306), p.47-52

<sup>14</sup> Cited by : Bartolomeo Conti « L'émergence de l'Islam dans l'espace public », *Archives de sciences sociales des religions* 2/2012 (n°158), p.119-136.

During a debate on the subject at the French Senate in May 2008<sup>15</sup>, a financial analyst indeed recalled the lack of request from the Muslim consumer for this kind of product until then.

As we suggested in presenting the measures implemented in the United Kingdom and in France, the issues of the Islamic finance seem currently to be debated mainly in the elitist spheres of both countries. This entails technical discussions between experts and limits the possible field of conflict space.

As far as the press<sup>16</sup> is concerned, the background of the emergence of the Islamic finance in Europe has a lot to do with it, in our point of view. The first institutional steps taken by the European states took place in the middle of the years 2000-2010, just as the economic crisis was appearing. Yet the Islamic finance responds to the criticism about the downward slide of the finance and its lack of morality. As a result it is often presented, or at least debated, as a possible shift from the neo-liberal economy. We wonder whether the principles of the Islamic finance could have prevented the crisis, or about the capacities of this pattern to make macro-economy work.

The positive reception of the Islamic finance by the politicians and the media underlines how flexible the concepts of “*Republic*” or secularization are. The States’ leaders who claim to a republican model like France, or simply secular like the United Kingdom, do not consider the religious objects in a univocal way. When political benefits are considered more important than risks by the rulers, religious practices are not felt as opposed to the principle of the state’s neutrality towards religions. This latter point is part of Habermas’ view on secularization<sup>17</sup>: “*Secularization has less the function of a filter, which would prevent the traditional contents from going through, than that one of a transformer which changes the current coming from tradition*”.

Moreover the Islamic finance is characterized by its belonging to two spheres that do not usually cohabit, namely the world of religion and the one of liberal economy. Yet when the sociologists question the revival in the religious fact in the XX and XXI centuries, they often underline its contradiction of the image of modernity: “the Explosion is all the more

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<sup>15</sup> [www.senat.fr/rap/r07-329/r07-3291.pdf](http://www.senat.fr/rap/r07-329/r07-3291.pdf): report n°329 by the Senate on the Islamic finance, by Jean Arthuis, May 2008.

<sup>16</sup> - The references could be numerous : Article by Le Monde on 30/10/2013: La City de Londres veut devenir le pivot international de la finance islamique. [http://www.lemonde.fr/economie/article/2013/10/30/la-city-de-londres-veut-devenir-le-pivot-international-de-la-finance-islamique\\_3505319\\_3234.html?xtmc=finance\\_islamique&xtcr=15](http://www.lemonde.fr/economie/article/2013/10/30/la-city-de-londres-veut-devenir-le-pivot-international-de-la-finance-islamique_3505319_3234.html?xtmc=finance_islamique&xtcr=15)

- London can lead the world as an Islamic finance hub : <http://www.ft.com/cms/s/0/42766334-3fc2-11e3-a890-00144feabdc0.html#axzz2lhqgvNVc>

<sup>17</sup> Cited by : Göle Nilüfer « La visibilité disruptive de l’Islam dans l’espace public européen : enjeux politiques, questions théoriques », *Cahiers Sens public* 1/2013 (n+15-16), p.165-184

surprising and enigmatic that it coincides, as the global financial capitalism is being set up, with the explosive release of material interests and with unrestrained financial speculation that do not seem to reflect a high spiritual level”<sup>18</sup>. The hybridization of economy and religion within the Islamic finance enables to bear an interesting message of modernity. Thanks to the Islamic finance, the religious indeed constitutes some inspiration for the secular state: it infiltrates it and intends to transform it by amending the free-market economy.

The tensions between religion and modernity within the Islamic finance are however more complex. We have just seen that the religious could bear a message of modernity without actually any religious mark being acknowledged by the actors. It is interesting to examine the controversy about the Islamic finance within the Muslim countries so as to realize that the religious aspect of an object can be deprived of its substance, in favour of its integration into modernity. In other words, the Islamic finance does not consistently bear proposals for reforms of financial capitalism; the latter can also transform it deeply.

### **In the Muslim world: the financialization of a religious practice**

#### **The Islamic finance, a flexible concept.**

As we mentioned in the introduction, the contemporary Islamic finance emerged in the seventies. Its initial development came from the rise of the oil return at that time, but its amazing more recent growth is partly due to the September 11 events. A financial analyst of the moody’s rating agency actually maintains that *“Those two combined events provided excess liquidity in the Persian Gulf, which was successfully recycled in this area. Traditionally, the Gulf investors, either institutional or private, had been used to putting their funds on the international markets, in safe areas (Europe and North America) and through traditional asset classes as well. Yet, today, more and more people among them get interested in their region. It can be explained by both the excess liquidity at the level of supply and a hugely growing demand”*. The background of global economy in which the Islamic finance emerged is essential for the understanding of this object by the Muslim countries. As proof of it, let us highlight the great range of interpretations of the *sharia* rules governing the Islamic

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<sup>18</sup> « Qu’est-ce que le religieux », *Revue du MAUSS* 2003/2 (n°22), 448 pages



finance in these countries<sup>19</sup>. Saudi Arabia tends to be less liberal than the South East Asian countries; Sultanate of Oman prohibits the Islamic finance whereas Al-Azhar University in Egypt issued a fatwa that authorised interest rates. The States' stances on controlling the Islamic finance are besides unstable. In the eighties, the establishment of Islamic instruments as bond-type investments in Malaysia was first condemned, then copied by the Middle-East countries. Some analysts sum up the situation as follows: "*The own contradictions of the Islamic finance reveal themselves mainly in the different definitions of the notion of sharia-compliant collected among the actors of this market*"<sup>20</sup>. Some purists campaign for the Islamic finance exclusively based upon risk-and-profit-sharing. They blame today's Islamic finance for straying from the Islamic ideal of venture-risk, (today hardly 20% of the Islamic assets are granted to such instruments according to the same experts). On the contrary, the pragmatists support the development of various financial instruments, even the use of some instruments related to the concept of debt, on the condition that this variety corresponds to the customers' tangible needs and that it complies with several great principles. As far as the implementation of the Islamic finance is concerned, there are important divergences between the various Muslim countries, as well as within each Muslim country. The interpretation of the *sharia* is indeed similar to common law: it varies depending on the *sharia board*. "*This diversity is encouraged by the existence of two distinct epicentres (the Persian Gulf and South East Asia) that have both their own views of the Koranic law*" the two experts observe. The latter point leads Jaouad Jbilou<sup>21</sup>, the former marketing manager of the Moroccan Attijariwafa Bank, to declare: "*The Islamic finance looks a little like organic products: the label depends on the controls at every level of the production line*".

Just like brands, the Islamic finance is partly promoted by political and private actors who are concerned about its financial aspect. It is actually exposed to stakes which keep it away from the principles of the Koran.

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<sup>19</sup> Since the interpretation of the Koran is not submitted to an international religious authority, the Islamic finance is not either.

<sup>20</sup> Pastré olivier, Gecheva Krassimira. « La finance islamique à la croisée des chemins ». In : *Revue d'économie financière*. N°92, 2008. Les nouvelles frontières de la finance. Pp.197-213.

<sup>21</sup> « Islamic Finance Outlook 2009 », the annual report by Standard & Poor's rating agency, available on [www.gcc.standardandpoors.com/islamic\\_finance/Islamic\\_Finance\\_Outlook\\_2009.pdf](http://www.gcc.standardandpoors.com/islamic_finance/Islamic_Finance_Outlook_2009.pdf)

The Islamic finance and “the dangerous modernity”: the integration of the Islamic finance into free-market economy

As it is caught up in the global economic stakes, the Islamic finance gradually adapts itself to this background to the extent to presenting the same risks as the traditional finance.

The opponents to the Islamic finance consider that, unlike the theory, it does not forbid the interest but conceals it. The Islamic banks indeed use the rates of interest of the traditional financial markets (the Libor for instance) as a standard for the remuneration of the clients' deposits. This last point explains especially the similar earnings of the Islamic banks and their traditional counterparts revealed by empirical studies. Moreover the Islamic banks use this blurb by putting forth in their adverts that the income paid to their depositors is very like the conventional banks'.

On the other hand, as we have mentioned before, most funds supplied by the Islamic banks to their clients are based upon the *murabahah*. Yet this financial instrument can be distorted when used as a sales contract which enables a money-lender to buy a property for a debtor through an intermediary and sells it back to him at once, at an increased price, (set according to a schedule of repayments agreed beforehand). Since no minimum time interval is appointed by the *sharia* or the Islamic case law, that trade can be carried out in a period shorter than a millisecond. The critics thus underline the possibility of distorting the principles of the *sharia* to the extent of reproducing the practice of high frequency trading (HFD)<sup>22</sup> which is commonly used by the conventional speculative finance. Furthermore, the Islamic banks, because of their light economic weight, are compelled to get financing on equity markets with interests, which obliges them to seek substantial profitability in order to survive. Kaouther Jouaber reminds us that “*the Islamic financial products are, most of the time, measured by the same mathematical models as the conventional products*”, which could potentially lead the Islamic banks to trouble in case of a new systemic crisis.

Those potential deviations of the Islamic finance provoke the following comments by Cissé Blondin<sup>23</sup>: “*The promotion of the Islamic finance as a paragon of virtue, the social liability of businesses, the socially liable investments are such themes that magnetize the indecisive critical thought of the experts' works, at the expense of a sheer political reflection likely to put the finance and the banking practice to the heart of public debate and political*

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<sup>22</sup> High frequency trading consists of sending orders automatically and with high speed to financial markets thanks to complex computer programs.

<sup>23</sup> Cissé Blondin « L'espace public politique ou le lien de la construction déconstructive », Cahiers Sens public 1/2013 (n°15-16), p.69-83.

*action*". Thus, because this instrument may undergo the same deviances as the classic finance, it should not be appealed to, in today's debate, as a possible change of finance, for it does not allow to plan the slides concerning both types of finances, in consequence of the very structure of financial capitalism.

Even if we disagree with that position which refutes the moral or spiritual ambition of the Islamic finance, we acknowledge that the analysis by Cissé Blondin is yet worth illustrating its weak points when being absorbed into financial capitalism.

### **Conclusion:**

The Islamic finance is a religious object having a firm grip on political modernity. Because of its context of re-emergence, the principles it conveys, as well as its financial attraction, it arouses the great interest of European countries which try to adapt their laws so as to accept Islamic banks or their financial products. At first sight that is a surprising reaction, as far as the media and political coverage of other Islamic objects is concerned; we maintain that the advisement of the issue by the elite group for economic reasons or economic ethical standards entailed the non-constitution of a conflicting public space on the matter in France and in the United Kingdom. In particular, because the Muslim citizens are not questioned about it, or do not express themselves, the argument of a "communitarian" risk, which is often summoned up, does not emerge.

Moreover, as today's Islamic finance developed according to the Muslim countries' economic concerns, the various actors involved in this development are confronted with the challenge of incorporating this new finance into the capitalist world while preserving its ethical characteristic. The tensions about circumventing or not the principles of the Koran by various countries and the examples of alterations illustrate an interesting characteristic of this religious object: in close relationship with political modernity because of its economic aspect, the Islamic finance is confronted with the risk of getting secular, to the extent of losing its initial religious aims.

It is thus interesting to notice the new boundaries between modernity and religiosity related to this finance, in order to highlight the lack of determinism in the view on religious practices, as well as the importance of the parts played by the actors who are involved in the promotion of them.

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