

FALUS Orsolya

Associate professor, University of Dunaújváros

Honorary professor, University of Pécs*

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TUNÇ, Bilal

Full professor, Ağrı İbrahim Çeçen University**

Ibn Khaldun, a 14th-century Moorish Maliki School Judge, and his Natural Law Monetary Theory

*“[Blindly] following ancient customs and traditions does not mean
that the dead are alive, but that the living are dead”
/Ibn Khaldun/*

According to Aquinas’s theory, divinity is not absent from natural law theory, as the original creator of the world, God, must be in some sense ultimately responsible for nature and its laws. Starting with this reasoning, it can be stated that God is the source of all values, which is the predominant philosophy and theology of the Islamic world as well. An important feature of this sense of natural law thought has a straight connection to the Islamic Maslaha, which refers basically to the purpose or goal which law is to serve. Maslaha is a concept in Shariah, the traditional Islamic law. It is not equal to Shariah, but rather a notion that belongs to Fiqh as the Islamic jurisprudence. It is one of the secondary sources in Islamic jurisprudence used by some Madhhab to interpret Shariah – the general principles present in the Quran and the Sunnah – in order to set rules. The aim of the present paper is to introduce Ibn Khaldun as a representative of Maliki law school, and his natural legal theory on money, based on his opus magnum (“Al-Muqaddimah”). The research method applied is source analysis.

Keywords: natural law theory, Maslaha, Shariah, Ibn Khaldun, money

1. Introduction: natural law in Islam

It seems obvious to European legal historians that natural law is a traditional European invention and, thus, it is absent in the Islamic world.¹ Natural law theory is a label that has been applied to theories of ethics, politics, civil law, and religious morality. Some writers use this term with a broad sense that any theory that contains positive moral claims can be considered as natural law. This is the conception of moral realism.² Most of the scholars, however,

* ORCID ID: 0000-0002-8217-3065.

** ORCID ID: 0000-0001-5361-8494.

1 FALUS, Waqf as a Traditional Legal Institution for Social Responsibility according to Natural Law 87–104.

2 SAYRE-MCCORD, Essays on Moral Realism 106.

rather use it narrowly so that no moral theory that is not grounded in a very specific form of Aristotelian teleology could count as a natural law view.

Based on the history of the Christian Church in Europe, legal theorists start analysing this phenomenon from *Thomas Aquinas's* natural law doctrine. For *Aquinas*, there are two key features of natural law, of which he structures his discussion of this legal phenomenon at Question 94 of the *Prima Secundae* of the “*Summa Theologiae*.”³ The first is that, when focus is placed on *God's* role as the giver of the natural law, the natural law is just one aspect of divine providence and so the theory of natural law is from that perspective just one part among others of the theory of divine providence. The second is that, when the focus placed on the humans' role as recipients of the natural law, it constitutes the principles of practical rationality by which a human action is to be judged as reasonable or unreasonable; and so the theory of natural law is from that perspective the preeminent part of the theory of practical rationality. This argument has two central objectives. Firstly, it aims to identify the defining features of natural law through a moral theory. Secondly, it aims to identify some of the main theoretical options that natural law theorists face in formulating a precise view within the constraints set by these defining features and some of the difficulties for each of these options. In Article 4, *Aquinas* claims that “consequently, we must say that the natural law, as to general principles, is the same for all, both as to rectitude and as to knowledge.”⁴

According to *Aquinas's* theory, divinity is not absent from natural law theory, as the original creator of the world, *God*, must be in some sense ultimately responsible for nature and its laws. Starting with this reasoning, it can be stated that *God* is the source of all values, which is the predominant philosophy and theology of the Islamic world as well.⁵ An important feature of this sense of natural law thought has a straight connection to *Maslaha*, which refers basically to the purpose or goal which law is to serve. *Maslaha* is a concept in *Shariah*, the traditional Islamic law. It is not equal to *Shariah*, but rather a notion that belongs to *Fiqh* as the Islamic jurisprudence. It is one of the secondary sources in Islamic jurisprudence used by some *Madhhab*⁶ to interpret *Shariah* – the general principles present in the *Quran* and the *Sunnah* – in order to set rules. It is invoked to prohibit or allow something on the basis of whether it serves the common good or public welfare.⁷ The concept was first clearly articulated by *Abu Hamid Muhammad bin Muhammad Al-Ghazali* (1058–1111) who argued that *Maslaha* was *Allah's* general purpose in revealing the divine law, and that the specific aims of it were the preservation of the five essentials of human well-being: religion, life, intellect, offspring, and property.⁸ As *Muhammad Abdullah*

3 AQUINAS, *A Summa Theologica kérdései a jogról* 29–37.

4 Pars Prima Secundae, Question 4, Objection 3.

5 EMON, *Islamic Natural Law Theories* 10.

6 *Madhhab*: an Arabic word, literally meaning ‘way’ or ‘path’. In Sunni religious context it refers to a legal school (*Hanafi, Maliki, Shafi, Hanbali*) that provides interpretations and opinions on religious, social, and ethical issues based on Islamic teachings. Each *madhhab* is rooted in the teachings of a notable jurist or theologian and signifies an interpretative tradition that has persisted for centuries. WHEELER, Theme Issue: The Madhhab 165–167.

7 BIN SATTAM, *Shari'a and the Concept of Benefit: The Use and Function of Maslaha in Islamic Jurisprudence* 41.

8 OPWIS, *Maslaha in Contemporary Islamic Legal Theory* 186.

Enan stated⁹ *Ibn Khaldun* in his thought process experiences a unique mixture, which is between two contradictory scholars: *Al-Ghazali* and *Ibn Rushd* (Latinized as *Averroes*, 1126–1198).¹⁰

In his book “*Islamic Natural Law Theories*”¹¹ Emon focuses on the ontological authority of reason in the *Shariah*. He investigates the use of reason in establishing a rule of law alongside the source texts. He explicates the meanings of natural law as understood by pre-modern jurists and explains to what extent, in the absence of source texts, can good (*husn*) and bad (*qubh*) assume sufficient normative authority, which will result in *Shariah* obligation. Emon affirms that the use of reason in *Shariah* has been debated extensively by Muslim jurists. He analyzes the concept of good and bad from the perspectives of major Muslim scholars from different law schools of Islamic jurisprudence. There are four great *fiqh* schools of Islamic jurisprudence within Sunni practice: *Hanafi*, *Maliki*, *Shafi* and *Hanbali*.¹² The aim of the present paper is to introduce *Ibn Khaldun* as a representative of *Maliki* law school, and his natural legal theory on money.

2. Biography of Ibn Khaldun

Many scholars have started to point out the little acknowledgement that the world has given to *Ibn Khaldun* (1332–1406), one of the earliest Muslim polymath scholars.¹³ Science has considerable information about his life, thanks to his surviving autobiography, “*al-Tarif bi-ibn Khaldun wa-Rihlatih Gharban wa-Sharqan*” (Eng: “*Presenting Ibn Khaldun and his Journey West and East*”).¹⁴ *Ibn Khaldun* was born in Tunisia on May 27, 1332 in an upper-class family with the original name of *Abu Zayd Abd al-Rahman Ibn Khaldun*. His ancestors were Yemeni Arabs, from Hadhramout, Yemen, who had settled in Spain under the rule of Caliphate of Cordoba (751–1031) in the eighth century before they moved to Tunis following the fall of Seville. His father was a jurist: a *fiqh* scholar.¹⁵

9 ENAN, *Ibnu Khaldun: His Life and Work* 7.

10 *Ibn Rushd*: Andalusian polymath and jurist, Maliki judge, after Latinized as *Averroes*. More: AVERROES, *The Philosophy and Theology of Averroes*.

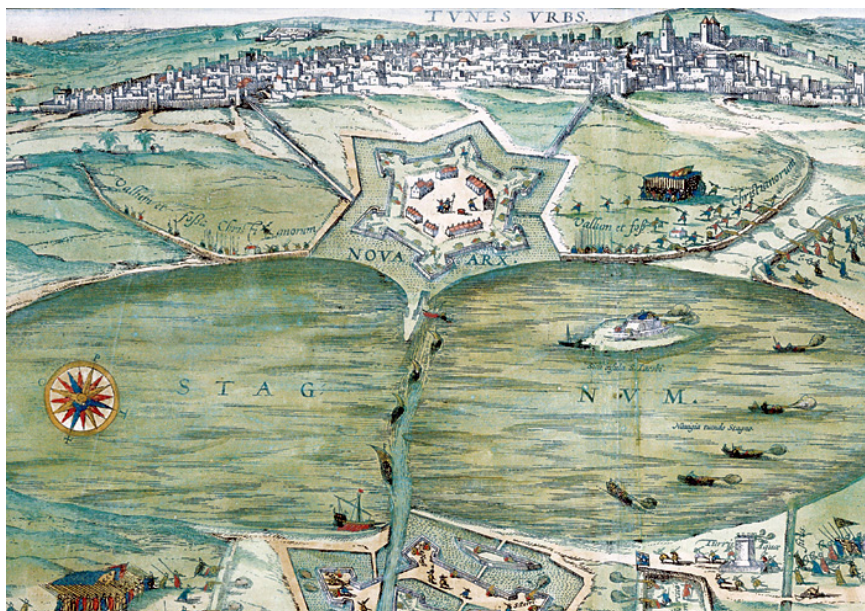
11 EMON, *Islamic Natural Law Theories* 10.

12 These schools of *fiqh* are called *Madhhabs* (see also 6). They developed in the 2nd and 3rd centuries of Islam. It is, however, not obligatory to strict to only one school of Islamic jurisprudence. Some Islamic nations choose one of the schools to follow, but other nations may follow a mixed methodology of them. This means that different nations may follow different schools of jurisprudence, but all of the four schools are respected by all Muslim communities. The science of these religious laws is called *fiqah* and the expert in this field such as a jurist is called a *faqih* (plural: *fuqaha*). The Sunni Islam gives this right of *Ijtihad*, as independent reasoning to only four ancient Muslim theologians and jurists who lived in the first three centuries of Islam. These four fuqaha are: *Imam Abu Hanifa* of Kufa (established the *Hanafi* law school), *Imam Malik bin Anas* of Medinah (established the *Maliki* law school), *Imam Muhammad al-Shafi* of Medinah (established the *Shafi* law school), and *Imam Ahmad bin Hanbal* of Baghdad (established the *Hanbali* law school). WEERAMANTRY, *Islamic Jurisprudence – An International Perspective* 49.

13 RIZKIAH – CHACHI, *The Relevance of Ibn Khaldun’s Economic Thought in the Contemporary World* 70–90.

14 KHALDUN, *His Life and Work*.

15 KHALDUN, *His Life and Work* 4–6; HERNAWAN, *Ibn Khaldun Thought: A review of al-Muqaddimah Book*.



Picture 1: View of Tunis where *Ibn Khaldun* was born in 1332 in *Civitates orbis terrarum*, the world atlas of cities edited by the German geographer *Georg Braun* (1541–1622) (vol. 2 published in 1574).¹⁶

Ibn Khaldun studied and memorized the *Quran* and the *Hadiths*¹⁷ and he also learnt and contributed to the understanding and development of Islamic jurisprudence, Arabic literature, Philosophy, and Mathematics. In 1349 both of his parents died in Black Death (bubonic plague pandemic). *Ibn Khaldun* moved to Morocco in 1354 in order to complete his higher education in Arabic Linguistics, *Maliki Fiqh*, Philosophy, Politics and Economy.¹⁸

¹⁶ The atlas contains 546 prospects and maps of cities from all around the world. The image of Tunis is a bird's eye view looking down from the north, with the city, its waterways and fortifications clearly laid out below. The image shows the siege of Tunis by the Turks in 1574, which ended with the Spanish forced out of Tunis, which then became Turkish regency. GHAZI, *Ibn Khaldun's Theory of Taxation and its Relevance Today*.

¹⁷ *Hadith*: literature consists of verbal traditions relating Prophet *Muhammad*'s words and actions. As a source of Islamic theology, law, and ethics, the *Hadith* is considered second to the *Quran*, because *Hadith* collections were compiled after the Prophet's death, beginning in the 2nd century. FALUS, *The Legal Institutions of Charity in the Traditional Islamic Law* 24.

¹⁸ KHALDUN, *His Life and Work* 9–11; HERNAWAN, *Ibn Khaldun Thought: A review of al-Muqaddimah* Book 175.



Picture 2: Dome of El Koubba Mosque, Tunis; where *Ibn Khaldun* studied¹⁹

At 20 he got involved in politics, and was appointed a secretary (*amin al-sirr*; literally: *repository of secrets*) of *Sultan Amir Abu Abdullah Muhammad*. He, however, soon lost his position, and thereafter got arrested and imprisoned as in 1357 he was involved in a political conspiracy to overthrow the emperor. In the same year, after the former sultan died, *Ibn Khaldun* was again appointed the secretary of *Al-Mansur*, the new sultan, and then *Abu Salim*, the next to succeed the throne placed him in the same position. After two years *Ibn Khaldun* was appointed as a judge to the Supreme Court where he began to show exceptional achievement.²⁰

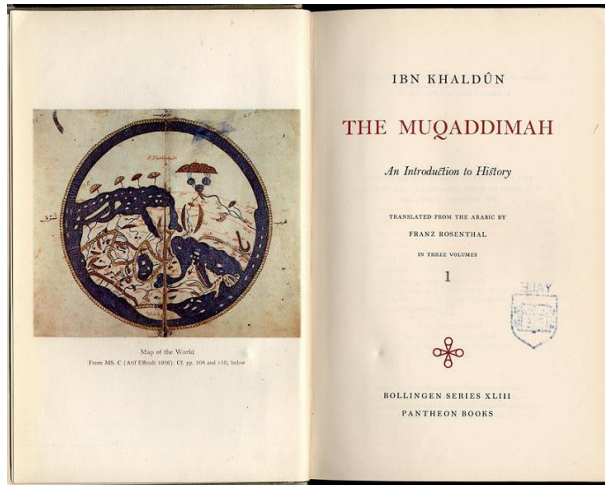
In 1377, tired of the constant political battles, he decided to retire and dedicate his life to science: he started to compose his magnum opus, “*Al-Muqaddimah*” (introduction; prolegomenon).²¹ The work had been completed in five months however *Khaldun* continued to ‘polish’ it until shortly before his death.²²

19 LACOSTE, *Ibn Khaldun and The Myth of “Arab Invasion”*.

20 KHALDUN, *The Muqaddimah: An Introduction to History* 20–28; HERNAWAN, *Ibn Khaldun Thought: A review of al-Muqaddimah Book 175–176*.

21 KHALDUN, *The Muqaddimah: An Introduction to History*; KHALDUN, *Bevezetés a történelembe*.

22 KHALDUN, *The Muqaddimah: An Introduction to History* 58–59.



Picture 3: Frontispiece of the English translation from Arabic of “*The Muqaddima. An Introduction to History*” of Ibn Khaldun in 3 volumes by Franz Rosenthal (New York 1958).²³

In 1382 he moved to Egypt where he was greeted warmly, and was immediately given two important positions: a high court judge and a professor at Al-Azhar University.²⁴



Picture 4: Autograph of Ibn Khaldun (upper left corner) on a manuscript of the “*Muqaddimah*” from MS. C (Atif Effendi 1936).²⁵

23 HOZIEN, Ibn Khaldun: His Life and Works.

24 KHALDUN, *The Muqaddimah: An Introduction to History* 69–80.

25 HOZIEN, Ibn Khaldun: His Life and Works.

In the same period, a family tragedy befell him: the ship carrying his wife, daughters and the family's personal belongings got caught in a storm and sank, and the passengers on the ship were lost in the sea. *Ibn Khaldun* requested and received permission to perform the *Hajj* in 1388.²⁶

During his stay in Egypt, Mamluk Sultan *Faraj* (r. 1399–1405) asked him to accompany him on his expedition to Damascus where in 1401 he met *Timur* (*Tamerlane*, *Timur Lenk*, *Timur the Lame*, *Emir Timur* or *Tamerbeg*, 1336–1405), a Turco-Mongolian conqueror in the 14th century who is regarded as one of history's greatest military leaders and strategists.²⁷ The rise of the Mongol empire was a shock to the Arab world. *Ibn Khaldun* also discussed the Mongols' rise and their conquests in his works. As a nomadic people they challenged and defeated sedentary populations and founded their own dynasties. Consequently, the Mongol conquests perfectly fit *Ibn Khaldun's* theories on *asabiyya*²⁸ which is superior in nomadic groups and the rise and fall of dynasties. For *Ibn Khaldun* the rise of the Mongols was a natural step in the course of history. This consequently colours his view of the Mongols and affects the way he portrays them, especially regarding the themes of violence and religion and in his depiction of the Turco-Mongolian conqueror *Timur Lenk* in a more favourable light as opposed to other historians of the time.²⁹

Although his tribe, the *Barlas* – descended from the Mongol *Barulus* tribe – was mostly still nomadic, *Timur* was well integrated in the dominant, Turco-Mongolian culture of fourteenth-century Central Asia: *Transoxania*. This culture's religion had been converted to Islam by that time, and the main language became Turkic, however, *Timur's* ideology was originally Mongolian, which made him equipped to deal with both nomadic and settled populations.³⁰ A lot had changed since the time of *Genghis Khan*, but in it's view they still possessed Mongolian characteristics: “*In Turkestan and Bukhara in Transoxania (mā warā' al-nahr) appeared an amir called Timur in a group of Mongols (mughul) and Tatars (tatar).*”³¹ *He and his people trace their ancestry to Chaghatai*” (1183–1242).³²

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- 26 *Hajj*: pilgrimage to Mecca as one of the 5 pillars of Islam. FALUS, *The Legal Institutions of Charity in the Traditional Islamic Law* 23; HAYEEHARASAH – SEHVISES – ROPHA, *The Timeline of Zakah* 3.
- 27 KHALDUN, *The Muqaddimah: An Introduction to History* 90–95, 172; MELVILLE, *Visualising Timur: History and its Image* 83–106.
- 28 *Asabiyya*: Arabic word meaning originally ‘spirit of kinship’ in the family or tribe. For *Ibn Khaldun* it is the fundamental bond of human society and the basic motive force of history, a kind of a social cohesion. It was translated by *Rosenthal* as ‘group spirit’. KHALDUN, *The Muqaddimah: An Introduction to History* 72, 185–186.
- 29 SIMON, *Ibn Khaldun: History as Science and the Patrimonial Empire*.
- 30 FORBES MANZ, *The Rise and Rule of Timur* 1–3.
- 31 The expression *mughul* referred to ethnically Mongol people, whilst *tatar* referred to people who had become Mongol politically. In “*Al-tarif*”, *Ibn Khaldun* also refers to *Timur* and his troops as *mughul* numerous times, including when he writes: “*Al-Malik al-Zāhir (...) went out with his Turkish troops in order to try and defeat the Mongols (mughul) and their king Timur*” (IBN KHALDUN, *Al-tarif* 365). We also find them as *al-tatar* in numerous places (e.g. IBN KHALDUN, *Al-tarif* 366, 380, 381, 382). See also: MORGAN, *The Mongols* 57.
- 32 The second son of *Genghis Khan* and *Börte*. He was appointed by *Genghis Khan* to oversee the execution of the *Yassa*, the written code of law. FORBES MANZ, *The Rise and Rule of Timur* 1–3.



Picture 5: An illustration by *Rembrandt* depicting renowned historian and philosopher *Ibn Khaldun* pleading with *Tamerlane* to halt any attacks targeting the city and people of Damascus (Louvre / Bridgeman Art Library)³³

The sultan of Egypt only stayed in Damascus for two weeks because he received news that a rebellion was brewing in Cairo during his absence. *Ibn Khaldun* and a few other nobles remained in the besieged city. A judge named *Ibn Muflih* went to negotiate with *Timur* first, however, when he returned to the city, the citizens of Damascus did not accept *Timur's* terms. *Ibn Khaldun* thought it was his duty to negotiate with the general, so he traveled to *Timur's* camp. He brought gifts to *Timur*, which were well received by the ruler. *Ibn Khaldun* spent a total of 35 days in the camp. He made such a deep impression on *Timur* that he invited him to join his own court. *Ibn Khaldun* and *Timur* reached an agreement that was acceptable to the people of Damascus. After the negotiations in Damascus, *Ibn Khaldun* returned to Egypt, where he regained his position as Maliki judge. The political balance of power among the judges was so volatile that in a five-year period, *Ibn Khaldun* was removed and reinstated three times. He died on March 17, 1406 at the age of 76 years. He was buried in the Sufi cemetery Babul Nasr in Cairo.³⁴

Ibn Khaldun lived during one of the weakest periods of the Muslim civilization. The Islamic Caliphate was continuously declining after the attack of the Mongols and the Crusaders. On the other hand, with the start of the Renaissance in the 14th century, the European civilization was on the rise. This was a time of a great revolution in almost all dimensions in Europe. In the 14th century, *Ibn Khaldun* arranged a general theory of computation political and social development over the centuries. He is seen as the only Muslim historian who suggested social and economic reasons for history change.³⁵

33 STONE, Arab and Islamic cultures and connections. *Ibn Khaldun and the Rise and fall of Empires* 28–39.

34 KHALDUN, Bevezetés a történelembe 61–62.

35 IRWIN, *Ibn Khaldun: An Intellectual Biography* 181.

3. Ibn Khaldun's monetary theory

Ibn Khaldun's most referred book, “*Al-Muqaddimah*”, is just the introduction to his voluminous work of seven chapters. Regarding the description of the mint, in Chapter 3³⁶ *Khaldun* developed a theory of money based on natural law, which was able to influence legal - financial science over centuries to this day.

Khaldun claimed that money was a tool to meet human needs. Since ancient civilization, coins had become a regular means of payment. Even if the size of a nation's wealth is not determined by the amount of money it has, the economic size of the value of goods and services is necessary for humans if it wishes to trade it. The measurement of this value must have a certain number of qualities. This measure must be accepted by all parties as a legal tender and its publication must be free of all subjective influences. In the eyes of *Ibn Khaldun*, two metals which in this case gold and silver are a measure of value as he lived in an age where the currency had become an instrument of appreciation. At that time he had discussed the possibility that would occur about the next position of the currency. He was the first to present the major functions of money as: a measure of value; a store of value; and the medium of exchange in the market.³⁷

The wealth of a country is not determined by the amount of money, but wealth is determined by the level of productivity and a positive balance of payments. According to *Ibn Khaldun*, a country rich in money should show the rapid growth of the production sector, so the level of production is the reference and determinant of a country's wealth.³⁸ According to him mint (*Sikkah*), as the printing of money included the duties of the Caliph, the ruler: “*The office of the mint is concerned with the coins used by Muslims in (commercial) transactions, with guarding against possible falsification or substandard quality (clipping) when the number of coins (and not the weight of their metal) is used in transactions, and with all else relating to (monetary matters). Further, the office is concerned with putting the ruler's mark upon the coins, thus indicating their good quality and purity. The mark is impressed upon the coins with an iron seal that is especially used for the purpose and that has special designs (legends) on it. It is placed upon the dinar and the dirham after their proper weight has been established, and is then beaten with a hammer until the designs have been impressed upon the coin. This then indicates the good quality of the coin according to the best methods of melting and purification customary among the inhabitants of a particular region under the ruling dynasty.*”³⁹

Ibn Khaldun also said that money is what determines the level of prosperity. Therefore, protected prosperity is the result carried out by money in countries that can affect the acceleration of money circulation and increase trade transactions and so on increase the amount of money in circulation. *Ibn Khaldun* also believed that the currency of an Islamic monetary system should have intrinsic value and therefore be made of gold and silver (such as the dirham). He emphasized that the weight and purity of these coins should be strictly followed: the weight of one dinar should be one *mithqal* (the weight of 72 grains of barley, roughly 4.25 grams) and the weight of 7 dinars should be equal to the weight of 10 dirhams (7/10 of a *mithqal* or 2.96 grams).⁴⁰

36 KHALDUN, *The Muqaddimah: An Introduction to History* 285–286.

37 RACHMAWATI – AWALIA – MIFTAHUDDIN, *Money and It's Function According to Al-Ghazali's and Ibn Khaldun's Thought (Comparative Study)* 41–57.

38 RACHMAWATI – AWALIA – MIFTAHUDDIN, *Money and It's Function According to Al-Ghazali's and Ibn Khaldun's Thought (Comparative Study)* 50.

39 KHALDUN, *The Muqaddimah: An Introduction to History* 285.

40 KHALDUN, *The Muqaddimah: An Introduction to History* 286.

According to *Khaldun* thus gold and silver are considered as a monetary standard. Further, money can only be issued (minted) by the ruler, and the quantity of gold or silver in currency coins should not be changed once they are issued. This is to be sustained to maintain the standard of the money: “(The metal standard) is not something rigidly fixed but depends upon independent judgment. Once the inhabitants of a particular part or region have decided upon a standard of purity, they hold to it and call it the ‘guide’ or ‘standard’. They use it to test their coins. If they are substandard, they are bad.”⁴¹

He was also strongly against the falsification of money and any policies that attempt to fiddle with the value of currency, otherwise people will lose their confidence in it. The price of gold and silver is said to be relatively constant and not subject to frequent market fluctuations, thus, gold and silver money is seen not only as a medium of exchange but also as a store of value. This conception is natural law, as it corresponds to *Allah’s* presumed intention (*Maslaha*).



Picture 6: The imaginary portrait of *Ibn Khaldun* in a Tunisian 10 Dinar banknote⁴²

Although *Ibn Khaldun* mentioned that the government may regulate the market in some rare circumstances to uphold the justice, he did not specify to what extent and in what form the government may do this: “Supervision of all these things is the duty of the holder of the office (of the mint). In this respect, it is a religious office and falls under the caliphate. It used to belong to the general jurisdiction of the judge but now has become a separate office, as is the case with that of market supervision.”⁴³

41 KHALDUN, *The Muqaddimah: An Introduction to History* 285–286.

42 GHAZI, *Ibn Khaldun’s Theory of Taxation and its Relevance Today*.

43 KHALDUN, *The Muqaddimah: An Introduction to History* 286.

4. Conclusion

According to *Ibn Khaldun* money is not a real form of wealth but a vehicle through which it can be acquired. He emphasized the use of gold and silver as a currency which has long been replaced with *Fiat Money*⁴⁴ made legal tender by an act or a government decree as opposed to commodity money which is created from precious metals. *Ibn Khaldun* might not have thought about this government issued currency when he wrote “*Al-Muqaddimah*”, hence, most of his points are only relevant for gold and silver money. Since the great economic crisis of 2008, we have known how dangerous speculative, unsecured *Fiat Money* and the global speculation that commercial banks carry out with these currencies are. It is clear that a financial regulation that does not allow speculation, where the value of money is materially guaranteed by itself, induces a high degree of contractual confidence and a prosperous economy. In such a financial law, money is included as a mediator, a catalyst of the economy, and not as a means of speculation. From this point of view, *Ibn Khaldun*’s theory of money is definitely a natural law approach – an advanced model of its time. It is therefore understandable why the French scholar *Lacoste* considered him “*like a jewel in the midst of medieval Muslim culture*.”⁴⁵

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44 *Fiat Money*: it has no intrinsic value; all kinds of money that are made legal tender by a government decree as opposed to commodity money which is created from precious metals such as gold and silver.

SELGIN, *On Ensuring the Acceptability of a New Fiat Money* 808–826.

45 LACOSTE, *Ibn Khaldun: the birth of history and the past of the Third World* 194.

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