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Ibn Khaldun (1332–1406): A Precursor of Intercivilizational Discourse

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Abstract

This article shows how the political, historical, sociological, and economic narrative of Ibn Khaldun influenced the conjunction of elements that were essential to the civilizing language promoted by European and American liberals in the nineteenth and twentieth centuries. The 'standard of civilization' has experienced a revival among critical legal scholars. These authors have reconstructed a historical process of 'rise, fall, and rise' of the 'standard of civilization', identifying its reappearance in an era of globalization and global governance with the current existence of a (neo-)colonial paradigm in international law and a (neo-)liberal global economy. This study is divided into three parts intended to examine in depth the precursory role of this Islamic thinker in the shaping of civilizing language. The first part examines Ibn Khaldun's life as a way of understanding his thinking on civilization. The second part explores the influence of Ibn Khaldun's work on the discourse surrounding the standard of civilization, by reintroducing the interpretation of Rafael Altamira (1866–1951). The third starts with Ibn Khaldun's writings on economic science and Joseph Spengler's (1902–1991) approach to his works. Several Islamic economic institutions and their influence on the state and concept of international society are examined. The revival of Ibn Khaldun's thinking is partly intended to fill an existing gap in the studies of medieval Islamic theorists. By examining his ideas about the socio-political and economic viability of a dynasty (or a civilization or a state), this article attempts to shed light on the intercultural origins of international law.

Key words

civilizational discourse; economics; law; nation-state; socio-history

Abd-ar-Rahman Ibn Muhammad Ibn Khaldun al-Hadrami of Tunis … an Arabic Genius who achieved in a single "acquiescence" of less than four years' length, out of a fifty-four years' span of adult working life, a life-work in the shape of a piece of literature which can bear comparison with the work of Thucydides or the work of a Machiavelli for both breadth and profundity of vision as well as for sheer intellectual power … in the Prolegomena (*Muqaddamat*) to his *Universal History* he has conceived and formulated a philosophy of history which is undoubtedly the greatest work of its kind that has ever yet been created by any mind in any time or place. (Arnold J. Toynbee, *A Study of History* (1955) Vol. III, 321–2.)

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1. INTRODUCTION

This study attempts to shed light on one of the central ideas in the early years of international law: intercultural origins.[1] The aim is to explore the precursory role of Ibn Khaldun's (1332–1406) thinking on the interdependence and continuing interaction of legal, economic, sociological, and political imperatives of civilization discourse.[2]

Ibn Khaldun was one of the most influential Muslim legal, economic, and political theorists of the fourteenth and fifteenth centuries.[3] He wrote two important works, the *Muqaddimah*, as a *Prolegomenon* to his *Kitab al-Ibar*,[4] and the *History of the Berbers*.[5] The *Muqaddimah (Prolegomena to History)* is a significant reference work for legal, economic, historical, and sociological research, focusing on the histories of North Africa and Spain. These histories gave the writer the opportunity to illustrate his theory of cultural fluctuations, which led peoples living a sedentary life to a nomadic life, and vice versa. This theory of fluctuations (or cycles) focuses on political-economic movements. In fact, he made a great contribution to the progress of western thought with his theory of history as a logical progression of events, which follow each other in understandable ways.[6]

The dawn of the twenty-first century has seen a revival of the discourse of civilization among critical legal scholars. These authors have reconstructed a historical process of 'rise, fall, and rise' of the 'standard of civilization', connecting its revival with the current existence of a (neo-)colonial paradigm in international law in an era of globalization and global governance.[7] Most of them consider that the various actors in the international community are using international law to impose a

1 On the intercultural origins of international law, see A. Rechid, 'L'Islam et le droit des gens', 60 *Recueil de Cours de l'Academie de la Haye* (1937), at 371–50; D. F. R. Pohl, *Islam und Friedenvolkerrechtsordnung* (1988); H. Kruse, Islamisches Völkerrecht (1979); M. Khadduri, *The Islamic Law of Nations. Shaybani's Siyar* (1996), at 8; R. Lohlker, *Islamisches Völkerrecht: Studien am Beispiel Granadas* (2006), at 188, and J. Allain, 'Acculturation through the Middle Ages: The Islamic Law of Nations and its Place in the History of International Law', in A. Orakhelashvill (ed.), *Research Handbook on the Theory and History of International Law* (2011), at 394–407.

2 See the thesis of G. Schwarzenberger, 'The Standard of Civilization in International Law', in *Current Legal Problems* (1955), at 212.

3 M. Mahdi, *Ibn Khaldun's Philosophy of History: A Study in the Philosophic Foundation of the Science of Culture* (1957), at 17.

4 The accessible, translated editions of Ibn Khaldun's text that were used for the article are Ibn Khaldun (Muqaddima) *Prolégomènes d'Ibn Khaldoun.* Translated from the Arabic by E. Quatrenére. *Notices et extraits des manuscrits de la Bibliographie Impériale* (1858), Vols. XVI–XVIII; *Prolegomenos historiques d'Ibn Khaldoun. Notices et extraits des manuscrits de la Biblioteque Impériale.* Translated from the Arabic by M. de Slane Vols. XIX–XXI (1862–1868); Ibn-Khaldun, Abd-ar-Rahman Ibn-Muhammad, *The Muqaddimah. An Introduction to History.* Translated from the Arabic by F. Rosenthal, 3 Vols. (1958); *An Arab Philosophy of History: Selections from the Prolegomena of Ibn Khaldun of Tunis (1332–1406).* Translated and arranged from Arabic by Ch. Issawi (1950), and *Ibn Khaldoun. Discours sur l'Histoire Universelle (al-Muqaddima).* Translated from the Arabic by V. Monteil (1967).

5 I. Khaldun, *Histoire des Berbères et des dynasties musulmanes de l'Afrique septentrionale*, Translated from the Arabic by M. de Slane, (1847–1851).

6 Of course, history existed before Ibn Khaldun in the sense of a written record of past events. Ancient writers such as Tacitus and Thucydides became famous for their historical accounts. It is also true that a sense of history as having a purpose existed before Ibn Khaldun. In fact, it is one of the basic premises of Christianity. See I. Khaldoun, *Le voyage d'Occident et d'Orient. Autobiographie*, présenté et traduite de l'arabe by A. Cheddadi (1980), at 17.

7 Among others, see D. P. Fidler, 'The Return of the Standard of Civilization', (2001) *Chicago Journal of International Law*, at 140, 149.

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(neo-)liberal, globalized civilization on the world.[8] The writers in the Third World Approaches to International Law (TWAIL) have found a continuity linking the doctrines deployed to legitimate Western colonialism and the (neo-)colonial concepts developed after the Second World War.[9]

Globalization has revealed the shortcomings of states when confronting new political dynamics and global economics.[10] When attempting to explain the phenomenon of globalization, international lawyers trawl through history in an effort to find answers to present-day problems.[11] The core elements of both political and economic activity (such as money, taxation, and supply and demand, among others) are legal institutions. The history of political and economic life is, therefore, also a history of institutions and laws;[12] the law creates the actors, places them in structures and helps set the terms for their interaction. In this framework, the revival of Ibn Khaldun's economic, political, and legal thinking could contribute to an understanding of the intercultural origins of international law.[13] At the same time, this thinking embedded the central (Western) and peripheral (non-Western) patterns of dynamic inequality in global political and economic society.

Medieval international law is considered to be of increasing intellectual relevance for issues such as global law,[14] legal pluralism[15], and multilevel governance.[16] The rise of non-state actors, particularly corporations, and the role of non-state law (informal law) in the system of global governance has fostered a medieval revival in international law.[17] In an attempt to explain this situation, authors such as H. Bull have found similarities between global society today and the feudal community of the Middle Ages.[18] Other authors such as J. Friedrichs have considered the fate of globalization using the discourse of the (neo-)medieval renaissance to explain the

8 See the works of G. Schröder, *Progressive Government for the 21st Century* (2002), and J. Braithwaite, *Regulatory Capitalism: How it Works, Ideas for Making it Work Better* (2008).

9 See the interesting response to A. Becker Lorca, 'Universal International Law: Nineteenth Century Histories of Imposition and Appropriation', (2010) 51 *Harvard International Law Journal*, at 475, by G. Gozzi, 'The Particularistic Universalism of International Law in the Nineteenth Century', (2010) 52 *Harvard International Law Journal*, at 86.

10 Considering international law as a terrain for political and economic struggle rather than as a normative substitute for political choice, see D. Kennedy, 'Law and the Political Economy of the World', (2013) 26 LJIL 7–48.

11 See M. Koskenniemi, 'Why History of International Law Today', (2004) 4 *Rechtsgeschichte* 61, or M. Craven, M. Fitzmaurice, and M. Vogiatzi, (eds.) *Time, History and International Law* (2007).

12 The treatment of legal history in Western Europe is enlightening; see R. Lesaffer, *European Legal History. A Cultural and Political Perspective* (2009).

13 See C. Focarelli, *Introduzione storica al diritto internazionale* (2012). Also, see the classical approach of B. Paradisi, Civitas Maxima. *Studi del diritto internazionale* (1974), 2 Vols.

14 One of the most interesting studies on the problem is the article of D. Kennedy, 'The Mystery of Global Governance', (2008) 34 *Ohio N.U.L.* 827–60.

15 See C. G. Weeramantry, *Universalising International Law* (2004), and M. Vec, 'Universalization, Particularization, and Discrimination – European Perspectives on a Cultural History of 19th century International Law', (2012) 2 *InterDisciplines* 81.

16 M. Gary, L. Hooghe, and K. Blank, 'European Integration from the1980s: State-Centric v. Multi-Level Governance', (1996) 27 *Journal of Common Market Studies* 63–84, and I. Pernice, 'The Treaty of Lisbon: Multilevel Constitutionalism in Action', (2009) 15 *The Columbia Journal of European Law* 349, at 349–407.

17 See M. Kitzinger, 'From the Late Middle Ages to the Peace of Westphalia', in B. Fassbender, and A. Peters (eds.), *The Oxford Handbook of the History of International Law* (2012), 607–27.

18 At the end of 1970s, H. Bull wrote that it was possible 'that sovereign states might disappear and be replaced not by a World government but by a modern and secular equivalent of the kind of universal political organization that existed in Western Christendom in the Middle Ages … its central characteristic: a system

model of the (neo-)liberal global economy supported by international organizations and institutions dominated by western powers and private global interests.[19]

In addition, the interest in medieval international law has been influenced by post-colonial scholarship in international law.[20] Legal scholars have returned to the work of the classical Spanish writers of the School of Salamanca,[21] addressing the colonial origins of international law[22] and making analogies with the political organization of the Middle Ages.[23]

The aim of this study is to explore the medieval Islamic origin of a political, economic, and legal language linked to the 'standard of civilization' through a historiographical study of the work of Ibn Khaldun.[24] The relations between Islam and Christianity were strong in his day, especially in the field of commerce, trade, and diplomacy.[25] At that time, the law of 'intercultural' peoples emerged[26] and frequent contact gave rise to reciprocal influences between the two worlds, and not only in the area of the law.[27] This study is undoubtedly a formidable undertaking, not without its risks, for a sensitive internationalist interested in the legal, political, cultural, and economic concept of the state, as well as in the origins and critique of international law and its history.[28]

It is not the aim of this article to undertake an exhaustive analysis of the work of Ibn Khaldun, nor of the Islamic legal system, nor of international law in the Late Middle Ages, which lie beyond the scope of this study. The intention is to

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of overlapping authority and multiple loyalty', H. Bull, *The Anarchical Society: A Study of Order in World Politics* (1977), at 254.

19 Jorge Friedrichs wrote:

> (n)ot only does the retreat of the state create a demand for some surrogate to political government, but the advent of global civil society also creates the possibility of transnational co-ordination to perform as substitute for inter-governmental regulation. The promise of global governance is that world society is in a position to fill the regulative gap created by economic globalization and the concomitant retreat of the state.

See J. Friedrichs, 'The Neomedieval Renaissance: Global Governance and International Law in the Middle Age', in L. G. Dekker and W. G. Werner (eds.), *Governance and International Legal Theory* (2004), at 13.

20 See V. Prashad, *The Darker Nations: A People's History of the Third World* (2008).

21 See, e.g., P. Haggenmacher, 'La place de Francisco de Vitoria parmi les fondateurs du droit international', in A. Truyol y Serra et al., *Actualité de la pensé juridique de Francisco de Vitoria* (1988), at 29.

22 See A. Anghie, *Imperialism, Sovereignty and the Making of International Law* (2005); and M. Koskenniemi, 'Empire and International Law: The Real Spanish Contribution', (2011) 61 *University of Toronto Law Journal* 3.

23 See J. Canning, *The Political Thought of Baldus de Ubaldis, Cambridge Studies in Medieval Life and Thought*, (1987); and the classical work of O. von Gierke, *Political Theories of the Middle Ages* (1900).

24 On a classical approach to the history of muslim historiography, see F. Rosenthal, *A History of Muslim Historiography* (1952), at 558. On the historiographical revival of medieval Islamic law see the work of J. Allain, *supra* note 1, at 395–7.

25 About the Christian-Muslim relations in a historical perspective, see C. G. Weeramantry, *supra* note 15, at 24; A. B. Labeeb, 'Islamic Diplomacy: Views of the Classical Jurists', in M. L. Frick, (ed.), *Islam and International Law* (2013), at 127 et seq., and Th. David and A. Mallet, (eds.) with J. P. Monferrer Sala, J. Pahlitzsch, M. Swanson, H. Teule, and J. Tolan, *Christian-Muslim Relations. A Bibliographical History*, 5 Vols. (2009–2013).

26 See T. Roeder, 'Traditional Islamic Approaches to Public International Law. Historic Concepts, Modern Implications', (2012) 77 *ZaöRV*, at 521.

27 See, A. Truyol y Serra, *Histoire du droit international public* (1995), at 89. Spanish version, *Historia del Derecho internacional* (1998). See also, R. S. Darbishire, 'The Philosophical Rapprochement of Christendom and Islam in Accordance with Ibn Khaldun's Scientific Criticism', (1940) 30(3) *The Moslem Word* 226–35.

28 On the necessity to re-conceptualize the history of international law for it to reflect a greater sensitivity for the trans-civilizational aspects, see Y. Onuma, 'When was the Law of International Society Born? An Inquiry of the History of International Law from an Intercivilizational Perspective', (2000) 2 *Journal of the History of International Law* 1–66.

show how the legal, political, historical, sociological, and economic narrative of Ibn Khaldun influenced the conjunction of elements that were essential to the civilizing language promoted by European and American liberals in the nineteenth and twentieth centuries.[29]

My argument is organized into three parts. The first part examines Ibn Khaldun's life as a way of understanding his thinking on the rise and fall of civilization. Although Ibn Khaldun's legacy has remained obscure to many students of international law, he is a critical protagonist in the universal expansion of international law as part of the progress of the 'standard of civilization'.[30]

The second part explores the influence of Ibn Khaldun's work on the discourse surrounding the 'standard of civilization', by reintroducing the interpretation of Rafael Altamira (1866–1951).[31] The significance of the tripartite classification of J. Lorimer (civilized, barbaric, and savage) was shaped under the influence of the positivization of the doctrine of the 'standard of civilization' during the era of imperialism and liberalism. This rise was related to a law designed to meet both the needs of industrial and capitalist pioneering investors, and the needs of absolute sovereignty in European legal expansion. This rise of the 'standard of civilization' coincided with a positivist stage crushing rationalist natural law in the nineteenth century and the parallel decline of the influence of international law on the relationship between Christianity and natural law.

The third section starts with the contribution of Ibn Khaldun to the study of economic science and its reception into civilizing language according to the approach of Joseph Spengler (1902–1991).[32] Ibn Khaldun's theory has the empirical and theoretical power to not only explain the consequences of government policies on production and trade, investment, and specialization, but to also predict the survival of civilization. In this section we examine several Islamic economic institutions and their influence on the state and concept of international law.[33]

The study ends with reflections on the precursory role of this Islamic thinker in interdependence and the continuing interaction of economic, sociological, and political imperatives in the rise and fall of civilizations.

2. Universal theorist in medieval Islam

Ibn Khaldun was born on 27 May 1332 in the city of Tunis. His family, originally Yemenite Arabs, had fled there a few years previously from Seville to escape the Christian Reconquest of Spain, but soon gained power and prominence within the

29 See the thesis of G. W. Gong, *The Standard of Civilization in International Society* (1984).

30 As was pointed out by T. Skouteris, *The Notion of Progress in International Law Discourse* (2010).

31 Altamira was a Spanish law historian and international Judge at the Permanent Court of International Justice. See on Altamira's life and work the article written by Y. Gamarra, 'Rafael Altamira y Crevea (1866–1951). The International Judge as "Gentle Civilizer"', (2012) 1 *The Journal of the History of International Law*, at 1–49.

32 Spengler was an American economist and historian of economic thought. See I. Sorel, 'Joseph J. Spengler: The Institutionalist Approach to the History of Economics', (1983) 1 *Research in the History of Economic Thought and Methodology* 243–70.

33 See M. Boisard, 'On the Probable Influence of Islam on Western Public and International Law', (1980) 11 *International Journal of Middle East Studies* 432.

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Hasfid government. He was well educated in the educational fundamentals of the Quran, Arabic poetry, Muslim law, and Aristotelian philosophy and physics.[34]

Political instability and a constantly shifting balance of power had a great effect on Ibn Khaldun's legal thinking about the discourse of civilizations.[35] After three years in Fez, he experienced the first of many stretches of imprisonment. He remained incarcerated for more than a year and a half until the reigning Sultan died and his heir had many political prisoners released. However, the Hafsids were again becoming powerful in the region and remembered the desertion of the young Ibn Khaldun. In order to escape the situation, he moved to Granada (the last Muslim Kingdom in the Iberian Peninsula).[36]

In 1362, Ibn Khaldun headed a delegation to draw up a peace treaty between the Sultan of Granada and the Christian Kingdom of Castile (ruled by King Pedro I 'the Cruel').[37] The two parties met in Seville and Ibn Khaldun was given a personal tour of the city by King Pedro.[38] During that time, King Pedro offered Ibn Khaldun a secret deal: if he would betray Granada he would be rewarded with the return of his family's ancestral land in Seville and a place in the Castilian government. He refused and called off the treaty negotiations immediately.[39]

Ibn Khaldun continued at this fast pace throughout his life, switching governments several more times. He was briefly Grand Vizier for the Hafsid-related Emir of Bougie; fled into the desert for a year; built an army of desert Arabs; and took a position under the Sultan of Tlemcen. Later, he revisited the prisons of Fez when its Sultanate conquered Tlemcen in 1372.[40] Afterwards, he was forced into service as a military leader fighting for Fez, fled back to the Iberian Peninsula, and was forced to return to protect his family. In the end, he fled back into the desert where he experienced the first peaceful period of his life during his seven years under the protection of the desert tribe of Awlad 'Arif.[41]

Ibn Khaldun lived in various countries in North Africa (Tunisia, Morocco, and Egypt) and in the South of the Iberian Peninsula (Al-Andalus, in the cities of Cordoba and Seville) during the turbulent final years of the Almohads. His book *Muqaddimah (Prolegomena to History)* was written far from Al-Andalus, in time and space, but the author had surely never forgotten the sights, smells, and flavours of Seville at the time of King Pedro I.[42]

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34 See the study of F. Estapé, *Ibn Jaldún o El precursor: discurso leído el día 28 de octubre de 1993 en el acto de recepción pública de Fabián Estapé en la Real Academia de Buenas Letras de Barcelona y respuesta por el Académico numerario Juan Vernet* (1993), at 23.

35 See S. K. Bukish, 'Ibn Khaldun and his History of Islamic Civilization', (1927) 1 *Islamic Culture* 567–607.

36 Among others, see M. A. Enan, *Ibn Khaldun. His Life and Work* (1991).

37 See J. M. Casclaro, 'Don Pedro I de Castilla y Muhammad V de Granada', (1946) 11 *Al Andalus: revista de las Escuelas de Estudios Árabes de Madrid y Granada* 245–8.

38 See C. Valdaliso Casanova, *Historiografía y legitimación dinástica: análisis de la crónica de Pedro I de Castilla* (2010). Also, see the classical essay of A. Ferrer del Río, *Examen histórico-crítico del reinado de don Pedro de Castilla* (1851).

39 See J. López Oliván, *Repertorio diplomático español. Índice de los tratados ajustados por España (1125–1935) y de otros documentos internacionales* (1944). Also, the list of treaties collected by the Spanish Foreign Ministry, *Censo de tratados bilaterales suscritos por España (16 septiembre 1125 a 21 de octubre de 1975)* (1976).

40 See W. J. Fischel, 'The Biography of Ibn Khaldun', (1954) *Yearbook: The American Philosophical Society* 240.

41 *Encyclopaedia Britannica*, London (1950), See XII, at 34, s.v. Ibn Khaldun.

42 See a historical approach written by M. R. Menocal, *The Ornament of the World: How Muslims, Jews, and Christians Created a Culture of Tolerance in Medieval Spain* (2002), at 229.

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He himself considered his theory of history to be so significant that he devoted most of the *Muqaddimah* (*Prolegomena to History)* to explaining the details regarding the rise and fall of civilizations, stating several times that he had created an entirely new field of study.[43] By changing history from the telling of stories to an observable science that could explain and perhaps even predict human behaviour, he claimed to have changed the understanding of human behaviour entirely.[44] Although many of his basic explanations are today discarded, the idea that such explanations could exist has led modern thinkers to claim Ibn Khaldun as a precursor in the philosophy of history, historiography, anthropology, economics, and sociology.

Ibn Khaldun's core idea in the *Muqaddimah* (*Prolegomena to History)* was that the purpose of civilization is to bring people together in increasingly large groups so that they can achieve what they cannot individually, and provide for their common defence. The purpose of dynasties (civilizations or states) could be seen as a way to keep a densely-packed society together despite its inherent tendency to fall apart.[45] The responsibility of a good leader is to keep society stable, and the measure of his greatness is the degree to which he succeeds. However, he also recognized that people as a general rule are selfish, violent, and cruel, and that bringing them together in cities exacerbates these tendencies.

The instrument which kept some societies together while others fell apart was something called *'asabiyah*.[46] This is an Arabic word which can mean 'solidarity' or 'group consciousness' but is usually translated as 'group feeling'.[47] At the most basic level, *'asabiyah* is something that a person feels for his family. In this respect, it might also be translated as 'brotherhood' or 'society of men'. When a ruler is successful, he manages to spread the *'asabiyah* to all members of society, so that they all think of one another as they would think of their own brothers. Due to the limited scope of his study, and to Ibn Khaldun's inability as a medieval Muslim to think of religion in a functionalist way, he never mentioned the role that religion can serve in promoting *'asabiyah*.[48]

Ibn Khaldun stated that, given the natural progress of things, a *dawlah* (civilization or state) would fall apart in four generations. This is based on his observation that, while the concentration of people enables the necessary specialization to support a full-time government and army (and religious hierarchy, although he appears

43 See A. Cheddadi, Ibn Khaldoun, *Peoples et nations du monde. Extraits des 'Ibar*, présenté et traduite de l'arabe (1986).

44 See S. Goiten, 'An Arab on Arabs: Ibn Khaldun's Views on the Arab Nation', (1950) 2 and 3 *The New East, Quarterly of the Israel Oriental Society* 198, at 198–201.

45 Symmetry can be discerned between sociological theories and the legal processes by which territories were integrated into imperial systems. See, M. Mahdi, *Ibn Khaldun's Philosophy of History: A Study of the Philosophic Foundations of the Science of Culture* (1964), at 194.

46 See F. Gabrielli, 'Il concetto della 'asabiyya nel pensiero storico di Ibn Haldun', in *Atti Della Reale Academia delle Science di Torino* (1930), 473–512, and H. Ritter, 'Irrational Solidarity Groups: A Socio-Psycological Study in Connection with Ibn Khaldun', (1948) *Oriens* 1–44.

47 The old Arabian 'asabiyah or spirit of kinship referred to in the article can be negatively interpreted as a narrow form of tribalism or chauvinism that is rejected in Islam. Ethnic distinctions are recognized, but not preferentially.

48 As pointed out by M. M. Rabi, the *'asabiyyah* represents the link of change from the primitive life to civilized life, and it is the core of the history and development of the dynasty (civilization or state). See M. M. Rabi, *The Political Theory of Ibn Khaldun* (1967), at 13.

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to have omitted that part), it also introduces luxuries into people's lives, which eventually corrupt them with selfishness and damage the *'asabiyah*.[49] A particularly strong ruler can delay the collapse but, in Ibn Khaldun's theory, events are inherently cyclical and each *dawlah* contains within itself the seeds of its own destruction.[50]

In Ibn Khaldun's view, history is a continuous cycle of growth and decline, without evolution or progress, except for the progression from a primitive to a civilized society.

3. Socio-historical thought in medieval Islam

The return to the language and 'standard of civilization' has been identified by its critics with the existence today of a (neo-)colonial current in international law built on the pillars of democracy – the rule of law and human rights. These components were not part of the 'standard of civilization' of the last quarter of the nineteenth century. At that time, neither international law nor the 'civilized' states (the Western states) imposed conditions on 'non-civilized' states (the non-Western states) to adopt specific forms of government. Nor did they oblige these states on the 'periphery' to treat their citizens in the same manner in which the Western powers wished their own citizens to be treated.[51]

The doctrine of the 'standard of civilization' took shape during the era of imperialism in the late nineteenth century. It was related to both the economic interests of capitalism,[52] and the needs of an absolute sovereignty in European Law.[53] The rise of the 'standard of civilization' coincided with the rise of positivism and the decline of the concept of natural law in the nineteenth century, together with the erosion of the relationship between Christianity and natural law. It represented an instrument of Christian universality as a justification for the expansion of international law in its so-called 'civilizing mission' as opposed to other cultures and religions; the secularizing process had already begun in order to justify the equality of sovereign rights among European peoples in a *Christiana res publica*.[54] Interestingly, the sovereign equality invoked in the 'standard of civilization' was denied to certain non-Western peoples in the last third of the nineteenth century.[55]

The 'standard of civilization' (including both an *internal* and an *external* dimension) constituted the transposing of the characteristics of Western states to their relations with non-Western states as a criterion for the latter to enjoy the rights associated with full sovereignty. From an *internal* angle, the greater or lesser

49 See the interesting work of F. Mohammad, 'Ibn Khaldun's Theory of Social Change: A Comparison with Hegel, Marx and Durkheim', (1998) 15 *The American Journal of Islamic Social Sciences* 25.

50 See V. Yamuni, 'La decadencia de las naciones según Ibn Khaldun', (1964) *Anuario de Historia de la Universidad Autónoma de México*, at 25.

51 See Y. Gamarra (ed.), *El discurso civilizador en derecho internacional. Cinco estudios y tres comentarios* (2011).

52 See K. Polanyi, *La gran transformación. Los orígenes políticos y económicos de nuestro tiempo* (2001).

53 As pointed out by M. Koskenniemi, 'The Public law of Europe: Reflections on a French 18th century Debate', in H. Lindemann et al. (eds.), *Erzählungen vom Konstitutionalismus* (2012), 43–73.

54 See F. Mégret, 'A Cautionary Tale from the Crusades? War and Prisoners in Conditions of Normative Incommensurability', in S. Cheipers (ed.), *Prisioners in War* (2008), at 31.

55 See L. Milliot, 'La conception de l'Etat et de l'ordre légal dans l'Islam', (1949-II) 75 RCADI 591–686.

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adaptation of the 'standard of civilization' depended on the extent to which the 'other' state adopted European-style political institutions aimed at the protection of the lives and properties of Westerners. *Externally*, the application of the 'standard of civilization' was related to the degree of respect for the rules of Western international law and 'civilized' behaviour at an international level.[56]

In the nineteenth century, the effective application of the 'standard of civilization' was adapted to the various forms of colonization used in different places and at different times. In some cases, the 'standard of civilization' was used to justify assimilation after conquest or the cession of territories and the establishment of certain legal systems by the mother country of those territories (which then became part of the colonial system). In other cases, the 'standard of civilization' was hidden beneath the fiction of sovereignty, dependent upon the consent of those territories that retained sovereignty over internal affairs, while the mother country managed its international relations.

The use of the term 'civilization' began to spread in Europe during the French Revolution to express the idea of progress and the perfection of human beings as a universal concept that could be achieved through law and institutions. Attaining civilization was to be a collective achievement of mankind. However, the implication was that the epitome of unity and perfection was to be found in European civilization. Therefore, its opposite, barbarism, was to be found outside Europe. Europeans considered that Europe had managed to achieve civilization and that it should be spread to the rest of the world.[57] Nevertheless, how was this discourse on civilization formulated in the nineteenth century? Is it possible to find Muslim roots? Could Ibn Khaldun be considered as a precursor of such thinking?

Ibn Khaldun's work became known in Spain due to the pioneering work of Julián Ribera Tarragó (1858–1934), particularly in his address published as *La enseñanza entre los musulmanes españoles* (1893).[58] Ribera was a Spanish philologist and Arabist interested in the richness of Arabic civilization and the close influences between Arab and Christian vocabularies. In fact, it was he who discovered the 'Mozarabic' dialect.[59]

However, it was Rafael Altamira who provided a more detailed and in-depth analysis in his *Notas sobre la doctrina de Abenjaldun*,[60] about the dissemination, since the beginning of the nineteenth century, of 'extracts, chapters and translations of fragments of the *Prolegomenos* of Abenjaldún … which turned out to be a monument of outstanding interest in medieval historiography'.[61] The complete translation by

56 See I. de la Rasilla, 'La alianza entre la civilización y el Derecho internacional entre Escila y Caribdis (o de la brevísima historia de un anacronismo jurídico)', in Gamarra, *supra* note 51, at 41.
57 N. Elias, *The Civilizing Process: The History of Manners, State Formation and Civilization* (1994), at 33.
58 J. Ribera, *La enseñanza entre los musulmanes españoles* (1893).
59 'Mozarabic' dialect was spoken by the inhabitants of the southern Iberian Peninsula, between the eighth and thirteenth centuries. It developed in the territories of the Muslim kingdoms of Al-Andalus and was spoken primarily by the Mozarabic Christians who lived there.
60 R. Altamira, 'Notas sobre la doctrina histórica de Abenjaldun', in *Homenaje a D. Francisco Codera* (1904), 357–74.
61 Ibid., at 357.

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William MacGuckinn, Baron de Slane,[62] 'enabled all orientalists to read that first part of the *Universal History* by Abenjaldun'.[63]

We can see how the work of Ibn Khaldun influenced the ideas of Altamira and other contemporary authors such as José Ortega y Gasset (1883–1955), one of Spain's foremost philosophers of the twentieth century. Ortega reflected on how to include Spain among European democracies. To this end, he used the origins of Spanish 'civilization' as the basis for his discourse on Spain's role in Europe.[64]

Ibn Khaldun divided his study of history into an *external* and an *internal* aim. The *external* aim 'served to relate events that marked the course of the centuries and dynasties – civilizations or states – and that have been witnesses of past generations'. The *internal* aim was the 'examination and checking of the facts, the investigation of the causes and a profound knowledge of the manner in which events took place and their origins'.[65]

The fundamentals of history for Ibn Khaldun, to allow the prediction of 'future events' as Altamira observed, lie in historical causality and not in metaphysics. The general notions of history comprise the various characteristics of civilization; sovereignty; the means of creating wealth; the sciences; and the arts. More specifically, there are six attributes of man that are fundamental for history: the arts and sciences; government; work and industry; sociability; the nomadic social state; and the sedentary social state. Two other conditioning factors need to be added: race, and the physical environment. All knowledge linked to these 'attributes' represents a contribution to history. It was Ibn Khaldun himself who established the distinction between the material history of the *Muqaddimah* (*Prolegomena to History)*, and historical history.[66]

Ibn Khaldun established an almost impassable divide between the *Muqaddimah* (*Prolegomena to History)* and history. In this regard, he wrote:

> the true aim of history is to make us understand the social state of mankind, in other words civilization, and to teach us the phenomena that accompany it, for instance, the life of savagery, the duplication of customs, the spirit of the family and the tribe, the different ways in which groups of people achieve superiority over others and the resulting birth of empires and dynasties, the distinction of ranks, the occupations to which people dedicate their work, efforts and professions by which they make a living, the sciences, the arts, in fact all the changes that things by their nature can produce in the character of a society.[67]

It may be inferred from this comment that there remains some doubt or concern that, on occasion, the *Muqaddimah* (*Prolegomena to History)* fulfils the criteria of political history. However, such a suspicion does not seem to be shared by other authors. Among others, Louis Baeck published his essay *La pensée économique de*

62 See *supra* notes 4 and 5.
63 See Altamira, *supra* note 60, at 357.
64 See J. Ortega y Gasset, 'El Espectador', in *Obras Completas* (1916–1934), Vol. II, 667–85.
65 See Altamira, *supra* note 60, at 361.
66 As Altamira writes, 'The discourse we are discussing represents a new science, as significant for the originality of its views as for the extent of its usefulness', Ibid., at 366.
67 Ibid., at 367.

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l'Islam classique (1990),[68] and despite his brief references to the work of Ibn Khaldun, he said that:

> the political, social and economic sciences find one of their pioneers in the analysis of the mechanisms of the creation and dissolution of societies. From the methodological point of view, Ibn Khaldun introduces the realism (positivism) of the social sciences into the tradition of normative thought … He can be considered as a forefather of the social sciences.[69]

Altamira's reproach to Ibn Khaldun for the absence, in his work, of any moral concern in history in relation to the personal condition of the historian, to his impartiality, and to the benefit of always telling the truth about events or concealing it, is much more relevant.[70]

Another of Altamira's critiques refers to the conception of *Kulturgeschichte*, which can be construed from the *Muqaddimah* (*Prolegomena to History)*. In his analysis, the idea of impersonal social movements following a course that determines the future of empires and dynasties (civilizations or states) is at odds with his claim about the need for a man, whether a politician or a prophet, to plan for change, thus reaffirming transcendence – *'asabiyah*.[71] Such contradictions occur in any study of the scientific products of the environment, even in more recent times. In this regard, Altamira explains that:

> the general conclusion to be drawn from this analysis is that, while apparently making significant progress – at least theoretically – in Muslim historiography, and while pioneering many modern ideas, Abenjaldún is very far – as can only be expected – from satisfying the current exigencies of historical doctrine, and we should therefore be careful not to exaggerate the scope of his initiatives. The opposite would have been very strange given the conditions or laws to which the development of the human spirit is subject. It is more than sufficient that in the 14th century, a time when European historiography was so lacking and so far from the conceptions of character explained and defended by Abenjaldún, that a book such as the *Prolegomenos* should have been written, which establishes or implies almost all the problems, understood in the broadest sense, that later became the principal concerns of modern historians.[72]

Ultimately, Ibn Khaldun's work inspired Altamira's ideas on the history of civilizations, in particular the Spanish civilization (state and nation). Altamira tried to link the existence of a vital living reality subject to the law, whose archetypal form was the nation. Of course, this idea of historical 'organicism' entrenched in the nation is passé today. Nowadays, we see social reality as a constant flux of tensions between different social spheres of action without a general logic that could regulate these conflicts.

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68 L. Baeck, 'La pensée économique de l'Islam classique', (1990) 19 *Storia del Pensiero Economico, Bollettino di informazione* 3, at 3–19.
69 Ibid., at 4.
70 See Altamira, *supra* note 60, at 369.
71 See Mohammad, *supra* note 49, at 31.
72 See Altamira, *supra* note 60, at 374.

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4. Economic thought in medieval Islam

Ibn Khaldun's thinking has been invoked by governments to justify (neo-)liberal economic policy, particularly fiscal policy based on the '*supply-side economics*'.[73] These public uses of Ibn Khaldun's ideas place him as the source of (neo-)liberal discourse denounced by TWAIL writers, among others. (Neo-)liberal economists advocate liberalization and/or deregulation of trade and investment to encourage economic growth. They also consider it necessary to remove positive rules and restrictions as far as possible. Defending this kind of economy conceals an unequal and discriminatory system that leads us to have some control over the resources, investments, or trade of the 'other'.[74] Why has the 'standard of civilization' played, and why does it continue to play, a prominent role in international economic law? Which are the economic institutions of Ibn Khaldun embedded in the 'standard of civilization'?

Economic scholars argued that Ibn Khaldun's thinking was the link between ideas of the economy and economic science.[75] To some extent, the American economist Joseph Spengler, in his essay *Economic Thought of Islam: Ibn Khaldun* (1963), considered that the alternative of economic science in the scientific world was attributed to Ibn Khaldun.[76] For this author, the significance of Ibn Khaldun's work lies in the fact that he understood the forces that governed the rise and fall of dynasties (civilizations or states) by analysing the consequences of the economic activity, their acquisition, and their correlation with the level of 'civilization' or culture.[77]

The extent of economic knowledge in Islam owed more to an interest in issues relating to taxation than to contact with philosophical and scientific thinkers, especially Plato and the Neoplatonists, much read by erudite Arabs.[78] Erwin J. Rosenthal, in his book *Political Thought in Medieval Islam* (1958),[79] revived the influence of the Greeks on Muslim thought, showing that the wisdom derived from classical philosophy was due to the need to confirm the natural theology of Islam centred on the Quran and the prophetic tradition.[80]

The idea of evolution was far from the core of Quranic tradition, which was immutable in terms of commerce and extracanonical administrative law. For the majority of Muslim writers, the 'economy' was classified as a practical science, together with politics and ethics. Economic issues, such as usury, were resolved by direct recourse to the Quran and the *Sunna*. The works of legal historians did

73 President Reagan did not intend to reduce tax revenues but increase them by restricting tax rates. Having this idea in mind, he paraphrased Ibn Khaldun saying: 'At the beginning of the empire, the tax rates were low and the revenues were high. At the end of the empire, the tax rates were high and the revenues were low'. Reagan's Administration sought to reduce heavy taxes to achieve high-income. R. Reagan, 'Excuse Me, Mr. Clinton, I must have Misheard You', *International Herald Tribune*, 2 October 1981, at 4.

74 See Fidler, *supra* note 7.

75 Economic science as a systematic review of the laws of production, exchange and distribution, see S. Andic, 'A Fourteenth Century Sociology of Public Finance', (1965) 20 *Public Finance* 29, at 29–44.

76 J. Spengler, 'Economic Thought of Islam: Ibn Khaldun', (1963) 6 *Comparative Studies in Society and History* 268, at 268–305.

77 Ibid., at 269.

78 See Estapé, *supra* note 34, at 72.

79 E. I. J. Rosenthal, *Political Thought in Medieval Islam: An Introductory Outline* (1958).

80 Ibid., at 6.

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not contribute to the development of economic analysis because history was not considered a science, among other reasons.[81]

Ibn Khaldun did not specifically identify either economics or politics as sciences. His firm conviction lay in the creation of a new science of 'civilization' or culture. This attached little importance to the improvement of the human condition that could be expected from scientific progress. Ibn Khaldun believed that 'civilization' tended to fluctuate and that the state of science fluctuated with it, from the low level of nomadic peoples to the highest level of the civilized centres of the Muslim world. His main concern focused on an explanation of 'social organization and civilization'.[82]

The *Muqaddimah* (*Prolegomena to History)* is a model of historical and sociological research. It selects the histories of North Africa and the Iberian Peninsula as 'fields' of observation. In these stories, the protagonist is presented with the opportunity to observe the cultural fluctuations that lead sedentary population to nomadic life, and vice versa. According to the outline of this theory: a new dynasty (civilization or state) comes to power, gains strength, and dominates an area where urban civilization can flourish; as a result, the professions increase in number and the division of labour multiplies; this gives rise to an expanding market (with a significant part of this market being supported by governmental intervention) which leads to further development; changes in tastes are catered for by the appropriate supply; the consumption of luxuries and easy living weaken the social organization; and, as a consequence of all this, the dynasty (civilization or state) then declines and collapses (usually within three or four generations), and the community returns to its original primitive conditions.[83]

This pattern leads to a new question concerning the birth of the dynasty (civilization or state). The leader rises up during the period of anarchy. The recently installed dynasty begins to expand, cities are founded and commerce flourishes. For this process to take place, the community must share a group feeling (*'asabiyya*) that, through a capillary action, spreads the concepts of loyalty to the leader, of the joining of forces, and the belief in a common destiny. The decline of a dynasty (civilization or state) is not definitive: the vestiges of the civilized era act as embers, which reignite so that the process starts again. The action of the government regarding the taxation system plays a very important role in the process. Tax revenue tends to be greater when the rates are low and the bases very broad. An increase in the rates and restrictions in the bases lead to lower revenues. The model devised by Ibn Khaldun does not allow continuous progress to be seen as a possibility for communities: poverty and wealth flow between upper and lower limits, with fluctuations within a specific margin.

Economic behaviour arises from his concern with civilization (*umran*), which in this case is equivalent to culture and which describes human social organization.

81 G. Gusdorf, *L'avenément des sciences humaines au siécle des lumiéres* (1973), at 373.
82 See Spengler, *supra* note 76, at 285.
83 On the economic rise and fall of a dynasty (state or civilization), see S. Andic, *supra* note 75, at 36.

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The fluctuations relate to variations in 'civilization' that determine the rise and fall of dynasties (civilizations or states).[84]

Ibn Khaldun related the economic phenomena of supply, demand, and prices with the scarcity or abundance of goods, taking it for granted that merchants tried to obtain the highest possible prices for their goods.[85] He indicated that the demand for luxury goods was inelastic. A secondary phenomenon was the stockpiling of goods with the aim of waiting for the consequent rise in prices. However, Ibn Khaldun warned insistently about the dangers of storage. The level of wages depended on the relations between supply and demand, taking into account that, in certain circumstances, the desire for leisure plays a significant role. In general, prices were higher in cities than in areas that had not achieved a sedentary culture.[86]

Ibn Khaldun also observed that supply only existed when the price covered the costs and was superior to other alternatives available to the seller. Increases in costs due to higher wages, customs duties, or taxes on 'profits' were reflected in prices. Ibn Khaldun suggested that demand rather than supply had a greater influence on wages.

On the question of profits, Ibn Khaldun considered that they were essential for the viability of private enterprise and its development and, consequently, contributed to general economic prosperity.[87] However, he made a distinction in profits between the income obtained by an individual 'thanks to his effort and strength' and the income which exceeded this level. He described it as 'capital accumulation', greatly exceeding an individual's 'needs'.[88]

The value of a product depended on the work involved: all or almost all the components of the price of a product consisted of the 'share of labour'. Certain activities carried out in nomadic areas enabled 'subsistence and profit' to be obtained with little work. He condemned abuses such as excessive taxation and the confiscation of property.

On the relationship between status and profit, Ibn Khaldun emphasized the importance of 'rank', which was a consequence of having a special relationship with the ruler or the government. The same role was played by *'asabiyah*, which resulted in a pyramidal society. The acquisition of rank sometimes required obsequiousness, flattery, and 'connections'.

As regards surplus, luxury, and capital formation, Ibn Khaldun argued that the development of trade adapted to the supply of luxury goods, and the formation of capital depended on the existence of a production capacity that exceeded the essential needs of society. Nevertheless, Spengler has suggested that, for Ibn Khaldun, the consolidation of an appropriate political order and security enabling the population to coexist in cities would give rise to sufficient division of labour, the advancement

84 Further information at the work of G. Marçais, 'Les Idées d'Ibn Khaldoun sur l'évolution des sociétés' (1940) *Bulletin d'Information du Gouvernement Général de l'Algérie* 465.
85 See the liberal point of view of J. D. C. Boulakia, 'Ibn Khaldun: A Fourteenth Century Economist', (1971) 5 *Journal of Political Economy* 1105, at 1105–18.
86 Ibid., at 1109.
87 See Spengler, *supra* note 76, at 287.
88 Ibid., at 289.

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of productivity, and the appearance of a market capable of absorbing the growth of social production.[89] This surplus can be very large and can be used, among other purposes, for 'capital accumulation'.

Ibn Khaldun did not differentiate the economy from other analytically identifiable components of the system of Islamic society within which the economy operated. His main concern was not the structure of the economy or economic analysis as such. It was the 'development, illustration and application of a general science of culture that was intended to explain the behaviour, over time, of interrelated economic and non-economic phenomena'.[90]

5. Conclusion

Ibn Khaldun's thinking has been used to transform classical discourse on the 'standard of civilization' into a liberal, globalized society. Ideas such as the deregulation of trade or foreign investment are characteristic of the dynamic inequality in a global society. Western states used international (economic) law to impose policies, institutions, and values embedded in Western civilization on non-Western states. However, these policies, institutions, and values belong to Islamic law and Islamic economic policy too.

The value of Ibn Khaldun's thinking is to demonstrate the elements required to achieve sociopolitical and economic viability of a dynasty (civilizations or states). His theory has the empirical and theoretical power not only to explain the consequences of government policies on production and trade, investment, and specialization, but also to predict the survival of civilizations.

Ibn Khaldun was much more than a historian, a political thinker, the creator of the science of civilizations, or a precursor of sociology. He showed his genius in the areas of economic-social phenomena and can be regarded as a protagonist in the universal expansion of the idea of civilization in international law.

The inductive and dynamic reasoning of Ibn Khaldun, which was revolutionary in the fourteenth century,[91] represented the creation of a new science, the science of history or the science of culture that can explain the origins, rise, decline, and fall of civilizations. As one of the founders of the social sciences, he saw the interdependence and continuous interaction of economic, social, and political imperatives in the development and collapse of civilizations.[92]

It is true that some of Ibn Khaldun's conclusions are obviously contradicted by observed history. Some states (*dawlahs)* last considerably longer than four generations for reasons other than strong group feeling, while others, including many that are strongly unified by nationalism, fall apart almost instantly. Even today, no definitive theory has yet emerged which can allow for the prediction of future history.

89 Ibid., at 304.
90 Ibid., at 305.
91 When Ibn Khaldun wrote the Muqaddima, the muslim tradition was dominated by 'normative and speculative arguments'. See *supra* note 4, Translation by F. Rosenthal (1958), Vol. I, at 82 and 83
92 See L. Haddad, 'A Fourteenth Century Theory of Economic Growth and Development', (1997) 30(2) *Kyklos* 195, at 195–213.

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However, Ibn Khaldun's work changed the way in which humans understand each other and enabled the study of human behaviour in a logical manner.

Economic and non-economic factors introduced by Ibn Khaldun involve the evolution of the state, cities, and population; the division of labour, wealth accumulation, and economic and social institutions (including money); bureaucracy; and the flourishing of science. For Ibn Khaldun, the role of civilizations is to establish a law and order that is conducive for economic activities.

Ultimately, the strategy of the civilizing process presents itself as a way in which to demonstrate that the history of international law is no more and no less than a history of 'men with projects'. A re-reading of the theories regarding the concept of civilization is an attempt to discover how people have attempted to make sense of the world in the past and to think about how we organize the puzzle that inevitably results from such a hybridized (and/or fragmented) approach, and about how it will affect the experience of the reader.