CHAPTER EIGHT

THE OFFICIALS RESPONSIBLE FOR MANAGING AN
ENDOWMENT: NĀẒIR, QĀDİ AND ŠĀḤIB AL-AHBAṢ

1. Introduction

To gauge the importance of the role of management in the institution of Islamic pious endowments we must first consider the problems surrounding the legal ownership of this type of assets. Mālikīs believed that this kind of property remained under the ownership of the founder even after his death (see chapter 10). This is, obviously, a legal entelechy, particularly when one takes into account the fact that, from the very moment he establishes his taḥbīṣ, the owner must give up the property he has endowed and entrust it to someone for him to manage it in the manner and for the purposes stated by the founder, at least in the case where a pious undertaking has been selected. As the issue of the ownership of the ḥubs constitutes a legal ‘pie in the sky’, the way in which the endowment is managed takes on a particular significance as that ‘manager’, albeit not the legal owner of the endowed asset, is actually its de facto holder and acts as the person responsible for its usufruct, although his actions in this respect are at least theoretically restricted by the clauses and stipulations set by the founder (see chapter 4).

To analyse the management of pious endowments is a particularly daunting task due, mainly, to the variety of situations documented in textual sources. This complexity is a result of the diversity of the institution itself, from which we must distinguish, on the one hand, between private and pious aims and, on the other, between the different elements prone to being encompassed by the Islamic notion of piety (bīr, qurba or fi sabīl Allāh) which can be synthesized in two levels. On one level we find institutions or bodies such as mosques, rābiṭas, madrasas, hospitals, etc. and on another more abstract aims, not materialised in a ‘tangible’ institution, that is donations generically made for the benefit of the poor, the infirm, for the jihād or ‘in God’s name’, etc. This distinction must be drawn because those institutions usually relied on a manager who dealt with
economic matters and must also have been the one in charge of the direct control of their pious endowments. The case of assets donated for a particular purpose rather than to an institution is different because there was no organisation with ancillary personnel and a headquarters from where those assets were administered, so it could never have been comparable to another operating with those means.

Within the variety of situations involving the individuals responsible for their operation and the multiple ways of managing pious endowments, one of the aspects which will be considered in this chapter is the role of the state as exemplified in the activity of the qāḍī. As M. Hoexter remarks, the latter’s performance is partly justified by the fact that the aims of pious donations are closely linked to some of the domains of responsibility or spheres of activity covered by the medieval Islamic State such as defending and watching over Muslims’ interests, an endeavour conveyed by Mālikī jurists through the notion of ‘public interest’ (naslaha) (see chapter 10).

Until now studies devoted to different areas of medieval Islam have revealed the existence of a centralised model of administration. That is the case for Persia and, most particularly, for Egypt where the Fatimids set up a body expressly devoted to this (diwān al-ahbās) whose holder became a high-ranking official, being even above the qāḍī-l-qudā in the official hierarchy as the latter needed his authorisation in order to get access to the revenues of ahbās. The same centralised system remained in place under the Mamluks. As we shall see, in al-Andalus, on the contrary, there was not a similar management model for there are no references to the existence of a purpose-built administrative body in charge of controlling them and the qāḍī’s responsibility was not always direct nor was it exerted in the same way for all pious endowments due to the fact that he was not the only official authorised to intervene in matters regarding those assets.

---