FINANCING KINDNESS AS A SOCIETY: THE RISE AND FALL OF THE WAQF AS A CENTRAL ISLAMIC PHILANTHROPIC INSTITUTION (AWQĀF)

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A sine qua non in any basic understanding of the history of Islamic philanthropy is a familiarity with the story of the charitable foundation/endowment in Islam known as the waqf. Using necessarily broad but accurate brushstrokes, this paper tells the story of the waqf. In addition to the introduction and conclusion, it is divided into six major sections. Following a section on the background for the emergence of the institution of the waqf are five sections, each of which treats one of what I propose to be the five different phases of the history of this institution. The first focuses on the formative period and discusses the central concepts and themes that were critical for the foundation and establishment of the waqf as one of the premier institutions of Islamic philanthropy. The second deals with the post-formative period and explores the emergence of jurisprudence regarding the normative beneficiaries of the waqf, as well as the evolving multiplicity of various genres of and terminologies for the waqf across a panoply of local cultural contexts. The third and fourth sections review the maturation and transformational periods, respectively. Finally, the fifth section explores the salient features of the deterioration period.

Keywords: waqf, philanthropy, cash-awqāf, ṣadaqa

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https://scholarworks.iu.edu/iupjournals/index.php/muslimphilanthropy
DOI: 10.2979/muslphilcivisoc.4.3.03

Introduction

From approximately the ninth century, roughly 200 years after the death of the Prophet Muhammad (pbuh), charitable foundations and endowments or "awqāf" began to emerge and spread across the Muslim world. Over the next millennium, awqāf would become fundamental to the conceptualization and manifestation of an Islamic society to such an extent that it would become nearly impossible to envision the Muslim world without them. By the early 1800s, according to one conservative estimate, more than half of the real estate in the Ottoman Empire was classified as a waqf (Hallaq, 2012, p. 402). According to another reliable source, awqāf comprised "an estimated 75 percent of arable land in the area of today's Turkey, one-fifth in Egypt, one-seventh in Iran, one-half in Algeria, one-third in Tunisia, and one-third in Greece. At the end of the eighteenth century, an estimated 20,000 waqfs [sic] in the Ottoman Empire had a total annual income equal to one-third of annual government revenues, and perhaps including as much as one-half to two-thirds of arable land" (Singer, 2008, p. 186). As the premier institutional mechanism for philanthropic activity in Islam, the waqf became a defining factor that would exert a dominating influence on everything from urban planning and the development of cities and towns, to a wide variety of social welfare projects, religious habits and practice, including the production of art and the development of aesthetics. As such, it is nearly impossible to overestimate the role played by the waqf in shaping the structure and stability of markets and economic forces and even political stability itself. In short, the waqf was more than just a philanthropic institution—it was a generator of Muslim material and spiritual culture. As a famous historian remarked, "from about the tenth century, private waqfs [sic] replaced zakat as the vehicle for financing Islam as a society…they offered the material foundation for most specifically Islamic concerns, supporting religious, social, cultural, and economic activities, while equally serving political functions…. Through the waqfs [sic] the various civic essentials and even amenities were provided for on a private yet dependable basis without need or fear of the intervention of political power" (Hodgson, 1974, p. 124; also see Singer, 2008, p. 91).

Using necessarily broad but accurate brushstrokes, this paper tells the story of the waqf. Following a section on the background for the emergence of the institution of the waqf, are five sections, each of which treats one of what I propose to be the five different phases of the history of this institution. The first section focuses on the *formative period* and discusses the central concepts and themes that were critical for the

foundation and establishment of the waqf as one of the premier institutions of Islamic philanthropy. The second section deals with the *post-formative period* and explores the emergence of jurisprudence regarding the normative beneficiaries of the waqf, as well as the evolving multiplicity of various genres of, and terminologies for, the waqf across a panoply of local cultural contexts. The third section covers the *maturation* period, outlining various examples of awqāf in a more mature form and how they operated. Here I provide examples of how awqāf affected the places and beneficiaries in various regions of the Muslim-majority world. Of significant importance in this section are the details about the founding of awqāf for animals as well as endowments and foundations established by Muslim women solely for the benefit of single women. This section provides special insight into how premodern Islamic societies developed creative mechanisms to cultivate an atmosphere of inclusion and belonging by devoting certain awqāf to the cause of providing space for those on the margins of society. The fourth section traces the contours of the *transformational period* by describing how the issue of concreteness (as opposed to abstractness) and perpetuity of awqāf becomes applied to cash, something more mobile and practically useful in preparation for a new world. Finally, the fifth section explores the salient features of the *deterioration period* and discusses the causes and consequences of the decline of the institution of the waqf.

In chronicling an epic institution such as the waqf in Islam, it is important to acknowledge that this topic is widely researched. What I am attempting to accomplish in this paper is a general synopsis and synthesis of major source materials regarding the institution of awqāf in order to provide the non-specialist with a reference source that both maps the landscape of the history and development of the institution of the waqf within an analytical framework that attempts to address some of the common questions that have arisen in the research into this history. Because it is virtually impossible to understand the history of Islamic philanthropy without a basic understanding of the history of the waqf, this paper is written for general readers in philanthropic studies who may be seeking to enhance their understanding of Islamic philanthropy but who may yet be unfamiliar with the waqf as one of its core elements.

Background: Conditions Leading to the Emergence of the Waqf

Islamic philanthropy as a social institution (the waqf) emerged from the backdrop of two distinct and ubiquitous practices in Muslim society. The first backdrop was an overall pervasive, theological, and ontological

framework of the centrality of charity to life itself that gives momentum to giving in the first place. In Islam, from birth throughout a person's lifespan, charitable giving fashions a persons' daily, nightly, and monthly routine. Even the body itself is included in the expectation of charitable giving, for the Islamic tradition encourages a person to engage all their bodily limbs in charitable acts. The Prophet Muhammad (pbuh) stated that:

> *Each joint of every person must perform a charity every day the sun comes up: to act justly between two people is a charity; to help a man with his mount, lifting him onto it is a charity; a good word is a charity; every step you take to prayers is a charity; and removing a harmful thing from the road is charity. (Related by Al-Bukhari & Muslim; see Hadith number 26 in An-Nawawi's Forty Hadith)*

Kind words, helping another across the road, removing litter from the street, showing affection toward one's spouse, feeding the poor, and even remembering God are among the numerous actions that are considered charitable in Islam. Islam encourages charitable actions on a daily basis through a myriad of practices that can be done, ranging from very easy and simple to grand and socially transformational, such as speaking out against injustice. Furthermore, charity was codified in the Islamic calendar during various days, nights, weeks, and even months. Fridays, the occasion of the Muslim congregational prayer, are designated the most advantageous day of the week for charitable giving. Giving before and especially after the Friday Prayer is a practice enshrined in Islamic norms throughout Islamic history. The feeding of the poor especially is encouraged after the Friday Prayer and a practice found in Muslim sources everyone.

The last 10 nights of Ramadan are considered the most virtuous nights for giving and for charitable actions. The first month of the Islamic calendar, Muharram, is known as the first month for charity in the year. The tenth of Muharram, known as Ashura, whose significance is shared between both Sunnis and Shi'is, is known for its being an occasion for charitable giving and virtuous actions. During the third month of the Islamic calendar, the month of Rabi' al-Awwal, the Prophet's birth is usually commemorated by Muslims globally. The celebration, although originating in the Mamluk era from Muzaffar al-Deen (d. 682/1283), brother-in-law of Salahuddin Ayyubi, would become part of both Sunni and Shi'i social norms. The practice of commemorating the Prophet's birth would always involve feeding people and the distribution of gifts

as an act of charity. The sacred months of Rajab (the seventh lunar month), Sha'ban (the eighth lunar month), and Ramadan (the ninth lunar month) are also designated as months for charity, even voluntary fasting, as is the case for Sha'ban. Rajab, historically, was designated as a month for gift-giving to the descendants of the Prophet Muhammad (pbuh). The middle night of the month of Sha'ban, called *Laylat al-Bara*, is considered a night of prayer and penitence. On that night Muslims are highly encouraged to ask forgiveness and to perform acts of charity in hopes of their sins becoming absolved. Ramadan, as a month for fasting and charitable giving, is widely known by Muslims and non-Muslims alike.

The first day of Shawwal, the tenth month in the Islamic calendar, is considered a grand festival day, *Eid al-Fitr*, marking the completion of Ramadan and is the first of the two grand festivals for giving. Finally, Dhul-Hijjah, the 12th and final month in the Islamic calendar, contains the Pilgrimage as well as the second grand festival, Eid al-Adha. This festival is a three-day holiday devoted to feeding others, gift-giving, and other forms of charity lasting for a three-day consecutive period. Days, nights, and months punctuate the Muslims' lifespan with an overall climate of charitable giving that Muslims are literally born into, for seven days after the birth of every child, the charitable act of the distribution of food to the poor and non-poor alike is a religious practice called *Aqiqa* for the purpose of giving thanks to God for the gift of a child. Charitable giving was even considered central in the early childhood education of children. Ibn Nujaym quotes the famous Sunni theologian Imam Abu Mansur al-Maturidi (d. 944) as saying:

> *The believer is obligated to instruct their child in generosity and charity just as they are obliged to instruct them in monotheistic doctrine and belief, for the love of this world is the source of all sin. (as cited in Singer, 2008, p. 85)*

The second framework that forms the backdrop to the emergence of the waqf was death itself and the preparation for transition to the afterlife. Death and dying in Islam ushered in two extremely significant Islamic legal mechanisms: the bequeath (*wasiyyah*) and inheritance (*mirath*). The relationship between these two legal actions in Islam, coupled with terminal illness (*marad al-mawt*), brought to the forefront of Muslim families and jurists the problem of protecting heirs and creditors in the event of a dying persons' last testament. In Islamic law, bequeaths are restricted to one-third of a person's property. This restriction to one-

third, along with the strict rules of Islamic inheritance shares, posed a problem for Muslims on their death bed wishing to donate a significant portion of their wealth to the poor in perpetuity. The challenge of distinguishing normal, regular charitable giving in the form of a bequeath, subject to Islamic inheritance laws, from the creation of an institution for ongoing charity that would benefit the donor in the afterlife on an ongoing basis would contribute to the creation of awqāf as a separate and uniquely developed Islamic institution. The impetus for ongoing charitable giving was given by the Prophet (pbuh), who explained that: "When a human being dies, their work comes to an end, except for three things: ongoing charity, knowledge benefitted from, or a pious child who prays for them" (Related by Muslim).

Muslim scholars have interpreted "ongoing charity" as a reference to Islamic philanthropic institutions (awqāf). But early on in Islamic history, this distinction was not overtly clear, for both the practice of charitable giving and term itself for giving ("*sadaqa*") would confuse matters, leading to a need to distinguish charitable giving (*sadaqa*) from ongoing or perpetual charitable institutions (waqf). This would lead to the rise of the waqf as both a legal and social phenomenon that produced an entirely new layer of meaning for Muslims and Muslim societies for well over a thousand years. Financing kindness would transcend individual and personal boundaries to become spiritual, familial, communal, social, political, cultural, philosophical, regional, international, and even global. In the modern era, it would become a colonial priority to dismantle the awqāf, thereby leading to their falling into significant disruption and decline as a result of pressures from colonial forces abroad and pressures internally from Muslim reformers seeking to replicate European Enlightenment at home. With this backdrop in mind, I will now turn to the five phases of historical development of the waqf as the premier Islamic philanthropic institution.

The Formative Period (from 622 CE to 750 CE)

The formative period for Islamic philanthropy began in the Medinan period after the Prophet's migration to Medina and ended around the early Abbasid era. During this period, the essence and contours of Islamic philanthropy were established by Quranic and Prophetic decree and philanthropic giving emerged in various forms. As ubiquitous as the waqf is in Islamic history, it is quite interesting that the term "waqf" does not appear in the Quran itself nor in the hadith literature. The term waqf is believed to have emerged around the middle of the third century in Islam, during the post-formative period of Islamic law. Although the

term itself does not exist in the Quran, scholars of Quranic exegesis explain the following Quranic passage as providing the basis for Islamic philanthropic giving: "None of you (believers) will attain true piety unless you give out of what you cherish: whatever you give, God knows about it very well" (Quran 3:92). Upon hearing this verse of Quran after its revelation, Abu Talha, a notable Companion of the Prophet Muhammad (pbuh), donated his most cherished possession, a large date-palm grove with over 600 date palm trees to the service of the poor in the city of Medina. He explained the reasons behind his gift to the Prophet Muhammad (pbuh) by saying that the date-palm grove was his most cherished possession and that he hoped that by gifting it to the service of the poor that he would attain the status of true piety in the next life. Upon declaring his gift to those in need, in the presence of the Prophet Muhammad, Abu Talha returned home to find his wife and child relaxing in the grove. Abu Talha immediately informed his wife that he had gifted and endowed the grove to serve the poor of Medina in service of Islam. His wife asked him, "Did you do this in your name only or in our name collectively?" Abu Talha replied that he had done so in both of their names. His wife replied, "May God be pleased with you Abu Talha! I was considering the exact same thing after having thought deeply about what to do for the poor in our midst. But I did not have the courage yet to do something about it. May God accept our offering and let us now leave the grove together" (Topbas, 2006, pp. 24–25). This dedication of their most valuable real estate for the good of the poor of Medina, in the service of Islam, was known as the first act of endowment (waqf) in Islam.

From the perspective of the Sunna of the Prophet Muhammad (pbuh), we have more specific details for the establishment of the waqf. First, the Prophet (pbuh) died leaving only three items: a mule, his weapons, and some land that he designated as being reserved for charitable purposes (*sadaqa*) (Bukhari, *Sahih*). Second, the Prophet Muhammad instructed his Companion Umar as to how to endow property for Islamic philanthropic purposes and this became the model for the awqāf of many prominent Companions of the Prophet (pbuh). Imam Malik mentioned this advice from the Prophet (pbuh) as having established the precedent for awqāf—which were called *ahbas* by Imam Malik.

According to Islamic history, Umar b. Khattab had acquired property in Khaybar and consulted the Prophet (pbuh) on what to do with it. The event is reported as follows:

> *Umar said: "I have acquired land in Khaybar, and I have never acquired property more precious to me than it. What do you command me to do with it?" The Prophet (pbuh) replied, "If you want, sequester its principal and dedicate (the profits) for charitable purposes." Ibn Umar said, "Umar gave away the yields as alms on the condition that it (the principal) not be sold, given away as a gift, or inherited. Umar gave the yields away as alms for the poor, kin relations, freeing of slaves, (the funding of) military expenditures, travelers, and guests. It will not be held against the one who administers it if they eat from it in an appropriate manner or gives something to a friend so long as they do not appropriate any of the property." (Hennigan, 2004, p.160)*

From this tradition, we learn the basic operational parameters, functions, and conditions of Islamic philanthropy of the Companions of the Prophet (pbuh). Umar's statement about his property as being the most precious of his land is significant, as it conforms with the import of the Quranic verse above, namely that a person gives from what they cherish most. The Prophets' instruction to Umar to sequester the principal and devote the proceeds for charitable causes is also important because it explains the Quran's statement instructing the person about how to "give out of what you cherish." This does not mean to give away what you cherish but instead to restrict the most cherished aspect of our wealth to the service of yielding proceeds for charitable purposes. The property itself is to be sequestered from being bought, sold, gifted, or inherited. In short, it is removed from the marketplace and protected from being a commodity. However, as Ibn Umar articulated in describing his fathers' actions in following the Prophet's instructions, the property is still put to work in order to produce gains for alms for the poor, kin relations, the freeing of slaves, (the funding of) military expenditures, and the needs of travelers and guests. This is also remarkably consistent with the zakat recipient categories outlined in chapter 9, verse 60 of the Quran.

Two significant aspects of Islamic philanthropy are outlined here from this narration. The first is the advice from the Prophet (pbuh) on establishing a philanthropic institution (as opposed to a singular act of charity): sequester the principal and devote the proceeds to charitable uses. The second involves the parameters of the waqf institution itself: 1) that it be explicitly and legally removed from being a commodity, 2) that it be used solely for charitable purposes, and 3) general guidelines for the trustee outlining personal benefit from the endowment. Regarding this latter point, Umar had a waqf deed drawn up by a scribe in the

presence of several Companions and Abdullah b. al-Arqam served as the witness for the document. Umar named his daughter, Hafsa, as trustee, administrator, and manager of the property he endowed, in his words, "for as long as she lives." He then stipulated that after her, it may be administered by a person of sound judgment from her family…. The yields are to be spent, as the administrator sees fit, for beggars, the destitute, and kin relations. It is not objectionable if the administrator eats, feeds or purchases servants in order to work the property (Hennigan, 2004, p. 160).

Imam Shafi explained that "knowledge of *sadaqat* (= awqāf) has been preserved by a considerable number of the Emigrants (*Muhajiroon*) and Helpers (*Ansar*). Indeed, a great number of (the early Muslim's) descendants and relatives continued to administer their *sadaqat* until they died. The majority of them transmitted this on the authority of the majority, so there is no dispute in this matter" (Hennigan, 2004, p. 107). Al-Waqidi (d. 207/823) reported that the Companions had transformed their dirhams and date trees into endowments (*sadaqas*), while al-Tabari (d. 310/923) related the conversion of conquered lands into endowments (*habis*) during the first century (Hennigan, 2004, p. 107). Among the prominent Companions that established Islamic philanthropical endowments (awqāf) are Umar, Uthman b. Affan, Ali b. Abi Talib, Sawda bt. Zam'a (the Prophet's wife), Aisha bt. Abi Bakr (the Prophet's wife), Al-Zubayr b. Awwam, Mua'dh b. Jabal, Zayd b. Thabit, Asma bt. Abi Bakr, Umm Salma (the Prophet's wife), Umm Habiba (The Prophet's wife), Safiyya bt. Huyayy (the Prophet's wife), Sa'd b. Abi Waqqas, Khalid b. Walid, Abu Arwa al-Dawsi, Hafsa (the Prophet's wife), Jabir b. Abdullah, Sa'd b. Ubada, Uqba b. Amir, and Abdullah b. Zubayr—may Allah be pleased with all of them (see *Ahkam al-Awqaf* by Al-Khassaf).

The Post-Formative Period (from 864 CE to 1250 CE)

The post-formative period began in the early Abbasid era (around 250/864) and ended around the beginning of the Mamluk rule in Egypt (648/1250). During this period, the term waqf became codified within Islamic legal parlance across legal schools and awqāf adopted the concrete forms of mosques and madrassa colleges. Early on in this period, a terminological problem emerged. Scholars and jurists of this period employed the following terms to refer to what we know now as awqāf: *hubs*, *hubs*, *ahbas*, *sadaqa*, *sadaqat muharramat*, and *sadaqat al-*

mawqufat. The Malikis, early Shafis[1], and scholars of the Zahiri School employed the terms *habs* or *hubs* (to retain or detain) and variants of this term, such as the plural *ahbaas*, and other derivatives like, *tahbees*, *habais*, *habisa*, and *ihbaas*.

Imam Shafi and other scholars would prefer the term *sadaqat muharramat*, or inviolable charity. Others would prefer to employ different qualifiers to the term *sadaqat* (charity) such as, *sadaqa muabbada* (eternal charity) and *sadaqah jariyah* (ongoing charity). Imam Shafi explained that *hubs* was a term that meant *sadaqat muharramat* and that *sadaqat muharamat* was a term for waqf. Later Shafi scholars followed that view and eventually in this period universally employed the term waqf. Early Hanafi scholars also employed the same differing terms and only later in this period settled on "waqf" as the preferred signifier. The same with Hanbali scholars. The Maliki scholars, however, preferred to retain the term *hubs* over the term waqf and therefore *hubs* (or *habous*) became normative for the Muslims of North Africa (the Maghrib) and the Iberian Peninsula (Al-Andalus).

For Shia Muslims, the scholars of the Ja'fari School distinguished between the meaning of *hubs* and waqf, and they employed both. For them, *hubs* referred to Islamic philanthropic entities whose existence was not intended to extend into perpetuity. Waqf however refers to all endowments that were stipulated to exist in perpetuity. This was not the case for Ismaili and Zaydi scholars, most of whom employed the term waqf (Akgündüz, 1996, pp. 78-81).

Consequently, both the terms waqf and *habs/hubs* became standard nomenclature for Islamic philanthropic endowment institutions. While waqf was used by the majority of Muslim scholars, *habs/hubs* was retained by a minority of them. By the end of this period, Muslim jurists had finally settled on what endowments were to be called. Now what was left was for what structure they were to adopt in light of the presence of Islam in many foreign lands, mixing with local customs and norms about giving.

The post-formative era in Islamic history was further characterized by tremendous urban and rural development on account of waqf institutions. Beginning initially with the patronage of learning, Islamic arts and sciences began to flourish in this period on account of Islamic philanthropy and royal patronage. Science, literature, philosophy, architecture, glass and crystal making, painting and pottery, writing and calligraphy, textiles, and technology all were among the

[1] Including Imam Shafi himself, although he did use the term waqf.

earliest Islamic philanthropic dependents during this period, particularly in major urban areas. Education, research, and invention became extensions to and part of ritual worship and for this reason, Islamic colleges (madrasas) were constructed adjacent to major houses of worship (mosques). In rural areas, however, agricultural materials such as farming tools, work animals, and agricultural real estate continued to take the form of endowments (awqāf).

The development of major mosques and madrasa colleges together as awqāf characterizes this period. Salient examples of this heritage that emerged after the pioneering House of Wisdom (*Bayt al-Hikma*) are Al-Azhar Mosque and Madrasa College in Cairo, Egypt, built in 969/1562 by the Fatimid Caliph Al-Muizz; The Qarawiyyin Mosque and Madrassa College in Fez, Morocco, founded in 859/1455 by Fatima al-Fihri, a descendant from the Quraish tribe of the Prophet (pbuh); Fatima's sister, Maryam al-Fihri established the Al-Andalus Mosque in Fez around the same year; and the Nizamiyah Madrasa College that was established in 1065/1654 as a waqf in Baghdad by Nizam al-Mulk and employed the famous Imam al-Ghazali as lead professor. These institutions produced a learned society throughout the Muslim world and helped foster the cross-pollination of ideas and inspirations that helped enhance Muslim society further. The establishment of such grand awqāf enabled the development of smaller, more influential communal awqāf to emerge in a variety of ways, which paved the way for a new era of waqf creation that transformed Muslim society in general. This also ushered in a transformation in Muslim women's leadership and education and aided in the dispensing of Muslim social services in a post-Crusades/post-Mongol invasion Muslim world.

The Maturation Period (from 1250 CE to 1592 CE)

From the start of Mamluk rule in Egypt (around 648/1250) to roughly the first half of Ottoman Imperial rule (around 1000/1592), awqāf entered into a more mature and diverse period in Islamic history. This period marked the expansion of awqāf from their previous mosque-madrassa college form to multiple other forms of Islamic philanthropy that met the diverse needs of an ever-changing Muslim community. Awqāf during this era emerged in various forms as a result of war, famine, an increase in women entrepreneurs and female scholars, increased human migration and travel, the spread of Sufism, and the significant growth of international commerce. Of further significance during this period, was that awqāf began to surpass *sadaqa* as well as

zakat as the primary form charitable giving by Muslims. Among the many new forms of waqf that emerged during this period were Sufi lodges (*zawiyah*/*tekke/khanqa*); travelers' inns; soup kitchens; public baths; famine relief centers; the construction and maintenance of tombs of scholars; hospitals; veterinary services; animal fountains; prayer rooms along travel routes; libraries; public water fountains; orphanages; public bath houses; cemeteries, kindergarten/primary schools founded independently adjacent to many mosques for the primary purpose of teaching the Quran; and institutions devoted to charitable causes such as freeing slaves, feeding the poor, paying debts, the distribution of gifts on the two Eids, and the burial and preparation of the deceased.

Among the many examples of flourishing awqāf that went beyond the mosque-madrasa college form that are worth highlighting are the single-women housing awqāf called *ribats* established in the Mamluk era (1250–1517). Ribats were exclusively known to be female-only Sufi institutions that originated in the 6th/12th century during the Fatimid era, developed highly in the Mamluk period, and fell into decline in the early Ottoman era (Rapoport, 2005, pp. 39–40). Ribats housed single women exclusively. Often times, elite women, poor women, recent divorcees, and widows would share spaces together in a ribat. In addition to providing rooms for the single women, strict devotional activities were required in exchange for paying rent. Personnel was on hand to take care of the basic needs of the residents of the ribat. Residents were expected to attend the dhikr ceremonies, the five daily prayers, and the Friday Prayer service, which was led by the resident scholar shaykha. In addition to its charitable function for single women, ribats functioned as a space for the cultivation of female piety as well as a solution to female homelessness. Ibn Taymiyyah's family used to provide cleaning items for a ribat for elderly women that was adjacent to his family's home. Ribats were ubiquitous during this period, and as Rapoport explains:

> *The establishment of ribats in all Mamluk urban centers reached a peak in the latter half of the thirteenth century and the first half of the fourteenth. The Ribat al-Baghdadiyya, established in Cairo in 684/1285, was the most famous ribat devoted exclusively to women. The daughter of the Sultan Baybars, Tidhkarbay Khatun, endowed the institution for the benefit of a female mystic called Zaynab al-Baghdadiyya, after whom it was named. Shaykha Zaynab had already acquired a large following among the women of Damascus when Tidhkarbay invited her to come to Cairo. The ribat was located next to Baybars' khanqah and was probably intended as a sister*

> *institution. In 694/1295, the amir Ala al-Din al-Barabah established a ribat for the use of Sitt Kalla, the widow of another senior amir. In 715/1315, the amir Sunqur al-Sa'd attached a women's ribat to the madrasa he endowed in the city. Al-Maqrizi and Ibn Hajar agree that the primary function of these ribats was to provide shelter for widows, divorcees and abandoned women. At least six additional ribats for widows and old women operated in the Qarafa cemetery during the fourteenth century… Syrian cities had an even larger number of women's religious houses. In Damascus, the term ribat had come to mean a specifically female place of worship. A Damascene author, Ibn Zufar al-Irbili (d. 726/1326), remarks that a ribat is a khanqah devoted exclusively to women (al-rubut hiya al-khawaniq allat takhtassu bi'l-nisa). He then enumerates twenty such institutions, fifteen within the city itself and an additional five in its suburbs. (Rapoport, 2005, pp. 39–40)*

Related to the function of the ribat is the fact that many of them served as female hospice centers in Cairo during the Mamluk period. It was so common that many jurists wrote about their family's involvement in this form of waqf establishment. Imam al-Sakhawi, for instance, mentioned how his own mother opened her house up to divorcees and widows, turning it into a ribat that some view as having a hospice-like function. Many women of the 15th-century Mamluk period are recorded as having established ribats for this purpose. The flourishing of ribats in this time is one of the little-known, nearly lost examples of how awqāf addressed pressing individual needs in society. Muslims did not wait for governments to solve their problems but resorted to establishing awqāf to meet public needs. Established mostly by women, exclusively for women, ribats were awqāf that specifically met the spiritual, social, and psychological needs of Muslim women in urban and rural areas, carving out spaces of inclusion for them in this life in preparation for the afterlife.

The Ottoman Empire is known to have pioneered the term "waqf society" for itself. According to official records of the General Directorate of Waqf Archives of the Ottoman Empire, now located in Ankara, Turkey, there are a total of 26,300 awqāf that were officially recorded as having existed in the empire, 1,400 of which were established by Ottoman Muslim women (Topbas, 2006, p. 34). During this period, the integral pillars required for the creation of a waqf were refined on account of the prevalence of waqf-making among the masses, as opposed to just from rulers and governors. Scholars of Islam stipulated

that the establishment of a waqf required four elements: 1) a declaration in writing must be made, which must be authorized by the court and recorded as an official document (this condition also meant that the term "waqf" or "habs" must be used for the validity of the endowment in Islam); 2) wealth or property endowed must be designated (recalling the hadith from above, property or wealth must be sequestered for the use of generating proceeds to be used for charitable purposes); 3) a beneficiary must be named, meaning person or persons, category of people like orphans, the poor, or the public in general; and 4) the benefactor of the waqf must be named and the benefactor must be alive during the time of this action, as this action must stem from their free will. Once these four elements have been established, then the waqf is formally established in Islam and may not be revoked, sold, gifted, or inherited. Waqf deeds were considered bound by Islamic contract law, and therefore waqf-making was viewed as a transaction on account of the fact that ownership of property changed hands.

Exactly who owned the property was a matter of unresolved contention among Muslim jurists. The Hanafis and most of the Shafis, and an opinion narrated from Imam Ahmad, affirm that ownership of property was transferred from the benefactor to God and took the form of a public trust. The Malikis, some Ja'faris, some Shafis and Hanbalis, and Ibn Humam of the Hanafis affirmed that it transferred to the endowment itself. Stated differently, it was retained from all other forms of ownership and reserved exclusively for the waqf to disburse to others in order to create ownership. According to the preferred opinion of the Hanbali School and other Shafi and Ja'fari scholars, ownership transfers to the beneficiaries and is only managed by the administrator or trustee (*mutawalli*).

Possession of the property[2] was relative to what the item for waqf was in the first place. Possession occurred when the property was either used (in the case of real estate or tools), or when the property was received in hand (in the case of food or money), or even as early as the moment the waqf-deed was approved by the court. The endowment deed must be a legal document. The courts approval of the waqf deed as an official legal document was itself deemed "possession" and this was an opinion attributed to Abu Hanifa himself. Further necessary as part of the drafting of the endowment deed was the required stipulation of the phrase "in perpetuity" (*'ala ta'bid*). The Hanafis, most of the Shafis, the Hanbalis, the Ja'faris, and Zahir Schools all required the declaration of the phrase "in perpetuity" as a conditional element of the validity and

[2] Termed '*abd* in Islamic law.

binding, irrevocability of a waqf. Stipulating an endowment to last 99 years, for instance, would be invalid. Other Muslim jurists, such as the Maliki School and some Shafi and Ja'fari scholars, disagree with the aforementioned view and collectively they affirm two opinions: one opinion affirms the position that upon mentioning a time limit (i.e., 99 years) that when the time reaches its limit, the property reverts back to its original state of ownership. The second camp affirms that the endowment act itself is valid, but the stipulation of the time limit is invalid (Akgündüz, 1996, pp. 140–141). Regardless of whether perpetuity was declared in the legal document establishing a waqf, the only Muslim jurist on record who affirmed that waqf property was revocable, even after being a legal document, was Abu Hanifa. All other scholars, even in the Hanafi school itself, consider legal awqāf irrevocable.

Regarding the beneficiaries, awqāf during this period were divided into two categories: public endowments and private endowments. Public endowments were awqāf that were established for the benefit of the public—for the welfare of the public. These awqāf stipulated in the endowment deed (*waqfiyyah or vakifname*) that the beneficiaries were "the public." Private endowments were awqāf whose endowment deed specified the beneficiary by name or characteristic, such as by saying, "the poor," "my family," "single women," "orphans," "travelers," and the like. Private endowments therefore restricted the waqf's proceeds to a particular category of people, while public ones did not. Furthermore, awqāf, while historically employed in the service of the poor, are not in Islam exclusive to the poor. Both the wealthy and those impoverished may be recipients of a waqf's proceeds. Therefore, a traveler who is wealthy and a traveler who is poor would both be entitled to stay at a travelers' inn that was a waqf whose endowment deed stipulated that it was for the benefit of a "traveler."

As to the benefactor, he/she/they must have reached the age of maturity, which was considered 18 for females and 21 for males in the Ottoman period; in possession of their mental capacities, meaning neither insane nor intoxicated; and freely able to discharge their wealth. Abstract persons or legal entities like corporations and governments may also establish awqāf. As a "waqf society," rarely did people exist during this period in extreme poverty or remain extremely wealthy. All people were both donors and recipients of awqāf at all levels of society. To emphasize this in Islamic art, the letter "*wow*" was designed in writing to encapsulate this lived reality: the fact that we all are givers and receivers, donors and beneficiaries of awqāf. The famous circular design of the letter *wow* reminds us of the three components inherent in the waqf

system—not from a legal vantage point but from a social-spiritual one. The first letter *wow* symbolized the sacred oath, "I swear to Allah" or in Arabic, *wallahi*—indicating that the waqf action is done in the name of God and that the waqf action is binding to God. The second letter *wow* indicates the trustee of the waqf, entrusted with the administration of the endowment—the *waali*, also known as the mutawalli; the third letter *wow* is a reference to the *waqf* itself. The fact that each letter *wow* attaches and connect to the next one reminded the observer that each one is connected to the other through the waqf. Furthermore, the letter *wow* is written in two ways, one with the tail going out, away from the letter, and the other with the tail curved back toward the letter. The former indicates that what leaves from your possession exits your ownership and is no longer yours; the latter indicating that what goes around comes around and that we are all recipients of giving.

The Transformative Period (from 1592–1850)

As was mentioned before, awqāf in urban areas were varied but in general were all real estate-based. They all took the form of what we would call today commercial or residential buildings that were designated as waqf-property whose sole purpose was to generate rental revenue that would be used for a plethora of charitable causes. In rural areas, awqāf tended to be land and fields whose sole purpose was to generate fruits, grains, and vegetables to be donated. There were awqāf that were gardens, trees, farm equipment, and the like. These items would either be given to the waqf beneficiaries directly for use or the crops would be harvested and sold in the market for cash, which would then be distributed to the beneficiaries of the awqāf. In the case of urban settings, the building was the investment for the waqf and the rent was

the yield for distribution. In rural settings, the field and equipment were the investments and the cash procured from the produce/crops sold in the marketplace was the yield for distribution.

The latter half of the Ottoman Empire, from the 16th century to the middle of the 19th century, may be considered the era of transformation for awqāf. As Islamic philanthropic institutions reached their pinnacle in the late 16th and 17th centuries, two noteworthy transformations occurred that contributed to this time period as being transformational. The first transformational component of awqāf was their becoming common practice among Jews and Christians residing in Muslim lands. Although medieval Islamic law did not allow for the establishment of awqāf exclusively for the benefit of churches and synagogues, Islamic law did allow Jews and Christians living in Muslim lands to establish their own awqāf and allowed for the management of such awqāf by Jewish and Christian trustees. This practice existed all over Muslim lands and was common in Morocco, Jerusalem, Lebanon, the Balkans, Istanbul, and Cairo. A notably case in point was the Jewish woman Bannita bint Barakat, a resident of Jerusalem, who established her house as a waqf and stipulated that her son, followed by his heirs, serve as the beneficiaries. As Amy Singer (2008) explains about this case:

> *If the line of descendants ended, the poor of the Jewish community would become the beneficiaries, a purpose accepted in Islamic Law. If, for some reason, the revenues could not be spent on the poor, then the money should be used for the Dome of the Rock in Jerusalem. Thus in her waqf, Bannita articulated the seemingly remote possibility that there might one day be either no poor people among the Jews in Jerusalem or no Jews left in the city…That some Jews and Christians saw fit to make endowments according to Muslim law, recorded before Muslim legal authorities, suggests that they acknowledged the strength of Muslim legal institutions in safeguarding their own interests. (pp. 99–100)*

The second transformation was in the nature of what was endowed—the waqf itself. More and more common during this period, particularly in the Ottoman Empire, cash was beginning to take the place of real estate, a phenomenon known as cash awqāf. Cash awqāf essentially involved the use of interest-based lending of the proceeds earned from an investment. This new transformation created lines of credit that were endemic in the Empire, long before modern banking emerged. Although

not considered legal by many scholars in Islamic law of the period, the famous Ottoman Shaykh ul-Islam for 30 years, Ebus Su'ud Efendi (d. 1574) legitimized the practice of cash awqāf in a legal epistle he wrote in 1545. In it he stipulated that cash awqāf were valid and permissible with two conditions: 1) by ensuring through certain Islamic legal devices that the contract took on the formal requirements of a sale and 2) that the interest not exceed 15%. In the Ottoman Empire, it should be noted that the maximum allowance for profit at the time was 11% (see Akgündüz, 1996, p. 227; Singer, 2008, p. 99). Cash awqāf, although common in the Anatolian regions of the Ottoman Empire, were mostly nonexistent in majority Arabic-speaking regions controlled by the Ottomans, such as Egypt, Syria, Jordan, Yemen, and the Arabian Peninsula.

The Deterioration Period (from the 1850s to 1918)

From the middle of the 19th century until World War I, awqāf in the Ottoman Empire and the Muslim world in general would fall into deterioration due to the direct involvement of colonial powers. Much has been published about the details of this period. In summary, awqāf gradually became nationalized as the Muslim world proceeded closer to nationalism. This left all awqāf over time bankrupted and without any operational funding. The government proved unable to meet the needs of the public and incapable of providing the same level of social services as the awqāf, and this led to increasing impoverishment and general neglect. The words of Charles McFarlane (d. 1858), the British consul to the island of Rhodes, who visited parts of the Ottoman Empire during this period and noticed the collapse of social service delivery and the rise in neglect in the Muslim lands, are revealing in this regard and worth quoting at length:

> *Education morally and physically is set aside. Notwithstanding…a soup kitchen at Rhodes from which soup is distributed thrice a week to the indigent musulmans, no other pious or benevolent institutions exist on the island. There is no hospital, no infirmary, no asylum; the lame, the blind, the mad, and the old are all left to their fate…(the reformers) have laid their greedy hands on nearly all vakoufs (= waqfs* [sic]) *of the empire…Hence, with very few exceptions, we see the heads of mosques and the medressehs in abject poverty, the rabble of religious students in rags, the most beautiful of temples and minarets shamefully neglected and hurrying into decay…It is notorious that since the vakoufs have been administered by the*

> *government nothing has been done to maintain the works of public utility. (Hallaq, 2012, p. 403n18)*

In the Ottoman Empire, an Imperial Ministry of Endowments was established that gradually took over the administration of all awqāf, including what we call water works. We know that at least one-half to two-thirds of real property in the Ottoman Empire was designated as waqf. All the revenue from the properties as well as the properties themselves became property of the Ministry. The budget allocations plummeted to less that 50% of what it was before the Ministry's application of imminent domain to all awqāf. In the case of North Africa, the French settlers, "by hook or by crook … managed to amass a good deal of property coming from the waqf domain.… During the first year of conquest, France had already declared the entire colony, including habous or waqf lands, to belong to the public domain. In 1844, the habous were confiscated and the administration was charged with the tasks of funding the religious and educational endowments and their employees" (Hallaq, 2012, p. 434). This wholesale confiscation of waqf lands by British, French, and Dutch colonial power decimated the waqf/habous as institutions and led to the loss of historical memory of the significance and scale of impact that Islamic philanthropy has had in developing society in Muslim history, for Muslims, Jews, and Christians.

Conclusion

The twentieth century has been marked by a series of global catastrophes. Referred to as the age of extremes (Hobsbawm, 1994), this century was notorious for the kind of human suffering never witnessed before in human history, beginning with World War I (1914–1918), the Great Depression (1929–1934), World War II (1939–1944), the Cold War period (1947–1991), the Gulf War (1990–1991), and the century's closure with the Bosnian Genocide (1992–1995). This century has decimated not only human lives but more importantly produced trauma in the psyche of many people, Muslims in particular. The legacy of Islamic philanthropy must be revived if we are to begin the work of healing hearts, minds, and communities. If nothing else, the legacy of Islamic philanthropic institutions (awqāf/habous) tells us that more often than not, the solutions to social, economic, moral, and even political problems lay in our willingness to take the initiative to do something for others and to leave behind a world that is a little better than when we found it. And by systematically (and systemically) deleting and not remembering positive, lasting contributions to our conditions, we cease

to build on greatness and instead abdicate our moral and spiritual cultivation in favor of the degenerative nature of materialism in the name of progress. Financing kindness as a society was what made the Islamic civilization a just, beautiful, lasting, and great civilization. Perhaps the institution of the waqf teaches us that, in sequestering our most cherished property, we are indeed preserving the best of who we are and what makes us great, thereby reserving it for others to benefit from and to enhance their lives and well-being with. Perhaps this, in the end, is the communal goal of Islam.

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