

Ludwig Adamec, in his book entitled "The A to Z of Islam" describes a waqf as "real estate, or property given to God in perpetuity in support of religious and charitable institutions" (Adamec 273). In more tangible terms, a waqf starts as a piece of private property which is then donated by the owner to society for eternity to be used either physically for the establishment of a public institution, or the income of the property would support such charitable and public institutions (Adamec 273). Unlike zakat, the waqf is not an annual contribution for charity, and it is not specifically mentioned by name in the Qur'an, instead its inception comes from a hadith, a story relating to practices in the time of Muhammad (Kuran 4). In principle, a waqf would be an altruistic and charitable act. The founder of a waqf could, however, make himself the mutawalli (manager) of the waqf, thus earning ten to fifteen percent of the income for himself, his family, and any employees otherwise. In addition, a waqf, being not categorized as private property, would thus become tax exempt (Kuran 12). Thirdly, Islamic law provides that two-thirds of the inheritance be divided up equally among the bereaved and their families, but by classifying property as a waqf, the mutawalli could easily name a single heir of his choosing by transferring the managership to that person (Kuran 14). This is not to suggest that it was a purely selfish decision on the part of mutawallis in establishing awqaf. As Timur Kuran suggests in an article entitled, *The Provision of Public Goods under Islamic Law: Origins, Impact, and Limitations of the Waqf System*, "Holding that charity begins at home, they considered a family waqf as much an expression of piety as a charitable waqf" (Kuran 12). Of course, this fundamental principle did leave the interpretation rather loose for further exploitation. Although, it should be noted that the purpose of each waqf, as stated in writing by the

founder, must be followed by the mutawalli to a T (Kuran 3).

Awqaf finance a great deal of public projects. For example, one such notable waqf was established in the thirteenth century in Maragha. Ilkhanid Hulagu founded a waqf on his property for the construction of an astronomical observatory. What is notable about this observatory is that it remained operational for fifty years well after his death. In those days, such a scientific project would typically not have lasted very long, but because it was formed and financed by a waqf, it was able to serve as the main center for astronomical research in that day. Its findings directly contributed to devices used today in modern navigation (Esposito 182). Perhaps the most remarkable achievement of medieval Islamic society during the ninth and tenth centuries was the hospital. These were open to anyone who was ill. They were centers for curing the sick as well as for medical research. The first five were built in Baghdad, and more advanced hospitals were built in later medieval centuries (12th & 13th) in Damascus, Cairo, Qayrawan, Mecca, Medina, and Rayy. The success of these institutions is primarily due to their financing through Awqaf (Esposito 208). These provided the necessary funding for such large public operations. Especially for the time period, this was a magnificent achievement.

How did the waqf become so popular? The answer is multifaceted, for a waqf served multiple purposes in the pre-modern Middle East, however, one take on the waqf, its importance insofar as property rights, seems to really harness the economic reason for its rise to popularity during the eighth century. As the landowning class arose relative to that of merchants, wealth took the form of property as opposed to commodities. This meant that taxation could take on the form of property / land seizure (Kuran 5). Awqaf, property belonging to *umma* (God and to His Prophet), could not be taxed. Furthermore, the

seriousness attributed to the piousness of creating a waqf was difficult to dispute, so the classification of property as waqf ensured its protection from dynastic acquisition.

Government officials, more concerned with their own property holds than state revenue, acquiescently endorsed the use of waqfs to protect their own property from being swallowed up by the state / ruler (Kuran 6).

Although the waqf, in terms of its definition today, really began to take root in the eighth century, the tradition of the waqf emerged from certain stories of Muhammad and his successors during the seventh century (Kuran 4). The earliest record of a man giving up his property to the Prophet for the benefit of the future of Islam was that of a Jew named Mukhayriq who converted to Islam, and in his will he gave his property to Muhammad. However, the most important story concerning the waqf is in a hadith concerning Umar's acquisition of land in Khaybar. The Prophet asked him to make the land habs. Habs is a synonym for Waqf, meaning that the property would belong to the community (Gil 2). The hadith reads:

Ibn `Umar reported, `Umar ibn al-Khattab got land in Khaibar; so he came to the Prophet, peace and blessings of Allah be on him, to consult him about it. He said, O Messenger of Allah! I have got land in Khaibar than which I have never obtained more valuable property; what dost thou advise about it? He said: "If thou likest, make the property itself to remain inalienable, and give (the profit from) it in charity." So `Umar made it a charity on the condition that it shall not be sold, nor given away as a gift, nor inherited, and made it a charity among the needy and the relatives and to set free slaves and in the way of Allah and for the travellers and to entertain guests, there being no blame on him who managed it if he ate out of it and made (others) eat, not accumulating wealth thereby. (B. 54 : 19.). (Muhammad Ali #14)

This hadith embodies the true spirit of the concept of waqf. There are several passages in the Qur'an which hint at the idea behind a waqf, but none actually refer to it as specifically as the aforementioned hadith. In his article, Kuran exemplifies two such passages, "whatsoever ye

spend for good, He replaceth it" (Qur'an, 34:39), and "O ye who believe! When ye hold conference with the messenger, offer an alms before your conference" (Qur'an, 58:12). But here he says, these passages could just as equally refer to zakat (Kuran 4). For all intents and purposes, it appears the waqf originated, in terms of Islam, as a religious practice. But just as well, Kuran states that, "The reason the waqf is considered an expression of piety is that it is governed by a law considered sacred, not that its activities are inherently religious or that its benefits must be confined to Muslims" (Kuran 1).

The old waqf was a very strict system and had several inherent flaws. Whatever the goals were, as set out on the deed by the founder, they needed to be followed word for word. This poses a problem for awqaf that rely on dated techniques or equipment. To make up for any deficiencies in a waqf's deed, the primary mission of the waqf was made to help the needy. Kuran points out that this policy created a surplus of funds for soup kitchens which in turn inspired a mass of laziness, as food was made readily available for free (Kuran 17). Awqaf deeds in the Ottoman Empire allowed for the mutawalli to make one set of changes, but only once. This may have sufficed to keep a dated waqf alive for another fifty years, but it was obviously too rigid a system. If something was not mentioned in the deed of a waqf, the assumption would be that the founder had not intended for its existence in the waqf. This conservative interpretation made many awqaf dysfunctional, because drafters of the deeds did not always think of every provision (Kuran 18).

Despite its strong continuity, the waqf system is no longer like it once was. Most of the changes came during the nineteenth century when the Ottoman Empire desired funds to modernize. Several events mark distinct changes in the system. In a 1630 Ottoman treatise, Koçi Bey, a palace advisor, proposed abolishing family awqaf due to their not-so-charitable

functions, and the reallocation of that wealth to the empire. This led to unfair hoarding of property by later sultans. In 1839, however, reforms came by which the empire created a ministry to regulate and manage awqaf. This centralized the waqf system and pooled waqf funds together to perform their respective tasks (Kuran 37). This made a substantial amount of funds accessible to the empire as well. In doing this, the deeds on awqaf were no longer viewed as sacred and perpetual documents. Those in favor of centralization were typically against the clerics, who sought to resist modernization. Also a major factor were the European creditors who desired a central Ottoman government that could payback its debts. The changes that finally bring the waqf into today's society occurred in the twentieth century (Kuran 39).

Today's waqf functions more like a corporation. Instead of a single mutawalli overseeing the operation, there exists a board of mutawallis who take a more liberal interpretation of the original deed, thus allowing for pragmatic solutions to inconsistencies or dated practices enumerated in the original document. They may also set a dynamic tone to the waqf, thus redefining its goals and stipulations. Today the mutawalli would be charged with making sure the intent of the waqf is a success. If sticking to the fine print means under-maximization of assets, then the mutawalli would be regarded as failing the intent of the waqf (Kuran 20). Since today there is little fear of seizure of property by a wealth thirsty government, awqaf are not the method of choice for securing property. Although many awqaf still finance operations for religious and educational institutions, the governments of Islamic states have taken over for the most part in providing this social infrastructure (Kuran 39).

In my opinion, the description of the modern waqf seems substantial for the

twenty-first century, however, one must ask whether the waqf really serves much of a purpose today if its interpretation is so liberal that it can take on practically any shape at all. Furthermore, with government providing most public goods and services, and with the drop in demand for awqaf for the preservation of a family estate, perhaps it is time that the waqf take on its traditional purpose of charity and let modern economical and political systems deal with roles that the waqf once played. This would of course consolidate the purpose of a waqf, but perhaps this would better consider the original intentions of the Prophet. Instead of reforming an already well reformed system of finance that is redundant in respects to alternative parallel systems, why not let it resume its original purpose? In doing so, the waqf may again take on a more religious and cultural connection with Islamic society, and it would undoubtedly serve as an efficient system for charity. Let modern, tested financial systems do their part in maintaining Islamic society. There is no reason to experiment untested ground with the waqf concept when other financial systems already handle so much of worldly finance. Leave the waqf to charity.

The waqf has undertaken a long journey and has played a vital role in the economic development of Islamic society. In early Islamic society, it was a necessary mechanism to allow for public projects and preventing seizure of property as tax. As its deficiencies were seen to inhibit economic progress, its role was changed drastically. Today the waqf is multi-functional and a less central provider for financial stability in Islamic society.

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