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# Workings of Theocracy: The Historical Function and Modern Applicability of Charitable Endowments

Nuh Elalaoui

Senior Thesis

Rollins College 2020-2021

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# Abstract

Historically, various systems and institutions across diverse civilizations have been established to meet the many needs that interweave the fabric of society. One, and perhaps the most significant of these institutions is the *waqf/hubus* system.

Characterized by the designation of a property or revenue stream as mortmain and the investment of the usufruct for the benefit of (often predetermined) beneficiaries, this form of charitable endowment is hailed as a cornerstone of Islamic civilization. The objectives of this paper are threefold. Primarily, it examines the historical role of awqāf, with focus on their social and economic significance in two distinct Islamic civilizations: Al-Andalus & the Ottoman Empire. Moreover, it seeks to understand the importance of the endowment system in the preservation and continual function of a healthy society. Finally, it evaluates the modern capacity of awqāf and considers the potential for their implementation in the Western world.

## **Key Words**

Aḥbās, evkaf, endowment, global, social welfare, usufruct

# Glossary

| Term   | Definition.                  |
|--|------------------------------|
| Waqf/ḥubs/vakıf (pl. awqāf/aḥbās/evkaf & vakıflar) | charitable endowment         |
| Waqif/vâkıf  | endower                      |
| Mawqūf/maḥbūs/mevkuf                               | endowed                      |
| Mawquf alayh / mevkufunaleyh                       | beneficiary                  |
| Mutawalli  | waqf manager                 |
| Ayah (pl. ayāt)                                    | verse (of the Quran)         |
| Qadi   | Islamic judge                |
| Faqih (pl. fuqahā)                                 | Islamic jurist               |
| Alim (pl. ulama)                                   | Islamic scholar              |
| Imam   | Congregational leader        |
| Muezzin  | person who calls to prayer   |
| Muwaqqit / muvakkit                                | timekeeper                   |
| Vâiz/wa'idh  | religious lecturer           |
| Saḥiḥ  | “true”, “correct”            |
| Sadaqa (pl. sadaqāt)                               | charity                      |
| Zakat  | compulsory charity           |
| Ḥadīth (pl. aḥadīth)                               | traditions of the Prophet    |
| Jami (pl. jawāmi')                                 | [Friday] mosque              |
| Masjid (pl. masājid)                               | mosque                       |
| Madrasa / medrese                                  | school                       |
| Dukkān (pl. dakakīn)                               | shop, stall                  |
| Bimaristan/mustashfā                               | hospital                     |
| Küllīye  | social & religious complex   |
| Zawiya / zawiye                                    | religious & spiritual school |
| Tarīq (pl. turūq)                                  | road                         |
| Faras (pl. afrās )                                 | horse, steed                 |
| Imare  | soup kitchen                 |

# Introduction

For centuries inaccessible and obscure to the Western consciousness, the workings of Islamic society and economy continue to receive little attention and elude common understanding. While language has proven a significant barrier to the transfer of ideas – the large majority of scholarship on such topics is written in Arabic, Turkish, or Persian – the disconnect apparent in the relationship between church and state in occidental and oriental societies has proven a greater hindrance. The gradual secularization of the Western world, despite accelerating rapidly after the Second World War, has been underway since the Middle-Age European wars of religion. Consequently, and amplified globally by Western clout, the foundations of most modern socioeconomic institutions are set along predominantly irreligious lines. This contrasts sharply, however, with the very nature of an Islamic state, which is first and foremost a theocracy. Though contemporary Muslim states have not escaped the effects of the aforementioned secularization, some vestiges of their theological past remain. One, and perhaps the most significant of these is the *waqf/hubus* system.

The *waqf* (plural: *awqāf*) is often designated as the “most important institution [providing] the foundation for Islamic civilization” (Abbasi, 2012) for its great economic, financial, and social significance. While current societies employ a system in which public services such as roads, bridges, and schools are subsidized through taxes, much “of the public sector [of Muslim society] was financed” through *awqāf*. These endowments “served a wide range of social functions” (Kuran, 2001). In fact, waqf related revenues were “accountable for the support of every form of religious, educational, and charitable institution in Islam”; the waqf system is thus credited for “making the Islamic world much the way it was” (Barnes, 1986). Continuous streams of income from rent and other forms of waqf-related usufruct provided “precisely the kind of long-term economic security” (Barnes, 1986) needed for charitable and religious institutions. The application of the waqf, or endowment, system also extends to the private sector in the form of trusts, the beneficiaries of which are limited to “the founder..., their family members” (Abbasi, 2012) and explicitly designated individuals, for generations. Ultimately, even these private

awqāf benefitted the poor of society. The immense scale of the awqāf structure necessitates precise and effective administration carried out in accordance with a comprehensive code based in Islamic law.

### The Nature of Awqāf

The term waqf stems from the Arabic root و - ق - ف which mean “to stop”. Similarly, the cognate term ḥubs is derived from the root letters ح - ب - س, which also mean “to stop” or “to hold/imprison”. The term habs (حبس) in Arabic means “prison”, and the modern Moroccan dialect uses hbas (احبس) as a command meaning “stop”. By the definition of Maliki jurist Ibn Arafa, a waqf is “the grant of the usufruct of a thing that is binding on the donor for the duration of its existence” (Powers, 1993). Thus, by designating his property as a waqf, the founder “stops” or “withholds” an asset, rendering it inalienable, and commits its usufruct to a certain beneficiary or cause. A waqf is “perpetually reserved for the objectives [defined by the founder] and cannot be alienated by inheritance, sale, gift, or otherwise” (Abbasi, 2012). In his book *An Introduction to Religious Foundations in the Ottoman Empire*, John Robert Barnes reinforces that this “quality of untouchability or inalienability” is the chief underlying characteristic of awqāf and is most aptly expressed in the English/French term mortmain. Defining a property or revenue stream as mortmain is to “take it out of the sphere of commercial transaction, and to cause it to stop and stand still” (Barnes, 1986).

The founder of the waqf is called the wāqif (الواقف) while the beneficiary is designated as the mawquf alayh (الموقوف عليه), ‘he upon which the waqf is implemented’. The waqf is administered by the mutawalli (المتولي), meaning ‘he who is nominated as the representing/responsible entity’. When converting private property to mawquf, the “ultimate severance of the juridical connection takes place when the founder appoints a proxy and conveys the property to that person” (Layish, 2008). As an institution of the theocracy, a waqf is supervised by an Islamic judge, known as a qādi (القاضي), who is associated with ‘a specialized government department’ (Abbasi, 2012), historically called a diwan. Such governmental

departments still exist for the management of awqāf; notable examples are the Vakıflar Genel Müdürlüğü (Directorate General of Awqāf) in Turkey and وزارة الأوقاف و الشؤون الإسلامية (Directorate General of Awqāf and Islamic Affairs) in Morocco.

The Islamic origin of the awqāf system, like the entirety of Islamic tradition, is primarily based on Quran and the Sunna (the customs of Prophet Muhammad ﷺ). Though awqāf are not explicitly mentioned in the Quran, Islamic jurists call upon ayāt (verses) that encourage and regulate inheritance and charitable action.

Indeed, the underlying nature of a waqf or ḥubs is sadaqa (charity), which is a “broad instrument of Islamic philanthropy” (Elasrag, 2017) to which the Quran extensively alludes, and which factors extraordinarily in the responsibilities of every Muslim. Just as the compulsory charitable contribution on financially able Muslims to the poor is a form of sadaqa called zakat, the establishment of “flows of benefits that are expected to be stable and permanent” (Elasrag, 2017) is classified as a sadaqa jāriya (“continuing charity”), one type of which is a waqf. The position of awqāf is such that, along with “laws on inheritance and the statut personnel” it forms a considerable part of the “main corpus of the sharia” (Barnes, 1986).

Muslim scholars (ulama) and jurists (fuqahā), in their development of a “detailed law....on the basis of secondary sources” (Abbasi, 2012), broadly reference the Quran. The following are some frequently cited ayāt encouraging charity:

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ ۚ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ ۝

*You will never achieve righteousness until you donate some of what you cherish. And whatever you give is certainly well known to Allah. (Al-i Imran Verse 92)*

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

مَثَلُ الَّذِينَ يُنْفِقُونَ أَمْوَالَهُمْ فِي سَبِيلِ اللَّهِ كَمَثَلِ حَبَّةٍ أَنْبَتَتْ سَبْعَ سَنَابِلَ فِي كُلِّ سَنَابِلَةٍ مِائَةٌ حَبَّةٌ ۗ وَاللَّهُ يُضَاعِفُ لِمَنْ يَشَاءُ ۗ وَاللَّهُ وَاسِعٌ عَلِيمٌ ۝

*The example of those who spend their wealth in the cause of Allah is that of a grain that sprouts into seven ears, each bearing one hundred grains. And Allah multiplies the reward even more to whoever He wills. For Allah is All-Bountiful, All-Knowing. (Al-Baqarah Verse 261)*



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

لَيْسَ الْبِرُّ أَنْ تُولُوا وُجُوهَكُمْ قِبَلَ الْمَشْرِقِ وَالْمَغْرِبِ وَلَكِنَّ الْبِرَّ مَنْ آمَنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَالْمَلَائِكَةِ وَالْكِتَابِ وَالنَّبِيِّينَ وَآتَى الْمَالَ عَلَىٰ حُبِّهِ ذَوِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينَ وَابْنَ السَّبِيلِ وَالسَّائِلِينَ وَفِي الرِّقَابِ وَأَقَامَ الصَّلَاةَ وَآتَى الزَّكَاةَ وَالْمُوفُونَ بِعَهْدِهِمْ إِذَا عَاهَدُوا ۗ وَالصَّابِرِينَ فِي الْبَأْسَاءِ وَالضَّرَّاءِ وَحِينَ الْبَأْسِ ۗ أُولَئِكَ الَّذِينَ صَدَقُوا ۗ وَأُولَئِكَ هُمُ الْمُتَّقُونَ

*“Righteousness is not in turning your faces towards the east or the west. Rather, the righteous are those who believe in Allah, the Last Day, the angels, the Books, and the prophets; who give charity out of their cherished wealth to relatives, orphans, the poor, ‘needy’ travelers, beggars, and for freeing captives; who establish prayer, pay alms-tax, and keep the pledges they make; and who are patient in times of suffering, adversity, and in ‘the heat of’ battle. It is they who are true ‘in faith’, and it is they who are mindful ‘of Allah’.” (Al-Baqarah Verse 177)*

As previously mentioned, Sunna, specifically the ḥadīth, is also a key source from which the laws regulating awqāf are derived. The Sunna consists of sayings from or about the Prophet (ﷺ), called ḥadīth, which is crucial in determining the sharia, or Islamic religious law. As a legal source, the reliability and authenticity of aḥadīth (plural of ḥadīth) is paramount. To this end, every single ḥadīth has an associated isnād, a verified chain of narration leading all the way back to the Prophet (ﷺ) himself. For an isnād to be deemed sound and trustworthy, every single person in the chain of narration is studied; any doubt concerning their actions, character, manners, or piety is enough to prevent the ḥadīth from classification as saḥīḥ, meaning “correct” or “trustworthy”. Prominent scholars in Islamic history such as al-Bukhari and al-Tirmidhi have compiled vast collections of ḥadīth that are widely accepted as credible. Examples of aḥadīth (plural form of ḥadīth) mentioning sadaqa jāriya (ongoing charity) are the following:

عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ  
إِذَا مَاتَ الْإِنْسَانُ انْقَطَعَ عَمَلُهُ إِلَّا مِنْ ثَلَاثَةٍ مِنْ صَدَقَةٍ جَارِيَةٍ وَعِلْمٍ يُنْتَفَعُ بِهِ وَوَلَدٍ صَالِحٍ يَدْعُو لَهُ

*It was narrated from Abu Hurairah that the Messenger of Allah said:*

*“When a man dies all his good deeds come to an end except three: Ongoing charity, beneficial knowledge, and a righteous son [child] who prays for him.” (Sunan an-Nasa’i 3651, Book 30, Ḥadīth 41)*

Umar ibn al-Khattab, a Companion of the Prophet (ﷺ), once asked him what he should do with a certain wealth that was very dear to him. The Prophet (ﷺ) responded:

" إِنْ شِئْتَ حَبَسْتَ أَصْلَهَا وَتَصَدَّقْتَ بِهَا "

*“If you wish, make its origin an endowment (waqf) and give its usufruct in the cause of Allah”*

The narration goes on to describe, in the following terms, how Umar ibn al-Khattab established this endowment: “Umar dealt with it so that its origin would not be sold, given away, or inherited, and its usufruct would be used for the purpose of donation to the poor and to relatives, the freeing of slaves, and use in the way of (for the sake of) Allah, wayfarers/travelers, and guests”. Umar also specified that the wali/mutawalli and his friend(s) could also benefit from the waqf within reason, with the stipulation that he does not accumulate the benefit for himself. (Sunan of Ibn Maja, The Book of Charities, Chapter of Awqāf, 801, Ḥadīth 2396).

As proven by the high degree of clarity and specification apparent in the prophetic narration, ḥadīth is a principal basis for the codification of Islamic law. However, Muslim scholars and jurists also utilize scholarly consensus and make appropriate considerations “[reflecting] the socio-political developments of the time” (Abbasi, 2012).

## Awqāf in society

While the ubiquitous and deep influence of the waqf system in all sectors of Islamic society render its classification and regulation quite complex, two categories encompass the majority of all endowments: charitable awqāf (waqf khayrī) and family awqāf (waqf ahlī). As indicated by their nomenclature, each type of waqf serves different beneficiaries. However, more often than not, the respective types of waqf ultimately served, directly or indirectly, the beneficiaries of one another. The coming sections will go into greater detail about the historical place that the institution of endowments has occupied and the role it has played in two of the greatest Muslim civilizations: Al-Andalus and the Ottoman Empire. Moreover, these sections seek to understand the importance of the endowment system in the preservation of a healthy society, the resolution of public challenges such as poverty, and the mitigation of civil ramifications affiliated with disaster and war.

# Brief Overview Taxonomy

| Type & Summary   | Selected Relevant Literature   |
|--|--|
| <p><b>Aḥbās Kḥayrīya   Hayrî Evkaf</b></p> <p><u>Mosques &amp; Madrasas</u></p> <p><i>Places of worship and educational institutions are built and/or supported by profits from various types of endowed properties, including but not limited to bakeries, bathhouses, agricultural lands, and rental properties</i></p> <p><u>Cemetery</u></p> <p><i>Property is endowed for use as public burial grounds. Such cemeteries are occasionally financed by revenue streams from businesses or other forms of real estate.</i></p> <p><u>Public service and welfare</u></p> <p><i>Foundations established to benefit society are financed through personal wealth or true the aforementioned traditional sources of profit.</i></p> <p><b>Aḥbās Ahliyya   Aile Evkaf</b></p> <p><i>Family endowments designate individuals or the community as beneficiaries of their estate and charitable works.</i></p> | <p>(Al-Tulaytuli, c. 1050)</p> <p>(Schatzmler, 2001)</p> <p>(Açikel, 2019)</p> <p>(Nasıroğlu, 2019)</p> <p>(Debasa, 2002)</p> <p>(García-Sanjuán, 2002)</p> <p>(Erdem, 2011)</p> <p>(Benli, 2016)</p> <p>(Alkan, 2018)</p> |

# Section 1

Aḥbās in Al-Andalus

## Aḥbās in Al-Andalus, c. 720-1492

Following the spread of Islam throughout the Arabian Peninsula, the nascent Islamic Empire grew rapidly. Defeating first the Sassanid Persians, then the Byzantine Romans, the Muslims conquered Mesopotamia, the Levant, and spread as far north as Anatolia and the Caucasus (Donner, 1981). To the West, Muslim forces captured Egypt, and under the command of capable general Uqba ibn Nafi, conquests across North Africa began. By the end of the century, the area spanning from Egypt to Morocco was firmly under Muslim control, and the armies of the Umayyad Caliphate turned to Iberia, then ruled by the Visigoths. Launching the invasion from Northern Morocco, caliphal forces swept through the peninsula, even campaigning into modern day France. The Muslims retained hold over the Iberian Peninsula, which was henceforth known as Al-Andalus. Located in the northwestern extreme of Muslim territory, which extended all the way to modern China, Al-Andalus remained a region of marginal significance in the Caliphate, the heart of which was located in Syria (and later Iraq). After the fall of the Umayyads and the rise of the Abbasids, rule of certain regions slipped out of centralized control. The situation of Iberia in the periphery, far from the attention of the caliphal court, allowed the Umayyad Abd al-Rahman I to escape assassination by Abbasid agents and reestablish the dynasty in Al-Andalus. Under the Umayyad Caliphate of Cordoba, as well as successive taifa, Almohad, Almoravid, Marinid, and Nasrid control, Al-Andalus flourished as the most prominent center of knowledge and learning in the world, matched only by Damascus and Baghdad to the East.

In Al-Andalus, and indeed to this very day in the Maghreb, Islamic endowments were called aḥbās (sing. ḥubs). Despite the difference in nomenclature, the Western aḥbas are synonymous with Eastern awqāf. As mentioned in the previous section, aḥbas can be classified into two categories: aḥbas kḥayrīya (sing. ḥubs kḥayrī) and aḥbās ahliyya (ḥubs ahlī). In her book *Legados Píos Fundaciones Familiares en Al-Andalus*<sup>1</sup>, Ana María Caraballeira Debasa describes several different manifestations of aḥbās kḥayrīya.

---

<sup>1</sup> This is a Spanish-language book; all information drawn from this text is a personal translation

## Aḥbās khayrīya

### Mosque Endowments

The first vessels of charitable Islamic endowment found in Al-Andalus, mosques, “appear especially noticeably in aḥbās documentation among the most cited public constructions” (Debasa, 2002). This is directly attributable to the fact that, Islamically, the construction of or contribution to mosques is an act of piety viewed favorably by Allah (Al-Tulaytuli, c. 1050). Such a significant financial commitment was often undertaken by prominent figures, as was the case with the Grand Mosque of Cordoba, a symbol of Umayyad power and strength (Schatzmler, 2001). Legal documentation from Al-Andalus sometimes makes a distinction between a masjid (mosque) jami’ and a neighborhood masjid. While the degree, if not the very existence, of differentiation between the aforementioned is a matter of debate, jami’ mosques are ostensibly larger than their neighborhood counterparts. The designation of ‘jami’ (جامع) originates from the same Arabic root as the terms jamā’a (congregation) and jumu’a (Friday, Friday prayers). It is therefore to be inferred that the spacious construction of jami mosques is to accommodate a greater number of people who, attending neighborhood mosques for regular daily prayers, congregate on Fridays for jumu’a prayer.

Masājid (pl. of masjid) had significant expenses, including the salary of the imam (congregational leader), the repair and reconstruction of the mosque, and provision of food and supplies. A variety of sources, including but not limited to nearby houses, shops, bakeries, and orchards, all contributed to meeting the economic needs of masājid. For example, an imam could be granted a ḥubs-constituent home in which to reside, and the masjid could use rent earned by shops and bakeries to purchase carpet for the interior prayer area (Schatzmler, 2001). It is important to note that the legislation concerning the appropriation of ḥubs-related funds was very precise. Only beneficiaries explicitly designated by the founder of a ḥubs had the right to its profits; an imam not elected as a beneficiary of a maḥbūs (endowed, made into a ḥubs) property has no right to its product, even if its usufruct is used for other masjid expenses (García-Sanjuán, 2002). A fatwa by the famed Ibn Rushd clarifies that,

should the conditions set by the founder of a masjid-associated hubs be unknown, the usufruct is to be used for the needs of the masjid in order of importance, with the compensation of the imam coming last. Similarly, Abu'l Hasan al-Amiri states that the profits of a maḥbūs endowed generally, with no specific conditions, can be applied to all of the masjid's expenses. Along with the imam, others who benefited from the hubs income of the masjid are imams, muezzins (those who call to prayer), cleaners, and suppliers. The encompassing presence of masjid aḥbās is such that there were even those solely dedicated to funding religious activity during the holy month of Ramadan, such as the recitations of Quran during the night. Masājīd in Al-Andalus were not simply places of worship; the masjid was a public space, the “center of multiple connections in Andalusian society, that affected its political, economic, and administrative structures as much as it did its religious life” (Debasa, 2002).

### Cemetery Endowments

An intriguing, yet often overlooked vessel of charitable endowments in Al-Andalus is the cemetery. These spaces were often located outside the city walls, but could also be found within the urban center. The various aspects of internment, including specifications regarding the building of mausoleum-like structures (e.g., qubba) or the erecting of walls around certain graves in public cemeteries were drawn from a body of rules defined by qādis who also regulated the cemetery aḥbās. Cemeteries were established on maḥbūs land, endowed by the owner for the burial of Muslims. Interestingly enough, cemeteries were often juxtaposed with hammāms (bathhouses), an unlikely pairing ostensibly originating from the Islamic ritual cleansing of the corpse prior to burial. These hammams were sometimes included in the hubs with which the cemetery was associated.

Another aspect of the cemetery hubs system addresses cemeteries that have fallen into disuse due to abandonment, proximity to residences resulting from urban



growth, or reaching capacity. Generally speaking, Andalusian fuqahā (plural of faqih, “man of knowledge/understanding”) such as Ibn al-Salim and Ibn Zarb, “declared [the repurpose] of cemeteries legal” (Debasa, 2002). However, this only applies to the land itself; any construction material found on the land belongs to individuals, not to the ḥubs, and therefore are not to be reused. If a cemetery has no such materials, one possibility for repurpose is the cultivation of the land, in which case the benefits obtained are subject to the ḥubs ruling on rent income and must be used for the good of the poor and needy (Debasa, 2002). The profit obtained from the sale of any non-ḥubs material demolished at the cemetery is allocated to the public treasury for use in public services such as bridges and roads.

### Public Service and Welfare Endowments

As is the case today, one of the most important and ubiquitous public services in Al-Andalus was the road system. The commonly used term for routes of public transit in Arabic is turūq (sing. tariq). The matter of, which are considered a ḥubs from which the public benefits (public property), has had two main interpretations. One holds that as a public ḥubs, everyone has the right to use the tariq for its purpose: travel and movement. For this reason, no individual has the right to use the road for his own private purposes. The other interpretation contests that since the tariq is public property, everyone has the right to benefit from the road, as long as no individual infringes upon the rights of others to use the tariq for its chief purpose (Debasa, 2002). The issue of turūq aḥbās highlights certain areas of legislation which are more open to subjective elucidation.

So far, the discussion surrounding the role of aḥbās in Al-Andalus has been limited to the civilian realm. However, Islamic charitable endowments also extended to military activity. Notably, maḥbūs income could be dedicated to the construction or reparation of city fortifications or rural forts (Debasa, 2002). Such endowments were by no means purely defensive. As was frequently the case throughout the history of Al-Andalus, military action was taken against the Christian forces in the

north of the Peninsula. One of the most common and popular forms of ḥubs associated with military mobilization was the endowment of horses, known in Arabic as afrās (sing. faras), to the war cause (García-Sanjuán, 2002). Naturally, the endowment of armaments was another, yet decidedly less popular, form of ḥubs in this respect. Prisoners of war, an expected byproduct of conflict, were also integrated into the Andalusian endowment system, albeit in two distinct manners. In the first, these prisoners themselves were endowed for use in prisoner exchange, an important consideration and obligation in Muslim society (García-Sanjuán, 2002). On the other hand, prisoners of war could benefit from aḥbās themselves (Schatzmler, 2001). Prisoners who became slaves were eligible for a class of ḥubs established for the purpose of freeing slaves, a highly commendable act in Islam looked favorably upon by Allah. This is visible clearly throughout the Quran:

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

﴿ إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسَاكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ ۗ فَرِيضَةً مِّنَ اللَّهِ ۗ وَاللَّهُ عَلِيمٌ حَكِيمٌ ﴾

*Charities are only for the poor and for the needy and for those employed to collect [zakat] and for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveler - an obligation [imposed] by Allah. And Allah is Knowing and Wise. (Al-Tawba Verse 60)*

Alongside masājīd, turnkey vessels for charitable endowments in Al-Andalus were services for the poor. As explained in the first section of this paper, aḥbās themselves are a form of sadaqa, the charity mentioned in the verse above. The obligatory sadaqa, called zakat, is a tax of 2.5 percent on every financially able Muslim. All other forms of charitable spending, including aḥbās, fall under the umbrella term sadaqa, but cannot be considered zakat. Aḥbās played a major role in the reduction and elimination of poverty in Al-Andalus. Notable examples of such aḥbās are those established by Caliph Al-Hakam II, which drew income from saddle-maker shops in the sūq of Cordoba to cover the cost of educating the sons of the poor and needy. (Debasa, 2002). By the ruling of Malik, the originator of the Maliki madhab (creed) of Sunni Islam dominant in Al-Andalus and North Africa, as relayed

by Ibn al-Hayy, aḥbās of unspecified beneficiaries must not be applied to other than the maintenance of the poor and needy (Debasa, 2002). Aḥbas were also prevalent in the field of education: individuals endowed academic materials, such as copies of the Quran, so that “all members of the community would have access” (Debasa, 2002). An institution within Al-Andalus, and Islamic society in general, that is particularly renowned is the hospital. According to acclaimed Spanish historian Ana Maria Caraballeira, the “Islamic hospital was a very elaborate institution” (Debasa, 2002). Almost always established by governors, dignitaries, or high-ranking members of state and society, hospitals met the costs of the services they provided using income generated by their associated aḥbās. These hospitals served all, regardless of social class, and are historically esteemed for their cleanliness and quality of care.

Though aḥbās are distinctly Islamic institutions, they were by no mean exclusively founded and used by Muslims. Throughout the history of Al-Andalus, dhimmis (protected religious groups within the Caliphate) of various religious beliefs, most prominently Christians and Jews, lived in peace alongside the Muslims. Jews, for example, lived in designated parts of cities that came to be known as Jewish quarters, still visible today in North African cities. Religious minorities were subject to jizya tax and accorded wide rights and freedoms, among which were designated religious courts and the entitlement to establish aḥbās. Dhimmi endowments were usually for places of worship such as churches and synagogues. Though the legislation governing dhimmi aḥbās differed from that regulating Muslim aḥbās in some respects, the principle was the same. Ana Maria Caraballeira expresses the need to “highlight the attitude of respect and benevolence Muslims had towards the aḥbās of exiled Christians” (Debasa, 2002). Islamic law allowed religious minorities to undo and sell their endowments, recuperating the profit. Such an act would not be possible for a Muslim ḥubs, which is inviolable.

## Aḥbās ahliyya

Notwithstanding their essential role in the greater society of Al-Andalus and its welfare, endowments were remarkably consequential in matters of inheritance and similar intrafamilial significance. Despite the “quantitative inferiority” (García-Sanjuán, 2002) of information regarding familial endowments relative to the charitable foundations discussed in the previous sections, this fact does not detract from the topic’s investigative potential.

Prior to examining the specifics of aḥbās ahliyya, it is obligatory to understand the fundamental distinction between this form of endowment and the aḥbās kḥayrīya. As a donation made in permanence for the benefit of all Muslims (the ummah), the needy, the sick, or an analogous ‘third party’, aḥbās kḥayrīya are public in nature. Conversely, aḥbās ahliyya are specifically designated to asset members of the founder’s family, and are therefore private. Granted that both manifestations of the aḥbās are bound in perpetuity, the question arises: what qualifies the aḥbās kḥayrīya as a form of endowment? After all, personal wealth is ultimately distributed among one’s descendants in accordance with Islamic laws of inheritance. In this case, justification for the classification is two-fold. As clarified in the introduction, endowments are fundamentally a form of sadaqa, or charity. As transmitted by Al-Tirmidhi, The Prophet Muhammad (ﷺ) said:

الصدقةُ على المسكينِ صدقةٌ وعلى ذي الرَّحمِ ثنتانِ صدقةٌ وصلَّةٌ

*“Sadaqa upon the needy is itself but upon those of the family twofold: sadaqa and kinship”*

Consensus has it that sadaqa upon (needy) family members is of higher priority and of greater merit. This initial justification, however, has a perceptible weakness: allocating wealth or possessions to family members could only be considered sadaqa if those individuals are needy in the first place. Here, the second justification comes into consideration. In his book *Hasta Que Dios Herede la Tierra: Los Bienes Habices en Al-Andalus (siglos IX-XV)*<sup>2</sup>, Alejandro García-Sanjuán refers to a

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<sup>2</sup> This is a Spanish-language book, all information drawn from this text is a personal translation

stipulation that he defines as “legal trickery/scheming” (García-Sanjuán, 2002): All forms of private endowments must include a beneficiary of last resort, by whom the maḥbūs is received should none of the principal beneficiaries remain. Furthermore, this beneficiary of last resort must meet the qualifications and serve the purposes of institutions or organizations that typically benefit from aḥbās khayrīya, ostensibly a mosque, hospital, religious school, etc.

## Section 2

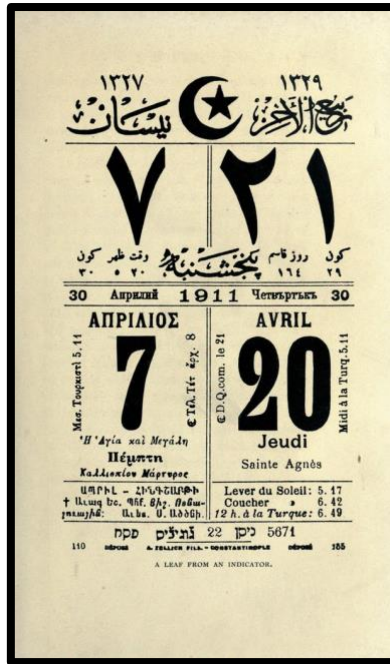
### Awqāf in the Ottoman Empire

## Awqāf in the Ottoman Empire 1299-1922

Arguably the most directly relevant historical political entity in the modern Middle East, the Ottoman Empire is a topic of deep academic significance and socio-economic import. It originated in the 13<sup>th</sup> century among the Muslim Turkic tribes scattered along the frontier between the waning Seljuk Sultanate of Rûm and the rapidly dissolving Byzantine Empire; a *bey* (tribal leader) by the name of Osman succeeded in rallying a great number of tribes to his cause and began campaigning westward. Under Osman's (Arabic: Uthman, anglicized to Ottoman) dynastic successors, the fledgling state swallowed up the surrounding *beyliks* (bey-ruled territories, tribes) and campaigned into Greece and the Balkans. The rule of Mehmed II, the seventh Ottoman Sultan, conquered Constantinople in 1453, effectively ending the Byzantines - two rump states, the Despotate of Epirus and the Empire of Trebizond, fell in quick succession - and ushered in the age of empire. Under Selim I, the Ottomans campaigned into the Levant, crushing the Mamluk Empire, the preeminent Middle Eastern power of the time. This preceded a complete annexation of Mamluk territories, bringing parts of North Africa, Egypt, the Levant, and most importantly, the holy cities of Mecca and Medina into the Ottoman realm. Control of Mecca and Medina solidified the Ottoman claim to the Caliphate, and sultans henceforth used the title *Ḥādīmü'l-Ḥaremeyn*, or "Custodian of the Two Holy Cities" (Deringil, 1991). Selim I's son, the famed Sultan Suleiman al-Kanunî, took the Empire to the zenith of its power during his 46 years of rule in the 16<sup>th</sup> century, conquering Iraq, large swathes of the Upper Balkans and East-Central Europe, and solidifying control over the North African coast as far as the Saadi Sultanate of Morocco. In the latter half of the 17<sup>th</sup> century, at its greatest extent, the Ottoman Empire ruled from Baku in the East to Algiers in the West, and from Eger in the North to Aden in the South.

Given the enormous span of the Empire, Ottoman subjects spoke a variety of languages, including but not limited to Arabic, Greek, Persian, Kurdish, and Serbian. Notwithstanding these regional differences, the official language of the Ottoman Empire is aptly called Ottoman Turkish, a form of Turkish highly

influenced by Arabic and Persian. The cosmopolitan nature of the Empire is illustrated in the image below, which displays a multilingual Ottoman calendar from 1911.



researchgate.net

**The Gregorian 20<sup>th</sup> of April 1911 shown in the Islamic calendar (Arabic) as well as in the Greek, Armenian, Bulgarian, Hebrew calendars and languages.**

The term for awqaf in Ottoman Turkish is evkaf (sing. vakıf), which follows the Arabic grammatical structure for expressing plurality. Though this term remains in Modern Turkish, the word vakıflar is more commonly observed. This modulates the Arabic term vakıf (waqf) with the Turkish suffix -lar, thus creating a plural form of the term. Throughout the following section, awqaf will be referenced in Turkish terminology.

By reason of the Ottoman Empire’s longevity and historical recency, the Ottoman effect on modern vakıf systems in former imperial territories is of no negligible consequence. Accordingly, *An Introduction to Religious Foundations in the Ottoman Empire* indicates that “the Ottomans were responsible for fostering the spread of religious foundation on an ambitious and massive scale” (Barnes, 1986). The following subsections will examine the topic in greater detail.



## Vakıf classifications

As was the case in Al-Andalus, Ottoman evkaf fell into several categories, many of which overlapped. The designation of these categories was determined by the aspect of the waqf they classified. Four major categories of the Ottoman vakıf made distinctions based on waqf ownership, management, rent revenue, and purpose of establishment (Teber, 2002). In order of correlation with the aforementioned distinctions, these categories are the following<sup>3</sup>:

1. Sahih ve Gayr-i Sahih Vakıflar
  - a. Sahih Vakıflar: this type of vakıf is established from personal property (mülk arazi)
  - b. Gayr-i Sahih Vakıflar: Government-established vakıf from state-owned land (miri arazi)
2. Mazbut ve Gayri-Mazbut Vakıflar
  - a. Mazbut Vakıflar: Evkaf whose management has been overtaken by the government to prevent their collapse and continue their existence/purpose after the death of the original müteveli (mutawalli, administrator).
  - b. Gayri-Mazbut Vakıflar: Evkaf that are administered by the müteveli individual(s). Of this vakıf there are two subtypes.
    - i. Mülhak Vakıflar: Evkaf managed by their appointed müteveli and subject to investigation by the government evkaf administration.
    - ii. Müstesna Vakıflar: Evkaf managed by their appointed müteveli and not subject to government investigation. There are two categories of müstesna vakıflar:
      - ∅ Eizze Vakıflar: Endowments established by prominent men of religion.

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<sup>3</sup> The contents listed are a personal adapted translation of the Turkish-language information found in *Osmanlı Toplumunda Bir Sosyal Kurum Olarak Vakıf Çeşitleri ve İşleyişi*.

∅ Guzzât Vakıflar: Endowments established by prominent warriors in the name of the faith, insinuating those who have earned the title of “gazi” (e.g. Orhan Gazi, Gazi Osman Pasha)

3. Mukataalı, İcareteynli, ve İcare-i Vahîdeli/ Vahide-i Kadîmeli Vakıflar
  - a. Mukataalı Vakıflar: vakıf-owned land with no buildings, trees, or tangible source of usufruct is rented out, with fees collected yearly.
  - b. İcareteynli Vakıflar: vakıf-owned land with buildings or establishments on it that are in need of repair. If the vakıf administration is financially incapable of the repairs, those buildings are rented out with the condition of an advance rent payment.
4. Hayrî, Avâırız, ve Aile Vakıflar
  - a. Hayrî Vakıf: Evkaf that are established for religious, social, or cultural purposes. The official name for these endowments is müessesât-ı hayriye; this is the equivalent of the Andalusian aḥbas khayrîya.
  - b. Avâırız Vakıflar: social endowments in towns and neighborhoods, established to pay for medical treatment for the poor, support families and individuals unable to earn a living due to illness, look after orphans, pay for poor individuals’ funeral rites, etc.
  - c. Aile Vakıflar: Evkaf whose revenues are granted in part to religious, cultural and social purposes, and in part to the founder, his family members, and other designated individuals.

For the sake of concise analysis and relevancy to the previous section, only the fourth vakıf classification will be further examined.

## Hayrî Evkaf

In the Ottoman Empire, the role of evkaf in social, economic, and cultural life “spread to unimaginably large areas” (Erdem, 2011). Some of these include religious services, education, healthcare, architecture, provincial government, and military.

### Religious & educational institutions

As was the case in Al-Andalus, an appreciably large majority of evkaf in the Ottoman Empire were associated with mosques and similar religious institutions. The following terms, all corrupted spellings of Arabic words, were used to refer to the parties and properties associated with the endowment: the endower is called the vâkif, the endowed mevkuf, and the beneficiary mevkufunaleyh (Erdem, 2011). Generally, the vâkif would express his desire to endow a certain asset or property and list the intended beneficiaries in an irade beyanı (document of will). The mevkuf and/or its usufruct would then be accordingly directed to benefit the mevkufunaleyh. To gain a deeper insight into the practical implementation of this system within an Ottoman religious institution, it is useful to consider the case of Ali Paşa Camii (mosque) in the north-central Anatolian town of Tokat. As described in the article *Osmanlı Dönemi'nde Tokat Ali Paşa Camii Vakıfları*<sup>4</sup>, the mosque was built pre 1577 by the vali (governor) of Erzurum Ali Paşa, and was initially supported by personal properties rendered mevkuf by the Paşa. Over time, additional mevkuf properties were contributed by other individuals. According to official documents from 1574, the camii vakıf employed 67 individuals, 25 of which were professionals, and to whom a collective daily amount of 162.5 akçe was being paid (Açikel, 2019). Mevkuf properties were located in Tokat, as well as in neighboring towns and villages such as Zile, Çorum, Niksar, and Erzurum. These vakıf-associated sources of income included hammams, jeweler shops, rental homes and shops, as well as caravanserais. The vast array of mevkuf properties is indicative of the size of this particular vakıf; indeed, it is considered to have been one of the largest evkaf in Tokat at the time. In direct correlation to the appreciable revenue

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<sup>4</sup> The information drawn from this text is a personal translation of the Turkish-language original

generated for the mevkufunaleyh, expenditures were also high. Various tasked individuals depended on the yield for their livelihoods, including the imam, the müezzin, the muvakkıt (timekeeper, responsible for calculating the times of prayer), and the vâiz (religious lecturer), among others. These persons each received daily salaries ranging from 1 to 10 akçe.

In addition to mosques, educational establishments providing religious and non-religious education, such as zaviyes and medreses, represent a category of prevalent Ottoman evkaf. For instance, the Imam Abdullah Camii ve Zaviyesi Vakıf in the southern Anatolian town of Hasankeyf incorporated a mosque as well as a zaviye. Alongside the traditional sources of vakıf income, this endowment's revenue included sadaqa left by visitors to the tomb of the eponymous Imam Abdullah (Nasırođlu, 2019). In the mid-16<sup>th</sup> century, the total yearly income of the vakıf was approximately 19,273 akçe, two-thirds of which constituted the salaries of vakıf-employed personnel. The rest was used to meet various other expenses, ostensibly identical to those incurred by the Andalusian mosque aḥbās discussed in the first section. Functioning similarly, the medreses allocated funds to pay teacher salaries, purchase books, and build dormitories, libraries, and matching facilities. Education at medreses as well as zaviyes was free of charge, and necessities such as quills and ink were acquired by the vakıf management.

## Healthcare

According to Dr. Adnan Erdem, none of the hospitals in the Ottoman Empire were built by the state. All such facilities were established by philanthropists through the vakıf institution. Oftentimes, these hospitals were part of larger compounds called külliyes, which included a mosque, medrese, hammam, soup kitchen, among other analogous centers. These külliyes have been described as “social centers” for their role in bringing almost all institutions needed to fulfill basic social needs into one complex (Erdem, 2011). Notable examples of külliyes include the Haseki Hürrem Sultan Külliyesi in Istanbul, which was built by the famed Mimar Sinan upon the commission of Hürrem Sultan, the wife of Sultan

Süleyman al-Kânûnî. The hospital of the Haseki Hürrem Sultan Külliyesi has since been in continuous operation. The common term used for Ottoman hospitals is Darüşşifa, a loanword from Arabic meaning “home/abode of healing”. Continuing the practice of Andalusian hospitals, the Ottoman Darüşşifa “provided for the needs of the public regardless of their economic situation, religion, language, or race”. Treatment was provided free of charge, and special care was given to ensure that the patients had a comfortable stay, with admitted individuals receiving “frequent baths and special clothes to keep [them] clean” (Benli, 2016). Another notable Darüşşifa is found in the Süleymaniye Külliyesi, commissioned by the eponymous sultan. Per research cited by Dr. Gülhan Benli, this particular hospital employed 8 physicians, four of whom were specialists, alongside a pharmacist, a pharmacy technician, several assistants, and a caregiver. The overhead costs generated by the function of the Darüşşifa were met by income collected from mevkuf properties, often businesses, hammams, and rental shops or homes within the vicinity of the külliye. Clearly, a great degree of emphasis was placed on professionalism and the quality of service provided.

### Other services

Evkaf in the Ottoman Empire also occupied an important position in public architectural projects. As such, evkaf had a vital effect on the development of cities (Erdem, 2011). These charitable endowments funded the construction of bridges, roads, caravanserais, aqueducts, and other civil engineering projects that formed the foundation of Ottoman cities. Furthermore, evkaf also financed municipal works such as public parks, street lighting, and plumbing. Just like the aḥbās in Al-Andalus, Ottoman endowments were not constricted to the civil realm. Indeed, evkaf were also involved in shipbuilding, weapons manufacturing, foundries, and military training. The term hayrat, referring to an action done for the sake of Allah and for the benefit of others, is often synonymous with a form of vakif. For instance, it is common to observe public water fountains, called sebils, with an inscription ascribing the work as the hayrat of a particular individual. These hayrat mimic evkaf in function.

## Aile Evkaf

Within the Ottoman Empire, familial endowments functioned as a sort of social security. By endowing an asset and ascribing its usufruct to one's children or family members, it was possible to protect that wealth from any sort of trade or intervention. This enabled the vâkif to determine issues of partition, and take an important precaution in preventing his family from falling into poverty in the future. It is important to note that in accordance with Islamic law, "the vakıf must orient itself directly or indirectly towards a charitable cause" (Alkan, 2018). In an attempt to bridge the charitable intent of a hayrî vakıf and the purposes of the aile vakıf, a third category of vakıf was created.

The yarı-ailevi vakıf, or half-familial endowment, was simply explained by Dr. Mustafa Alkan in *Osmanlı Devletinde Aile Vakıfları ve Sosyal Güvenlik*<sup>5</sup> as a situation in which the vakıf usufruct is shared between the designated familial beneficiaries as well as a charitable institution. In agreement with the consideration regarding Andalusian familial aḥbās, Ottoman aile evkaf were required to serve the principal purpose of meeting the needs of family members and to ultimately benefit (beneficiary of last resort) the destitute. From an Islamic jurisdictional perspective, the state madhab of the Ottoman Empire was Hanafi. In conformity with teachings of Imam Abu Hanifa, aile evkaf must not violate Islamic laws of inheritance and must be physical recorded to be regarded as câiz (legitimate).

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<sup>5</sup> The information drawn from this text is a personal translation of the Turkish-language original

## Timar system

The nascent Ottoman state in Western Anatolia inherited much of these administrative practices from the political entity to which it had formerly sworn fealty, the Seljuk Sultanate of Rûm. Among these was what would become the Ottoman timar system: the tradition of granting revenue generated by conquered land (through kharāj tax) as compensation for military service. Though a timariot (Turkish: tımarlı) supervised his timar and received its tax revenues, the land was not his personal property. This was an intelligent and deliberate measure preventing the emergence of an impediment “to any attempt at centralization” (Barnes, 1986). Unfortunately, but not entirely unexpectedly, following the height of Ottoman expansion and the beginning of stagnation, instances of weak and ineffective leadership in the Empire led to a degree of corruption, entailing the distribution of previously conquered land to members of the imperial court and inner circle. This form of bribery or transaction meant that timars and vakıf lands, as well as their associated revenues (iltizam, “tax farming”) often ended up under the control of individuals who were not originally granted such a responsibility and who oftentimes were unable to carry it (Barnes, 1986). To ensure the inalienability of these possessions, “many individuals placed their property in vakıf ... to create an inalienable trust for their descendants” (Barnes, 1986). An Ottoman statesman in the 17<sup>th</sup> century by the name of Koçi Bey wrote *Risâle*, a treaty on government, in which he laments the use of evkaf to abuse the timar system, and iterates that “[those] lands were the right of the warrior class” (Barnes, 1986). Furthermore, he clarifies that the “great number of warriors [who] were in service to state and religion” were granted possession (temlik) of land by the sultan, from which they “made charitable institutions which were beneficial to the Muslim people” (Bey, 17<sup>th</sup> century). Koçi Bey summarizes his position on the matter by writing the following:

*“Bu çeşit vakıfları din imamları câiz görmüşlerdir. Bunlardan başkası meşru değildir”*

“These types of evkaf (those charitable institutions beneficial to the Muslim people) have been determined as câiz by the imams of the faith. [A type] other than these is not sanctioned.” (Bey, 17<sup>th</sup> century)

## Section 3

### Awqāf in the Modern World



## Pre-Modern & Modern Development of Awqāf

In the previous section, the historical position occupied by charitable endowments in the Islamic world was investigated. Though many technicalities related to operation and definition of awqaf are largely the same today as they have been for millennia, much has changed regarding the role of awqaf and their integration into modern society.

The notable shift in capacity can be directly attributed to an alteration of the underlying systems upon which society functions and, consequently, awqaf rely. Prior to the emergence of the current order, early forms of banking and money exchange existed. The system in the Muslim world was advanced, with explicit rules prohibiting interest, regulating loaning and related documentation, specifying measurements and the weight of coinage, and various other regulations governing banking and transactions laid out in the Quran, hadith, sunnah, or among the decrees of al-Khulafa' al-Rashidun, the Rightly Guided [first four] Caliphs of Islam after the Prophet Muhammad. However, as relates to the Western understanding, there was a clear “absence of any organized system of [Western-style] indigenous banking practices” (Ali, 1957).

During the 15<sup>th</sup> century the Ottoman Empire reached the peak of its power, dominating world affairs and trade. This period saw the development of financial relations between the Ottomans and various European powers, most notably England, the Austro-Hungarian Empire, and France, which would later contribute significantly to the Empire's financial woes and ultimately precipitate its demise. Three centuries after the armies of Selim I swept across the Levant and conquered the Mamluk Sultanate, Napoleon landed at the shores of Egypt. Though it would ultimately fail to realize its objectives, this expedition, the very first instance of European military presence or involvement in the Middle East since the fall of the last Crusader states to al-Mansur Qalawūn, foreshadowed increased European influence on the politics, society, and economy of the Muslim world. During the 19<sup>th</sup> century, the Middle East saw a “huge increase in trade” (Owen & Pamuk, 1998) with Europe. Egypt maintained a strong trade link with Britain through the cotton trade,

with British banks financing the crop. Similarly, such connections “existed between the major European economies and the export sectors... in Western Anatolia, Mount Lebanon, and southern Iraq. Before the end of the century, Algeria and Tunisia had fallen under French rule, and the British held a de facto protectorate over Egypt. Coveted for its vast resources and critically strategic geographical location, the land of the Nile itself was “dragged into the quagmire of economic maladministration and international ambition” (Reinkowski, 2014). This period of history was characterized by an effective collapse of independent political and economic Muslim institutions in the aforementioned regions, and the European domination of administrative affairs at every level. The financial sector, supported in large part by awqaf, was no exception. Therefore, it comes as no great surprise that “all pioneering work in the introduction and development of modern banking was performed by foreign banks, mostly British and French” (Ali, 1957).

Within the Middle East, most of which was still under Ottoman control in the latter half of the 19<sup>th</sup> century, Western involvement simultaneously came through the creation of Western corporate bank branches and the infiltration or administrative takeover of recently established, nominally Ottoman institutions. After the Crimean War, during which the British and the French intervened to save what they perceived as ‘the sick man of Europe’ from defeat by the Russian Empire, the Sublime Porte had substantially increased its existing trend of “almost continuous” (Clay, 1994) borrowing. This placed the Empire at the financial mercy of Western powers, whose capital “wholly or partly financed” (Clay, 1994) the banks being established in the Ottoman capital. In the 1860’s, the Ottoman Imperial Bank (OIB) was established by a joint British-French venture as the state bank of the crumbling Empire, with the purpose of managing the overwhelming debt the Porte had accrued. For some time, the institution remained true to this goal. Fairly quickly, and undoubtedly at the behest of foreign interests, the OIB entered commercial banking, with branched opening in Izmir, Selanik, Beirut, and several other locations. Its banking monopoly was short-lived, however, as before the close of the century powerful foreign competitors began operating in the Ottoman realm. The French Credit Lyonnais, which had originally begun operations in Constantinople in 1874, expanded into

cities including Jerusalem and Jaffa (Clay, 1994). The Germans were not to be outdone; Deutsche Palästina Bank entered the fray in 1897.

The sudden explosion in banking had an immediate economic effect on Muslim societies, but the long-term effects of financial and economic dependence on the West would only come to prominence decades later. Traditionally, common financial dealings were handled by *sarrafs*, local money handlers that offered loans and exchanged currencies. With burgeoning trade and increase commercial development, the demand for liquid capital skyrocketed (Clay, 1994). Unaccustomed to such a situation, the native *sarrafs* were unable to compete with the various newly-established Western banks, each of which was endowed by the burgeoning coffers of Christian Europe. It is also important to note that these banks sought to employ “the services of managers who were at home with the local conditions” (Clay, 1994). This meant that the administrative positions of banking services in Muslim lands were consistently held by local or foreign Christians or Jews. This is a trend that continues to this day, with many Islamic banks in the Middle East employing Westerners in the most important positions of the establishment.

Interestingly, superficial research of modern private Islamic banks reveals a similar situation in current Islamic financial systems across the world. In many cases, the top management is occupied, if not dominated, by at least a few foreigners. Considering that the advertised differentiation in the services provided by these institutions is their purported compatibility with Islamic law, the credibility of the bank is called into question. However, this only scratches the surface of a deeper, grim reality. Since the discovery of oil in the Middle East, the sudden establishment of substantial cash flows from the oil business led to the “rapid growth of Islamic banks ... [and their] increasing presence on world financial markets” (Suleiman, 2000). Perceiving the religiously founded disinclination of most Muslims to deposit their wealth into interest-dealing banks, Western giants such as Citibank and HSBC were quick to enter the regional market. Opening ‘sharia-compliant’ branches in Muslim countries, foreign banking interests succeeded in obtaining a significant percentage of the overall market share. As previously mentioned, even in what could be considered ‘native’ banks, Western financial experts continue to be employed and

placed into managerial positions. Just as in the days of the first banks of the Ottoman Empire, modern private Islamic banks in the Muslim world employ an overwhelmingly Muslim representative workforce to fill lower-level roles such as tellers or customer relations officers, and reserve the ‘behind the scenes’, significantly more consequential positions for foreigners of various faiths.

Furthermore, modern Islamic banks have been accused of engaging in certain banking practices to exploit semantic loopholes, extracting payments that constitute interest in all but name. Though proving these allegations is another matter altogether, it falls well within the bounds of reason to hazard that public faith in the true commitment of self-proclaimed Islamic banking systems to the principles of religious law is faltering at best. Dubious practices of private banking aside, awqaf-related services offered by governmental financial institutions are still in widespread use. For the sake of clarity, brevity, and relevance to the historical regions discussed in the previous section, Moroccan and Turkish awqaf will be investigated in the coming pages.

## Morocco

In the Kingdom of Morocco, aḥbās are managed by the Directorate for Awqaf and Islamic Affairs, which is a separate ministry. The organization is known as Habous for short, which is the French spelling of the Arabic term hubus. Most of the aḥbās in Morocco are divided into urban and rural endowments, both of which pertain to the overarching category of land awqaf.

As per the website of the government, Moroccan urban aḥbās include “built properties [such as] premises for residential, commercial, craft, or professional use” as well as “bare land located within the urban perimeter” (habous.gov.ma). Further to the discussion of land awqaf in the previous section, these forms of endowments typically generate usufruct through rental returns. In 2018, 4,877 buildings – representing 9% of the total urban aḥbās in the Kingdom – were the object of rental operations (habous.gov.ma). In 2018, the total revenue from urban aḥbās in the Kingdom was 350,236,645.35 Moroccan dirhams, which is roughly equivalent to

38,904,374.12 U.S dollars. It is indeed little wonder that the government describes these properties as “the most important Habous real estate assets” in number, variety, and financial profitability (habous.gov.ma). The other form of land waqf common in Morocco is agricultural properties. As a form of self-financing support for the various social and religious projects carried out by the Ministry, agricultural properties occupy a significant position in the Habous system. In the 2017/2018 season, revenue from maḥbūs agricultural properties in the Kingdom of Morocco reached 83,672,163.30 MAD, representing a near 21% increase from the previous year. Of this total, roughly 56 million MAD came from agricultural leases, while 27 million MAD was generated by the sale of harvest and wood.

The Moroccan Habous is heavily involved in the conservation and preservation of ḥubs properties, including mosques, zawiyas, lands, and sanctuaries. The institution also invests in, manages, and finances education, legal affairs, religious instruction, and charity work throughout the Kingdom.

## Turkey

During the transformation of the shattered Ottoman Empire into the Republic of Turkey, the ubiquitous influence of religion at all levels of government and society was effectively curtailed, institutionalized, and, in accordance with secular political ideology, brought under the control of the government. Much of what concerned religious life and fell under the jurisdiction of the Sultan-appointed Shaykh al-Islam was organized into the Diyanet İşler Müdürlüğü, or Directorate of Religious Affairs (commonly referred to as Diyanet). This remains the principal religious authority in Turkey today, issuing fatwas (decrees on matters requiring theological judgement) and managing most Islamic affairs in the country. Alongside Diyanet, the founders of the Turkish Republic also established the Vakıflar Genel Müdürlüğü, or Directorate General of Religious Foundations, which is primarily tasked with managing the multitude of charitable endowments and properties in Turkey.

According to the website of the Directorate General of Religious Foundations, the Turkish republic is home to 52,000 continuously operating “foundations that have

been transferred from the Ottoman and Seljuk period” (vgm.gov.tr). Apart from managing these foundations, the Directorate also restores endowment works and properties throughout the country. Employing tens of thousands of employees, the Directorate is involved in various charitable works, including soup kitchens, student scholarships, and stipends for the poor. The institution finances museums, libraries, universities, and hospitals, offering free healthcare and services to those in need. It also offers waqf housing and is involved in the distribution of foodstuffs to communities in Turkey and several former Ottoman provinces in the Balkans.

One interesting engagement of the Directorate General of Religious Foundations is “Flat for Land Based Construction”. As per the definition on the institutional website, this system puts Directorate- or endowment-owned land property up for bidding, which occurs within an appropriate price range. Ownership of the property is then transferred to the winning bidder in exchange for developing the land. Between 2003-2018, 4343 such constructions were carried out: 3881 apartments, 333 stores, 65 offices, and 64 villas.

### Traditional land awqaf & the cash waqf

Traditionally, awqāf were required to possess some tangible quality of perpetuity. For this reason, and excluding exceptions such as waqf weapons or animals, the most common and accepted forms of waqf were generally fields, groves, dukkans, etc. In almost every case, the mawquf was a plot of land that may or may not contain buildings, trees, or other similar contents. Therefore, most pre-cash waqf charitable endowments can be classified as land awqaf. Considering the accumulation of waqf properties throughout the centuries, it is hardly surprising that at the onset of the colonial period, most of public land was endowed. Indeed, at the dawn of the current century 54% of all property in the Old City of Jerusalem was waqf-owned (Tamari, 2018).

Emerging to prominence during the 16<sup>th</sup> century, the growing popularity of the cash waqf coincided with and was directly influenced by the globalization of trade. The preeminent global power of the time, the Ottoman Empire, extended its control

over the Balkans, all of the Middle East, and much of the North African coast. Straddling three continents, the Empire was strategically positioned to profit from African, Silk Road, Indian, and European trade routes. As Europe began to pull itself together following the devastating wars, diseases, and religious conflicts of the previous centuries, increasingly coherent political entities on the continent colonized the New World and global trade took off in earnest. Throughout the Muslim/Arab world, rising fortunes began to find a straightforward channel for charitable action in the cash waqf.

As was the case five hundred years ago, the cash waqf, known in Arabic as *waqf al-nuqūd*, is a surprisingly simple method of committing a sum of money, in perpetuity, to benefit designated individuals or causes. Initially, however, it “stood at the center of a heated debate” (Burak, 2013). Behind the controversy stood the idea that interest gains on the principal would be committed to charitable causes. Fortunately, another method of endowing cash exists. The principle is as follows: first, the wāqif specifies the amount of money he wishes to endow and clarifies the beneficiary. This sum is then invested into a business venture, company or similar profitable pursuit. Upon obtaining the returns, the base amount is set apart to be reinvested, while the usufruct is granted to the beneficiary or institution. The success of the cash waqf within the Ottoman Empire was so great that it went from “challenging the traditional land waqf early in the 16<sup>th</sup> century” to “[becoming] the dominant mode of endowment” by 1560 (Mandaville, 1979 ). Disputing a prior opinion that cash awqaf enjoyed lower popularity in the “more pious Arab regions”, recent research cites the widespread presence of this innovation in Aleppo, with ample reason to anticipate a similar trend in other Arab cities (Çizakça, 1995).

The rise of modern banking significantly affected use and modality of *awqaf al-nuqūd*, which are currently offered and enabled by Islamic banks throughout the Muslim world. Unfortunately, this connection with and reliance upon prevalent banking systems has heightened the risk of intentional or inadvertent involvement with usury; despite the clear violation of religious law, certain cash waqf systems prefer more predictable revenue stream from accrued interest than fickle investment returns.

## Potential for awqaf in non-Muslim countries

Despite the undeniable social benefits that are credited to systems of charitable endowment, the institution of awqaf does not currently exist outside the Muslim world. Many of the charitable services provided by awqaf are made available in the West through private organizations, but they are understandably limited in scale and funding. The effects of the absence of such systems are plainly visible and sorely felt throughout the Western world, with debilitating social ills related to inaccessible lodging, food, and healthcare services.

While charitable endowments as they exist in the Muslim world have no Western equivalent, the closest Western concept to familial endowments are trusts. Though they differ from awqaf in that they are not based along religious lines, these legal functions allow an individual to transfer a fraction or all of his or her estate to designated beneficiaries. While identical to aḥbās ahliyya in principle, trusts do not share the same feature of inviolability. Furthermore, trusts are not obligated to have a beneficiary of last recourse. Despite notably complicating the establishment, management, and development of awqaf, modern banking systems have significantly broadened the range of variety and scope of application of charitable endowments. For example, it would be possible to purchase and endow a farmland, investing the profits reaped from the harvest to generate enough revenue to cover overhead costs – which include maintenance, property taxes, etc. – and to direct the rest towards a charitable cause. A similar approach could be taken with a small business, such as a bakery or florist. In the case of a trust fund, the allotted amount from the individual's estate can be invested into any appropriate business, developing and redirecting the usufruct while recycling the principal.

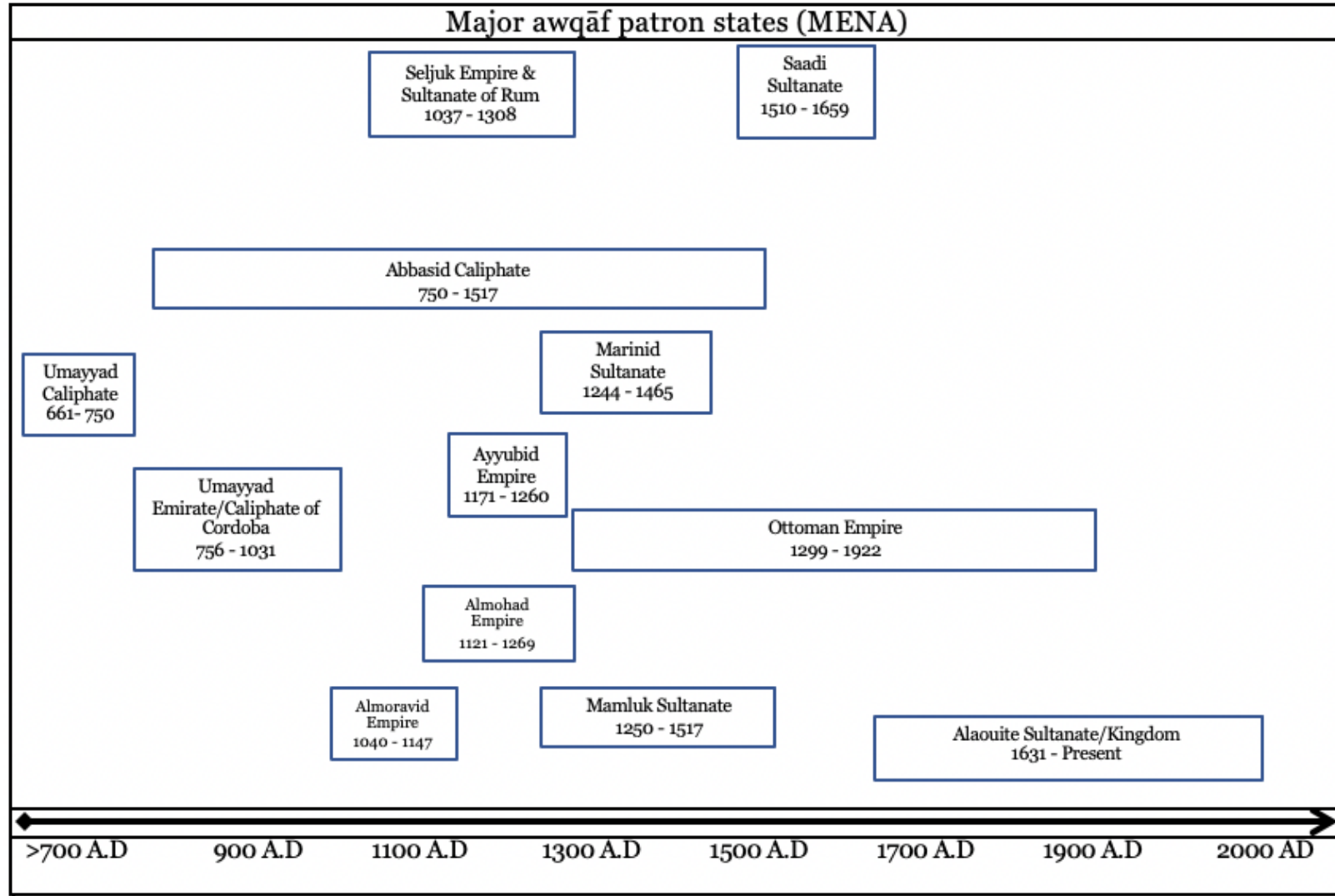
Though the basic necessary parameters and systems are already in place, establishing awqāf-like institutions in the Western world would require delicate legal and financial considerations. Notably, circumventing structural interest is a point of particular concern. In view of the social benefits that perpetual charitable endowments have been proven to yield, it is only a matter of will and effort.



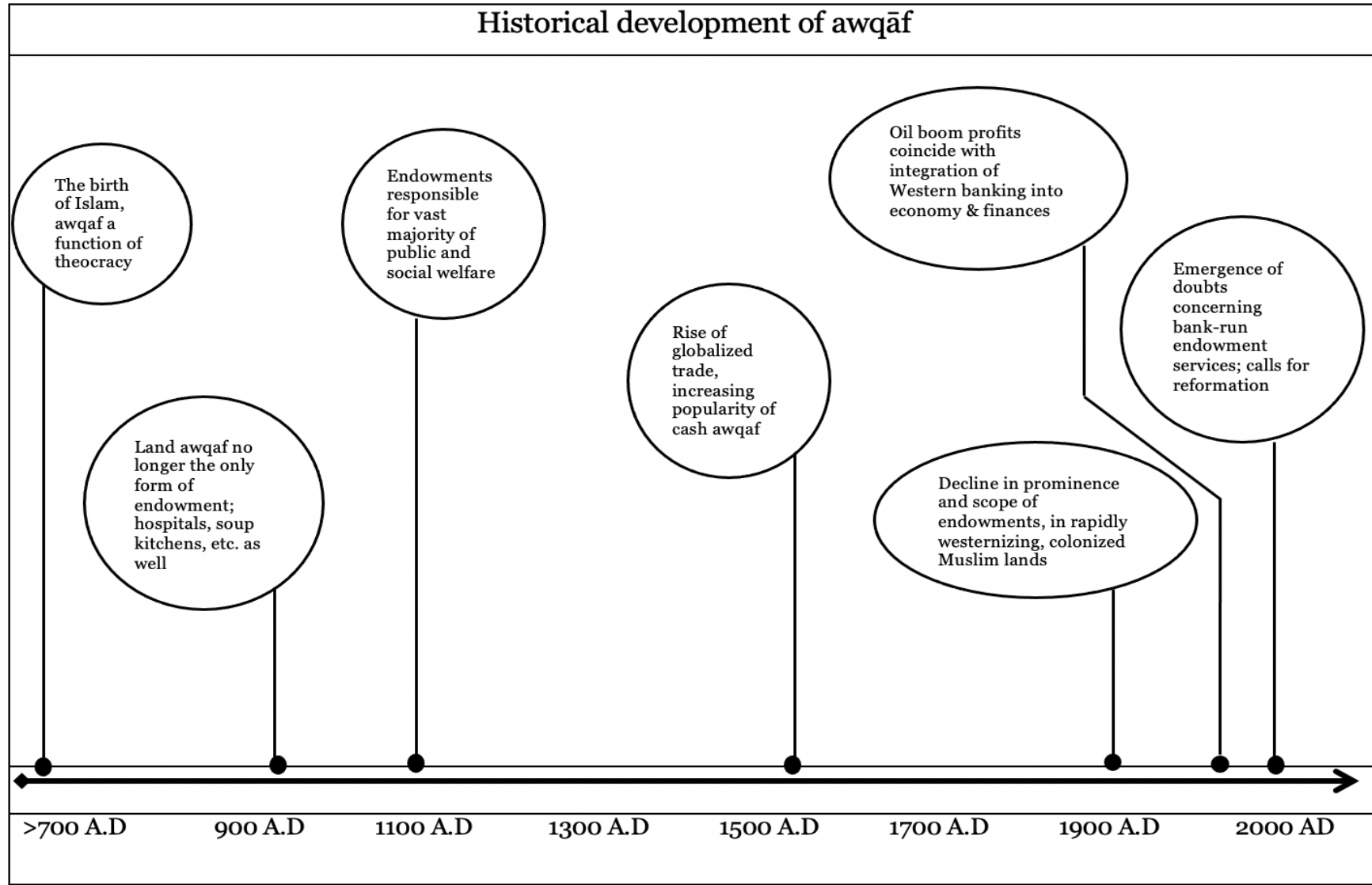
# Conclusion

It is no matter of debate that awqaf or aḥbās historically occupied a preeminent position in Islamic societies. The implementation of charitable and familial foundations in Al-Andalus and the Ottoman Empire was largely identical. These endowments played a central role in preventing social inequality by providing essential services in an indiscriminate fashion. The establishment of aḥbās by those with financial means for the benefit of those without maintained a degree of balance, mitigating the effects of many illnesses that plague modern society, including uneven wealth distribution. In turn, this prevented the formation of a divide between lower and upper classes, therefore avoiding ostracization alongside other consequences of embittered social relationships. Within the family, endowments represented a way to assist family members and take steps contributing to their long-term security. Additionally, aḥbās and awqaf were an important source of employment, encouraging and enabling all members of society towards independence and self-support. Moreover, the candid and philanthropic nature of endowments in general promoted a healthy, peaceful, and unified society. There is serious potential for establishing a system of endowments in the West, and despite the significant considerations associated with doing so, the socio-economic benefits are truly worthwhile.

# Appendix 1



## Appendix 2



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