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«The Hour will certainly come. Therein is no doubt.  
Yet most men believe not.»  
Surat Al-Ghaafir, 40:59 Holy Quran



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SHARI'AH SCHOLARS  
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Muhammad Hisham Kabbani

ACADEMIC ARTICLE  
Murat Cizakca

THE INTERVIEW  
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# Editorial

Dear Readers

Charity, social responsibility, and economic empowerment are deeply embedded in the ethos, culture and tradition of Islamic teachings. Charity and compassion constitute the bedrock of human coexistence in Islam. Among the various modes of charity, the institute of waqf occupies a preeminent position which has historically played a pivotal role in the sustained development and growth of the broader community.

Waqf is one of the oldest legal tradition in Islam which has been successfully used to cater for the educational, religious, social, and welfare development of the ummah. The first religious waqf was land donated for the building of the masjid in Quba during the historic migration of Prophet Muhammad (saw). This was followed by the land purchased for the building of the grand masjid in Medina. Universities such as Al-Azhar in Cairo, Al Qarawiyyin in Fez and Zaitouna in Tunis were founded upon Waqf. Waqf continued to play a key role in the development of Islamic civilizations. As mosques were the major source of knowledge and education, the waqf tradition was then expanded into buildings of centre of education, hospitals, which some are still be used to date.

The institutions of Zakah and Waqf are among several instruments instituted by Islam to combat poverty and enhance welfare in the society. While Zakah helps generate a flow of funds and recruit the necessary manpower, Waqf provides the material infrastructure and creates a source of revenue for use in, among others, social welfare enhancing activities both at family, community and state levels. The role of Zakah and Waqf institutions is basic in poverty alleviation and there is a need of their revitalisation in the modern time. Zakah serves as a unique mechanism of compulsory transfers of income and wealth from the haves to the have-nots in the community. Through Zakah, every individual in the society is assured of minimum means of livelihood, which provides social security system in an Islamic society. Waqf on the other hand, has been used to provide the material infrastructure and create a source of revenue for use in, among others, social welfare enhancing activities both at family, community and state levels. To activate and revitalise the Zakah and Awqaf systems in Muslim societies and communities, there is dire need for reform in their management formulars and to address the unsettled issues inherent in the institutions.



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Mohammed Ali Elgari

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# Islamic Economic

By Sheikh Dr. Mohammed Ali Elgari

In Muslim communities, economic activities take place within a legal constraint, which are the tenets of Shari'ah. How products, consumption and exchange differ from conventional economic system, and now economic behavior in Islamic framework is explained by economic theories.

A study of history reveals that Muslims have a rightful claim to be called the originators of the practice of marketing as well as the theory of marketing.

Current attempts to identify marketing as a twentieth century discovery, and the west, especially the USA, as the country of its origin is incorrect.

Muslim Literature reveals the identification of marketing and its various function by the muslims nearly a thousand years ago. In fact, had it not been for Islam marketing would probably have been an undesirable activity and the subject of marketing and its teaching and study banned in the civilized world.

Wherever the progress of civilizations is discussed unbiased scholars accept the contributions of Islam as undisputed.

However, modern students of business management and economics are brainwashed (there is no other appropriate word) into believing that modern civilization started after the industrial revolution, for them economics starts with the wealth of nations. In fact the literature available to a university students in the normal course of his studies practically never mentions anything earlier than Adam Smith, or if any, in a perfunctory manner. Students have a vague idea of pre-Smithian economics. Mostly it is Greek thought. A vast chasm of a thousand years then intervenes till St. Thomas Aquinas (1225-1274, and another gap of five hundred years till Adam Smith appears on the scene. The period immediately before Smith is characterised as chaos and confusion, and Adam Smith is presented as having brought enlightenment into economic thought and, later, order in the chaotic economies.

Subsequently, students are taught, as progress was made, and nearly after a century and a quarter, when the productivity and production of the industries improved beyond a certain level, the importance of sales was realised, and later still the concept of marketing crystalised in America during the middle of the present century.

The result is that a student bred on these ideas develops a narrow and biased view of marketing and economics as western discoveries. and marketing as purely a





modern and American invention. Consequently, the practitioner of marketing as well as its student always turn to the West to discover the latest developments in practice as well as theory, and often try to follow these to the best of their ability. The Muslim marketing practitioner, as well as the student, is unable to stand on his own feet. When the relationship between Islam and economics or marketing is discussed, even a Muslim student is at a total loss and fails to comprehend the relation between religion and a worldly subject like economics. When it comes to marketing, for him there is no relationship, and if any, he would believe it to be probably a negative one, or at the most concerned with ethical aspects such as correct measure and weighing, fair dealing, etc.

This unfortunate approach prevents the appreciation of the true contribution of Islam and distorts the perspective about the future. By developing an image of the West as the creator of the modern world, it makes the Muslim student feel that he has neither the philosophy nor the concepts suitable for the twentieth century, and that if he wishes to survive and make progress, he has to borrow his philosophy

as well as the concepts and tools from the west. Not surprisingly, even though amongst religions only Islam has ordered acquisition of knowledge as compulsory, it is the well educated ones who question most the contribution of Islam to human progress, and the relevance of Islam in a modern enlightened world. This is because the real contributions of Islam in restructuring society, especially in the economics sphere, on modern foundations have not been discovered or discussed at all.

The purpose of this article is to briefly present the true role of Islam in restructuring human society, then to show that the practice of marketing has its foundations in the philosophy offered by Islam, and then present some thoughts of Ibn Khaldun on marketing though writers earlier than Ibn Khaldun had also significant ideas on economics and marketing, I have limited the scope of this article to only Ibn Khaldun.





Mawlana Shaykh Hisham Kabbani

A prominent scholar of mainstream, traditional Islam, Shaykh Muhammad Hisham Kabbani has spent his life spreading the teachings of peace, tolerance, respect and love that are the message of Islam throughout the world. Here in the United States for the last eleven years, Shaykh Kabbani has continued to disseminate the light and peace of Islam's spiritual dimension to people of every background, ethnicity, race, and belief.

# The Benefits of Being Part of The Halaqa (Circle)

By Mawlana Shaykh Hisham Kabbani

So as we said the importance of *halaqah*, is that the Sahaba used to sit with the Prophet in a *halaqah* a circle learning from him what they need to know. And He would be the center of that circle. And the center of the circle, the Prophet, that was for the companions similarly is the Ka'bah the center for earth that people are always focusing their prayers towards Ka'bah.

So in *dhikrullah*, when you are sitting in a circle you have to make sure that there is a center that you focus on it. And as we explained in the previous session like when you pray you cannot direct your face to anywhere in the world but you have to direct yourself to Ka'bah as it is focal center where you have to be in that presence as it is House of Allah.

And we mentioned that Ka'bah is the House of Allah that is reflection of the real Ka'bah, in the fourth Heaven, the Bayt al-Ma'moor, where the Prophet prayed with all prophets in Laylat al-Isra and Mi'raj.

Imam Shafi'i has been asked about that *halaqah* about the importance of *halaqah* and the benefits of *halaqah*. He said that "it is a piece of Paradise, that *halaqah* that people sit and listen or recite *dhikr* they are in Paradise. And cannot be other than that because of the hadith of the Prophet (s) *maa jalasa qawman yadhkuroona Allah illa hafathum al-malaika*. When people sit remembering Allah, angels will encompass them. And another hadith says that Allah swt

"إِنَّ اللَّهَ تَبَارَكَ وَتَعَالَى مَلَائِكَةُ يَطُوفُونَ فِي الطَّرِيقِ يَتَلَمَّسُونَ أَهْلَ الذِّكْرِ، فَإِذَا وَجَدُوا قَوْمًا يَذْكُرُونَ اللَّهَ تَنَادَوْا هَلُمُّوا إِلَى حَاجَتِكُمْ فَيُحْفَنُونَهُمْ بِأَجْنِحَتِهِمْ إِلَى السَّمَاءِ الدُّنْيَا، قَالَ فَيَسْأَلُهُمْ رَبُّهُمْ وَهُوَ أَعْلَمُ بِهِمْ مَا يَقُولُ عِبَادِي؟ فَيَقُولُونَ: سَبِّحُونَكَ وَيَكْبِرُونَكَ وَيُحَمِّدُونَكَ وَيَمَجِّدُونَكَ".

*lillahi malaikatan yatalamassoon ahli'dh-dhikr* - There are angels roaming in the streets looking for circles of *dhikr* that they can sit in it and Allah sent them there.

And he said that angels in heavens are always in remembering in circles non-stopping so any circle that people sit remembering Allah are in Paradise. And anyone step in Paradise cannot go to hell. Wherever you enter a Paradise you are continuously entering a Paradise doing *dhikrullah* then Allah will take you to Paradise on last breath.

So *ard al-halaqah ard al-jinaan*. The earth of *halaqah* is earth of Jannah.

Allah swt, *awliyaullah* say, our Grandshaykh Abdullah al-Faiz Daghestani says in his notes that Allah will change that piece of land that you are sitting on and doing



*dhikrullah* to a piece of heaven. Because angels cannot sit in a dirty place. We can sit, in a place that is not clean because we are sinners. But angels cannot sit in a place that is dirty and there is smell from it. And Allah promised His servants if you sit remembering Me then angels will come and Allah will remember you in better place. That means Allah will change that place you are sitting in and change to heavenly place otherwise angels cannot sit there.

So for sure *halaqaat adh-dhikr* are important as it makes us to enter in Paradise. And when Allah gives something He will not take it.

And that is why when you go to Madinatul-munawwarah the Prophet said,

### ما بين قبري و منبري روضة من رياض الجنة

"*Maa bayna qabree wa minbaree rawdatan min riyaa-du'l-jannah* - between my grave and my pulpit is *rawdatan min riyaa-du'l-jannah* – a garden from the gardens of Paradise." (Ahmad)

Allah gave it to be a piece of heaven and you are praying there.

And that is why people go to pray -there and if they get to do that they say, "I was very successful. I was able to pray in the *rawdah*." So when you put your feet in *rawdah* between the pulpit, *minbar* and the Prophet's grave you are entering Paradise and you will never see hellfire.

And anyone entering circle of *dhikr* Allah will dress from these blessings and make his circle from a circle of Paradise.

Here *awliyaullah* say something important. They say that a circle to be considered a heavenly circle, for circle of *dhikr* to be considered a heavenly circle it has nine conditions.

Not any circle can be considered circle of *dhikrullah* though you might be doing *dhikr* there and these are many different conditions that you have to achieve.

And if that circle was fulfilled with its conditions it will be having, everyone that is sitting there doing *dhikrullah* will be rewarded more than 50 *shaheed*.

*Ma jalasa qawman yadhkuroon Allah...*

*Man ahyia sunnatee `inda fasaada ummattee lahu ajru mi'at shaheed.*

So anyone go in that circle and observe all its conditions will have reward of 70 or 100 *shaheed* not 50.

So if we are sitting in circle and remembering Allah saying, *la ilaha illa Allah* with all its conditions then we will be rewarded more than 100 *shaheed* and that circle will be turned into a heavenly circle.

### Conditions of a heavenly circle

1. First of its conditions is that the head of the *halaqah*, there must be a head for *halaqah*. There must not be you do it one week, you (another one) do it one week, the next week another does it. No there must be an authorized one to do that *halaqah*.

That person has to have a permission from his Shaykh and been approved by all Grandshaykhs all the way to the Prophet. Not anyone may say "I am leading the *halaqah*" (*adhan*) *Allahu Akbar*.

He has to have authority From his Grandshaykh all the way to prophet, if not he is not up to the level of that *halaqah* to make it heavenly Paradise that is then only normal *halaqah*. To turn into heavenly *halaqah* must be agreed upon authorized one to be able to conduct the *dhikr*.

Today everyone is trying to do a *halaqah* and trying to do *dhikrullah* and there are difference between one *halaqah* and another *halaqah* and it depends where the authority is coming from the permission (*idhn*).

2. All of them have to be coming except for no reason but to attend *dhikrullah* and go. No discussion, no backbiting, no speaking, nothing. They come with full ablution, enter the *halaqah*, sit in their assigned places, do *dhikr* with the shaykh that is authorized and go back home. No *dunya* talking. That is if you want it to be a heavenly *halaqah*.

So Taher is this what we are doing? (No.) So it is not heavenly *halaqah* but it is a *halaqah* that takes away our sins. Allah has angels that will come and attend but they will not sit, they will be high(above the circle). *Qasd al-jaaliseen li juloosihim lil-`ibaadat al-mutlaq*. Only to sit and worship nothing else and sitting everyone in his assigned place. Not like we are sitting now, we sit now, up and down.

They have everyone, like you go to parking lot, everyone has his own parking. You cannot park somewhere else you must park in assigned place. Or in conference you must sit in an assigned seat. You cannot sit anywhere else.

Here there is no discipline. So if no discipline, the benefit is not there, not as much as it should be.

### Three halaqas of Shah Naqshband

In time of Sayyidina Shah Naqshband he used to have three *halaqas* a week:

- a) One *halaqah* is to teach them *`ibaadah*, *fiqh*, hadith or *tafseer al-Qur'an*. Not talking of *dunya*. They come and if their homes are far, they have their white clothes with them in a bag or whatever they are carrying it and go in changing room and put on white robes, long dress and come and sit on his assigned seat. They know who is

sitting on right and on left who is sitting beside the shaykh on his right and on his left; not like today everyone pushing to sit by the Shaykh right or left thinking he has to be the one sitting there.

There are different levels that have to sit by the Shaykh left or right we don't see that.

In previous times they come and sit. And they come on time. When the Shaykh arrives everyone is in his seat on the floor. The shaykh is not waiting people to come. And lock the door no one allowed to come in, and they must have white clothes and the Shaykh sitting speaking and they are writing.

b) Then he has another one for *dhikr* nothing else. All kinds of *Asmaullah al-husna* and different Suras and they are sitting, then everyone finishing, they go, no discussion.

c) The third one is *halaqah* of meditation: they connect their hearts with their shaykh's heart. And they are sitting on their knees, not like this. And connecting their heart with their Shaykh heart. One hour, two hours, depends. And all their focus is love of Allah, love of the Prophet and love of the Shaykh. Our *halaqah* is a plastic *halaqa*, like plastic fruit. But we are helpless and weak. We cannot be like them and we are asking Allah to change it from an imitational *halaqah* to a real *halaqah*.

So the second condition is to have only coming for *'ibaadah*, nothing else. Anything else is becoming a soup. You know in the soup, they throw all the leftovers and they offer it to people. That is why it is called soup. It is mixed, from everything. But there is special food that you can have that is specialties, what you call them? Delicacies. You want this? They are expensive. You want this you need to sit in discipline and take it from heavens. So no problem everyone can take soup and drink.

3. The third one, as soon as they sit and waiting for Shaykh they have no right for talking to each other. They are only

doing their private *dhikr* waiting for Shaykh to come. As soon as the Shaykh come and sit in his place then the *halaqah* becomes connected. All the seats are near each other. The Shaykh comes and sit in his place and the energy will move along from right all the way to left side.

As soon as he sits, the third condition is that immediately he connects their hearts to the love of Allah and to love of the Prophet and if they are disciplined and they are not coming except to do *dhikrullah* he will cut their hearts from receiving any kinds of gossips, *khawaatir*. Any kinds of gossips will be cut. Because they have that power. Like inspirations come good and also bad gossips come. And they let the good to come and they close the box, like these boxes they have all the channels coming in, what you call it, receiver. There is a parental control to lock channels that are not accepted. So through your own box comes everything. Shaytan is there, good inspirations are there, bad inspirations and gossips are there, so *awliyaullah* put parental lock and control on everything coming bad.

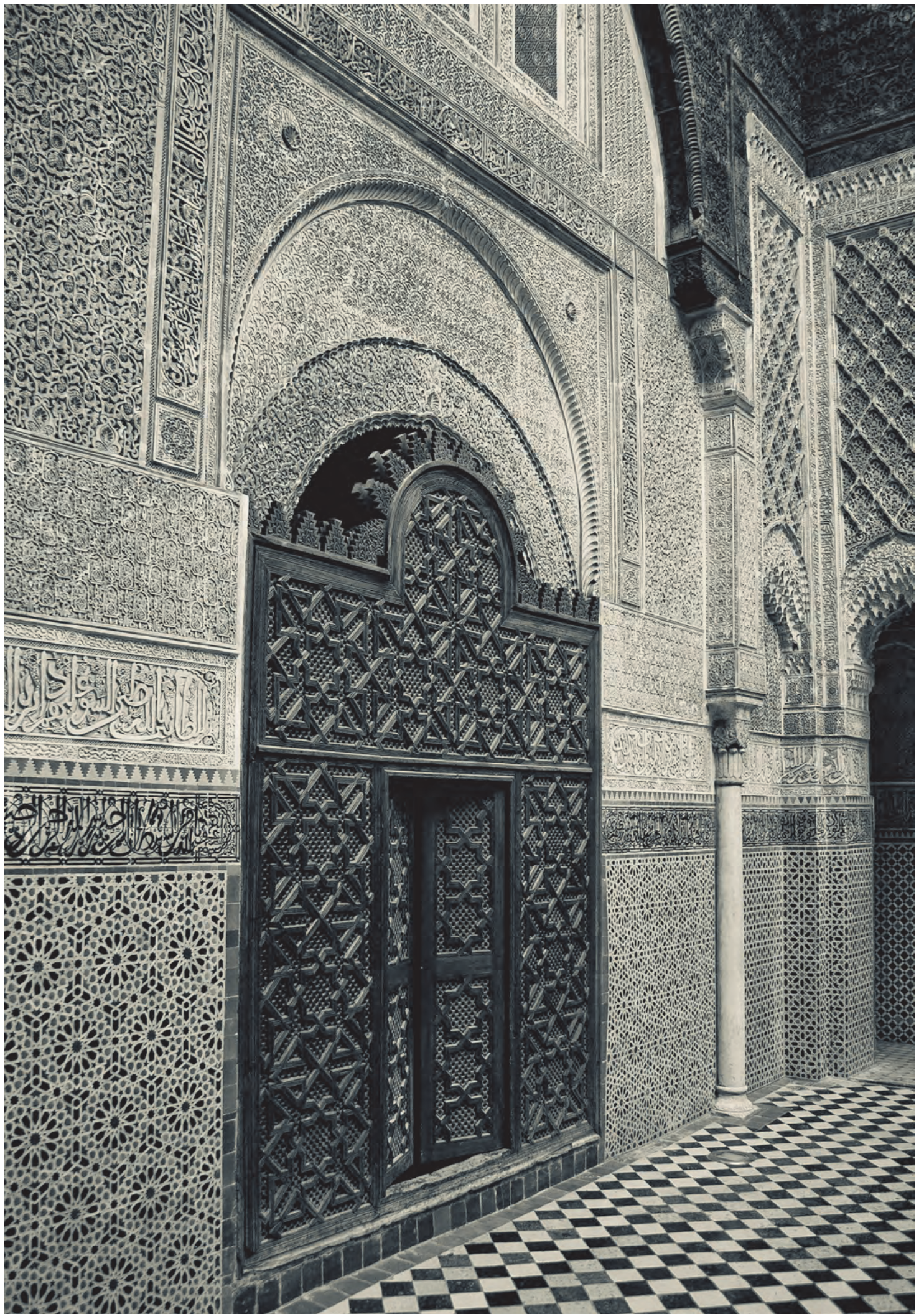
So in this association if they fulfill the two conditions then they are able to stop all gossips that come to the ears. Anything that is connected to *dunya* they put lock on it and shaytan cannot come in.

And the mureed at that time has to accept what the Shaykh is trying to do. If he is struggling not to lock his box from gossips he has to level the association and go down because he will be contaminating the others that are sitting there beside him.

That is third condition and we leave the rest to next time, and there are nine of them.











Murat Çizakça

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# Awqaf In History And Its Implications For Modern Islamic Economies

By Professor Murat Çizakça

## 1. INTRODUCTION

Pious foundations are known in the Islamic world as awqaf, *boniyad* or *habs*.

Whereas the latter two terms are used primarily in Iran and North Africa respectively, the former is known, with slight variations, in the rest of the Islamic world. The word waqf and its plural form awqaf are derived from the Arabic root verb *waqafa*, which means causing a thing to stop and stand still. The second meaning is simply pious (charitable) foundations.

However defined, this institution, whereby a privately owned property, *corpus*, is endowed for a charitable purpose in perpetuity and the revenue generated is spent for that purpose, stands out as one of the major achievements of Islamic civilisation. All over the vast Islamic world, from the Atlantic to the Pacific, magnificent works of architecture as well as myriad of services vitally important for the society have been financed and maintained for centuries through this system. The resilience of the system is, indeed, remarkable. It has been shown that many awqaf had survived for considerably longer than half a millennium and some even for more than a millennium.

Despite these overwhelming achievements, the history of awqaf is a turbulent one. For centuries the fate of this institution was closely linked to the fates of the states under which they functioned. Consequently, they experienced dramatic ups and downs. The period of establishment and growth was often followed by one of decline and neglect and with a new state emerging, a renewal and prosperity once again prevailed.

Nowhere in this long history of fluctuations, however, did the awqaf experience the universal and deliberate destruction that was inflicted upon them during the 19th and 20th centuries, a fact which pinpoints, of course, to western imperialism as the culprit. Yet, the greatest destruction took place not in a region colonised by the great powers, but in Turkey, an Islamic country which was not colonised. Since an explanation of this paradox has already been provided elsewhere, we will now turn our attention to economic issues.

## 2. ECONOMIC DIMENSION

It would be appropriate at this point, to point out briefly the relevance of the waqf system for modern Islamic economics. Indeed, economists looking at the waqf



system would be perplexed by the fact that a myriad of essential services such as health, education, municipal, etc., were provided in history at no cost whatsoever to the government. Therefore, assuming that the efficiency problems are solved, the waqf system can significantly contribute towards that ultimate goal of every modern economist; massive reduction in government expenditure, which leads to a reduction in the budget deficit, which lowers the need for government borrowing thus curbing the ‘crowding-out effect’ and leads to a reduction in the rate of interest consequently reining a basic impediment for private investment and growth.

From the point of view of Islamic economics, the most important item in the above mentioned agenda is, obviously, the reduction in the rate of interest. The waqf can, indeed, lower the interest rate by providing the most essential social services without any cost to the government. This important contribution of the waqf system towards the gradual elimination of *riba* is not yet recognized by the Islamic economists. It will be proposed here that it should be. Put differently, a re-establishment and revitalization of the waqf system should be considered as a vital step in the struggle to eliminate *riba*. It can be argued that, since it prohibits it by law, Islam demands an immediate and not such a gradual elimination of the interest. This is certainly true and yet utopia. No country has ever succeeded in eliminating interest abruptly by law. There is evidence that even classical Islam could not entirely get rid of interest. In modern times, even the recent Islamization of the banking system has not helped: to the extent that Islamic bank insists on *murabahah* rather than *mudarabah* or *musharakah*, interest merely concealed but not eliminated. In view of the above, it will be proposed here that the gradual elimination or reduction of interest through the waqf system should be given serious consideration.

The waqf could fulfil these functions by voluntary donations made by the well to do. Thus, privately accumulated capital may be voluntarily endowed to finance all sorts of social services to the society. At this point another extremely important function of the awqaf becomes apparent: not only does it help reduce government expenditure and consequently the rate of interest, it also achieves another modern economic goal; a better distribution of income in the economy.

Moreover the waqf definitively solves the problem of the under-supply of public goods, so often observed in conventional economies. This point needs to be elaborated. In this context we must first of all note that the services

offered by many constitute public goods, the consumption of which is non-rivalries and the provision thereof is non-excludable.

As is well known, the standard economic theory envisages that since, as rational individuals, consumers of public goods would tend to free ride, they would fail to contribute to the costs of creating these goods. Consequently, under the conditions of rational behavior, public goods would tend to be under-produced in conventional economies.

As far as the Islamic World is concerned, there is so much evidence to the contrary, i.e., to the ubiquitousness of the public goods supplied by the awqaf that it would be more appropriate to talk about an excess supply of public goods rather than their scarcity. It will be hypothesized here that in an Islamic economy this excess supply, not scarcity, may emerge as the basic problem. It should be emphasized at this point that this observation is not limited to historical dimension but is valid for all times. Indeed, there is no justification for the assumption that the modern Muslims would be less pious than their forefathers. This is attested by the fact that, given right conditions, modern Muslims would be just as keen as their forefathers to establish awqaf.

All of this has very important ramifications for the present state of Islamic economics. Nearly all of the best known Islamic economists have assigned a crucial role to the state in a future Islamic economy and advocated that the state should redistribute income in favor of the poor, should interfere in the markets when necessary, ensure the provision of basic necessities, and even, according to one economist, initiate massive land reforms.

Latest research in Ottoman economic history has revealed that in Ottoman Empire, one of the greatest of Islamic empires, the state did nearly everything that these economists have proposed – with disastrous consequences. The state did assign top priority to the redistribution of income at the cost of undermining capital accumulation. Interfered in the markets, taxed excessively, far exceeding the *zakah*, applied a ceiling to profits, controlled all the basic factors of production and physical capital, exerted a firm control over the factor prices, even applied a massive policy of food provisioning to the masses and ended up consciously impeding the private sector and encouraging the state sector, creating what has been called the “proto-pseudo-socialist Ottoman system”. Unsurprisingly, this “proto-pseudo-socialist Ottoman system”, has the dubious honor of succumbing, even before the Soviet Union, to the more efficient western capitalism.

In view of above, it will be proposed here that in an Islamic







economy of the future, redistribution of capital should not be allowed to overwhelm capital accumulation. Moreover, the former, i.e., redistribution, should be left basically to the individual Muslims themselves. Put differently, redistribution of wealth should be achieved primarily by the *zakah* and the waqf system. This author is of the opinion that there is powerful support to his proposal in the holy Qur'an, itself.

For, there is wisdom, not properly understood by many Islamic economists, behind the fact that *zakah* is the only tax specifically mentioned in the Qur'an.

Most of the debate among the concerned scholars has been centered on whether the state is permitted to collect taxes in addition to *zakah* and how to legitimize such collections. All the scholars seem to take it for granted that the state needs extra revenue. The possibility that the Qur'an, by specifically mentioning only the *zakah*, may have conveyed a deliberate message to limit the size of the state, has occurred to no one.

This single tax (and a modest one at that) implies modest revenue, which implies, *ceteris paribus*, a small state. The modernity of the Qur'an in this age of universal efforts to downsize the overgrown state sectors everywhere is, indeed, striking. The message of the Qur'an is quite clear; in a future ideal Islamic economy the size of the state sector should be limited to what it collects through the *zakah*. This also implies that the state will basically limit itself to defence with all the other services being financed by the only other instrument mentioned in the Qur'an; the *sadaqa*, alms. The importance of the waqf system lies precisely here; for it is the very institution which transforms alms into a myriad of services in perpetuity.

The waqf system contributed significantly to another major economic problem: employment. The ratio of persons employed by the waqf system to those employed directly by the state fluctuated in Turkey as follows: at the turn of the century 8.23%, in 1931 12.68% and in 1990's 0.76%. Consequently the waqf system appears to have ceased being a major source of employment in the Turkish Republic. Although these figures do not include the thousands of various self employed retailers and small scale producers using the waqf premises and the tens of thousands of individuals employed by the new waqf funds established according to the secular Turkish Civil Law, it is still abundantly clear that the overall contribution of the waqf system to employment has fallen significantly.

The decline in the contribution of the waqf system to the employment situation reflects the overall decline of the system in Turkey prior to the 1967 Act. This decline was a direct outcome of a deliberate state policy. To understand

this dramatic phenomenon, we must first of all analyze the forces which prompted the state to attach the waqf system. But this takes us from the realm of economics into that of history and for that, we need to go to the very origins.

### 3. THE ORIGINS

It is well known that charitable endowments have a history considerably older than Islam and it is also very likely that Islam may have been influenced by earlier civilizations. Ancient Mesopotamia, Greece, Rome as well as the pre-Islamic Arabs certainly knew of charitable endowments. The extent to which Islamic awqaf were influenced by these ancient institutions and the extent to which they were the product of the genius of Islam is a question that is still not resolved: while Roman origins have been rejected, primarily Byzantine, but also Mesopotamian, Sasanid, Jewish and Buddhist influences have been accepted as plausible. Thus, we have a fairly clear situation; Muslims were urged strongly to endow their assets in the service of mankind and they knew how to do it from the earlier civilizations, which had dominated the geography they had found themselves in.

At this point the reader may be impressed by the ability of Islam to borrow from other civilizations. This ability may well have originated with a tradition attributed to Prophet Mohammad (pbuh): "Abu Huraira (May Allah be pleased with him) reported Allah's messenger (pbuh) as saying: a word of wisdom is the lost property of a believer, he can take it wherever he finds it, because he is more entitled to it".

Although waqf is not specifically mentioned therein, the concept of wealth redistribution is strongly emphasized in the Holy Qur'an. Moreover, there is definitive *sunnah* evidence that many great personalities of Islam had endowed their properties for charitable purposes. A *hadith* narrated, again, by Abu Huraira has most probably constituted the origin of this institution in the world of Islam: "Abu Huraira (may Allah be pleased with him) reported Allah's messenger (pbuh) as saying: when a man dies, all his acts come to an end, but three; recurring charity (*sadaqa jariya*) or knowledge (by which people benefit), or a pious offspring, who prays for him".

Although the classical sources have, traditionally, taken into consideration each one of these good deeds, (*sawab*), separately, we prefer to combine them together.

For, it will be argued here that such a combination constitutes the essence of the Islamic awqaf. Thus, Muslims needed an institution that would enable them to perform all three of these good deeds. This institution was the awqaf which can, indeed, assure ongoing, recurring charity for many years,

even centuries, after the death of the founder. It can finance scholars whose lasting works would benefit mankind for a long period and the *sawab* that accrue to them would be shared by the waqf's founder who had provided for their sustenance in the first place. Finally the management of the waqf can be entrusted to the offspring of the founder so that while, on the one hand, careful and loyal management is assured, on the other, the offspring would pray for the deceased for, thanks to his waqf, he or she is not destitute.

Although the Muslims may have been encouraged to borrow from other civilizations without any hesitation, as the aforementioned *hadith* suggests, the actual process of borrowing was not simple. For, whatever institution was borrowed, it had to be moulded and re-shaped so as to conform to the basic teachings of Islam. There were substantial differences in the opinions of the early great jurists concerning the structure and judicial framework of the waqf.

The basic problem pertained to the Islamic law of inheritance: since a founder could entrust the management of his waqf to any one of his offspring and thus initiate a de facto primogeniture, this could alter the basic principles of Islamic law which promulgates a just and fair distribution of property among all the heirs.

But for the reasons that will be explained below, the Muslim society needed this institution. So the great jurists ended up tolerating it. The turning point came when Abu Yusuf observed how important these institutions had become during his pilgrimage and introduced new legislature, which facilitated the establishment of foundations. The legal structure of waqf funds was firmly established during the second half of the second century.

At this point, it needs to be explained how a system which did not originate in Islam, not specifically mentioned in the Qur'an and objected initially by many of the eminent jurists, was embraced so enthusiastically and developed to such a phenomenal dimension. There can be two explanations: historical and economic.

Let us first consider the former. The great Islamic conquests enriched the Muslim world beyond any imagination and prepared the economic preconditions for the emergence of this institution. We have to remember, moreover, the emphasis attached in the prophetic traditions on the importance of doing good and charitable deeds, as mentioned above. Since wealth is considered in Islam as an important source of trial, the natural tendency among the Muslim rich to do good deeds as a preparation for the hereafter can be easily understood. Thus, it is for these

historical reasons that although not mentioned in the Qur'an specifically, and objected initially by some jurists, the waqf has been embraced.

But this is not all. Economic theory also has its own explanation why the waqf system was needed universally. Indeed, according to the theory there were compelling reasons for such a system to emerge. We had seen above that under the conditions of rational behavior, public goods would tend to be under produced.

This dilemma pertaining to the creation of public goods promotes a demand for the creation of non-market institutions.

This universal "demand for the creation of non-market institutions" may also explain why, despite the fact that the waqf is not specifically mentioned in the Holy Qur'an, this institution became so popular and widespread in most of the Muslim world. The theory explains, furthermore, the universality of the awqaf or waqf like non-market institutions. For, after all, endowments were known not only in the Muslim world but also in other great civilizations. Moreover, once accepted and firmly established by the Muslims, spread to the west during the Crusades. Indeed, at least in the case of England, it has been definitely established that the famous Oxford University was built upon the Islamic waqf model.

#### 4. FUNCTIONING OF THE SYSTEM

In a nutshell, a waqf, whether in North Africa or India, functions as follows: a founder who has accumulated private wealth decides to endow his personal property for a specific, often pious, purpose. The amount of the original capital, *corpus*, the purpose for which it is endowed and all the other conditions of management are clearly registered in a deed of endowment submitted to the authorities. In this way the privately accumulated wealth of a pious Muslim becomes God's property. The founder strictly stipulates how the annual revenue of the waqf should be spent. This revenue (usufruct) may be allocated completely for a pious purpose (waqf *khayri*), or to a group of beneficiaries. The management of the waqf is entrusted to trustees, *mutawallis*, whose functions may be fulfilled by the founder himself during his lifetime. Thus, there are four major components of any waqf: the three groups of individuals; the founder, the beneficiaries, the trustees and the endowed capital itself, or the *corpus*. Since a detailed analysis of all these components has already been made by the present writer, we will now briefly look at only some of these components.

##### 4.1 Beneficiaries and the Family Awqaf

At this point it is important to note that awqaf allocated their



annual revenues to a myriad of beneficiaries. Moreover, a founder could also appoint himself or his heirs as the primary beneficiary. This type of waqf is known as the waqf *ahli*, or the family waqf. The revenue of such waqf is reserved for the benefit of the founder of the offspring. Initially public benefit is of secondary importance here, it assumes primary importance only after the nestle expires, i.e., when the future generations of the founder expire and the entire revenue of the waqf begins to accrue to public purposes. Through such awqaf it was also possible to avoid Islamic inheritance rules and to bequeath to a specific member of the family. In short, though not sanctioned by Islamic law, primogeniture could be applied in the Islamic world by resorting to the family awqaf. This possibility had, naturally, far reaching consequences throughout the world of Islam to which reference will be made later.

The origins of this specific type of waqf are obscure and controversial. French orientalists, for instance, have argued that the family awqaf originated as a reaction of Arabs to the Islamic law of inheritance, which aimed at improving the position of women in the society. But when women were made eligible to inherit, this offended the local traditions and the Arabs tried to find an indirect way to circumvent the new law and still apply a sort of primogeniture or at least to bequeath to only the male offspring. These orientalists thus basically argued that the family awqaf were relatively late development and in the later centuries evolved primarily to circumvent the law of inheritance.

This line of reasoning ignores the Prophetic traditions fully sanctioning pious offerings for provisioning the self, the children and the needy relatives. Thus, the whole argument that the family awqaf were a relatively late development is false. It is well known, moreover, that when Omar, the Second Caliph, endowed his land in Khaibar, he allocated its usufruct, among other things, to his offspring following the Prophet's advice and that Imam Shafii, himself, had also endowed his house in Fustat to his offspring.

Most orientalists have argued furthermore that family awqaf were also resorted to in order to protect the family property from the arbitrary confiscations of the rulers. This was apparently another reason why this institution had become so popular. Köprülü accepts this explanation as plausible but argues that this motive cannot explain all the awqaf. Consider, for instance, the palace eunuchs who had no offspring but who established substantial foundations. The strongest refutation to the confiscation argument has been provided, however, by Gerber who demonstrated that the women of Edirne, who had nothing to fear from confiscations,

established 65% of their awqaf as family awqaf, while 80% of awqaf endowed by those who had the most of fear, the elite, were charitable. Thus Gerber concludes: "In 15th and 16th centuries Edirne the waqf was used only in a minor capacity or even rarely in order to safeguard the property of the founders for transmission purposes".

In any case, family awqaf, in general, did not constitute the majority of awqaf in the Ottoman Empire. Barkan has shown that the ratio of family/charitable waqf was not particularly high during the sixteenth century while a recent analysis has revealed that during the 18th century merely 14.20% of the total awqaf revenue and during the 19th, 16.87%, was reserved for the family members of the founders. In Aleppo the ratio was somewhat higher; of the total of 687 awqaf established in this city between 1718 and 1800, 50.7% were charitable, 39.3% were family and 10% were mixed. Further to the South, in Egypt, the family awqaf were even more popular; for these yielded more revenue in 1928-29 than all the other types of awqaf.

Another motive in establishing family awqaf, it has been argued, was to protect the property of an indebted person. In the Ottoman lands this practice was prohibited by a *fatwa* of Ebussuud during the sixteenth century while in India it led to a huge controversy beginning in 1894 with the Abdul Fata (and others) v.

Russomoy (and others) case in the Privy Council and culminating in Mohammed Ali Jinnah's victory and the passing of the Mussalman Waqf Validating Act of 1913. It can even be argued that by mobilizing the Muslims of the subcontinent behind a single issue, this controversy paved the way for the eventual birth of Pakistan as an independent state.

#### 4.2 The Trustees (*Mutawallis*)

Unlike the Anglo-Saxon law where there is a confusion pertaining to the status of the trustees, Islamic law considers these individuals strictly as managers to whom the waqf is entrusted. While these individuals were the ones who actually preserved the Islamic architectural heritage through the centuries and enabled many awqaf to survive, it was also they who ended up being accused ruthlessly and held responsible for the demise of the system. It can be argued that all the dramatic changes in the history of the waqf system were undertaken in order to put these trustees under strict control so as to put an end to their "misuse and embezzlements". No doubt, sometimes these accusations were justified, but often, they were simply used as a scapegoat and served the more sinister schemes of the state. Whatever the case may be, management of awqaf still constitutes an unresolved agency







problem. Any modern waqf reform therefore, must inevitably encounter this challenge of agency.

#### 4.3 The Original Capital of the Endowment (*Corpus*)

The *conditio sine qua non* of any waqf is that it should be established with privately owned capital. Behind this simple statement, however, there are bitter debates and controversies. Consider, for instance, the huge awqaf established by

confiscated property in the Islamic Republic of Iran. Consider also land as *corpus*. Was land a privately owned commodity under Islamic law; and whether the *corpus* had to be restricted to land and other real estate? There are two controversies concealed behind this simple question. The first one, pertaining to the private ownership of land, led to an enormously complex relationship; the state *visa-vis* awqaf and the second one pertaining to the type of *corpus*, i.e., movables versus immovables, led to the cash waqf controversy. We will focus on the latter.

### 5. THE CASH AWQAF

The cash waqf was a special type of endowment and it differed from the ordinary real estate waqf in that its original capital, *asl al-mal* or, *corpus*, consisted purely or partially, of cash. The earliest origins of the cash awqaf may be traced back to eighth century, when Imam Zufar was asked how such awqaf should function. The fact that such a question was asked at all may be taken as an indication of the existence of such awqaf at that time.

Cash awqaf were also known in Europe where real estate foundations were originally the only forms of endowment. But eventually, it became possible to make an endowment with movables. As the monetisation of the economy progressed, *Hauptgeldstiftung* or *Kapitalstiftung*, both terms indicating a cash waqf, emerged. By the year 1388, *die Hauptgeldstiftung* had evolved into the so-called *Rahmenstiftung* which can best be translated as a foundation conglomerate.

Thus, in fourteenth century Germany, it had become possible to establish a cash foundation as an integral part of a larger one. Or, put differently, a primary cash foundation could be perpetually enlarged by the addition of smaller cash endowments.

In the Islamic world, from the eight-century until the fifteenth, there is a huge gap of knowledge concerning the history of cash awqaf. Consequently we simply do not know whether their re-emergence in the fifteenth century Ottoman Empire was a phenomenon influenced by Europe or simply represents a continuity.

Be that as it may, these endowments had been approved by the Ottoman courts as early as the 15th century and by the end of the 16th they had become the dominant form of waqf formation all over Anatolia and the Balkans. It has been argued that the cash awqaf were legalized only in the Turkish speaking parts of the Ottoman Empire, i.e., Anatolia and the Balkans and that the more pious Arabs never allowed these awqaf in Arab provinces. While this view may have had some legitimacy in history, it is no longer acceptable, for later research has revealed that cash awqaf exist in a multitude of Islamic countries. In Egypt, waqf of movables has been permitted by the law number 48, dated 1946. Moreover, the diffusion of cash awqaf was far more extensive than once presumed. They have been observed in the Ural-Volga region; in India and Pakistan they are still considered to be legal; in Iraq there is a *fatwa* permitting them, in Iran the famous waqf *Astan-e-Qods-e Razawi* has recently purchased shares in various industrial complexes thus establishing cash awqaf, again in Iran, they have been permitted by the May 17, 1986 Cabinet Decree, Article no.44; they have been observed in the Malay world, and in Singapore, presently, they constitute about 38% of all the awqaf.

The legality of the cash awqaf in the vast lands from the Balkans to the Malay world thus implies a general acceptance by all the major schools. But this general acceptance has not been without a fierce controversy that lasted at least from the sixteenth century until the twentieth.

Probably the most detailed account of this controversy has been studied by Suharwardy, an Indian jurist-scholar who traveled to the Ottoman lands at the height of another controversy, that of the family awqaf, prevailing in India. His major article on the legality of cash awqaf was published just two years before the family waqf controversy ended in the victory of Muslims against the British establishment. Thus the first two decades of the present century witnessed fierce legal debate about the awqaf (family as well as cash) in India and we should view Surharwardy's magnum opus from this perspective.

The reason Suharwardy traveled all the way to Istanbul is explained by himself in the "acknowledgements" as follows: "I take this opportunity of expressing my sincere thanks to Mohammed Ali Sevki Bey and to Zaimzade Hasan Fehmi Bey, grandson and First Secretary to Field Marshall Gazi Ahmet Muhtar Pasa, late Ottoman High Commissioner in Egypt for obtaining access for me to several important libraries in the Ottoman Empire and also for procuring for me the *fatwas* of the Grand Mufti of Egypt and of the Mufti of Alexandria... In a subsequent issues of this journal, I hope to give a translation

of the well-known treatise on the subject of this paper by the celebrated Shaykh al-Islam, Mufti, Abussuud, a manuscript copy of which I have just discovered in Constantinople."

Thus, the purpose of his visit to the Ottoman lands was to study the cash waqf controversy in the Ottoman Empire itself and to find out about the legality of this institution. The manuscript of Abussuud that he refers to was obviously the one written during the sixteenth century at the height of the Ottoman cash waqf controversy. It is noteworthy that he did not limit himself to the famous treatise which more or less finalized the legality of cash awqaf in the Turkish speaking parts of the Empire, Anatolia and the Balkans, but went as far as obtaining *fatwas* from Egypt.

Actually, at the beginning of the twentieth century, looking at the Ottoman Caliphate and Egypt for solutions to the prevailing legal problems in India appears to have become the established norm for Indian Muslims. For the family waqf controversy also the same method was used. The implications of this situation should not escape us here. Ottoman Caliphate was the symbol of legitimacy in the Islamic world and any legal issue that was solved in the Caliphate would be considered as solved in India as well. This was particularly so as both regions followed the Hânafi law. This situation did not escape the attention of the Imperial powers. Any change that was desired by the latter in the Muslim zones of the British or French Empires, was first imposed upon the Ottomans and when these succumbed to the pressure, the rest of the Muslim world colonized by these powers would follow suit.

Since the sixteenth century Ottoman legal debate concerning the validity of cash awqaf has been well documented and summarized by Mandaville, we will briefly summarize here the controversy as it was reviewed by Suharwardy at the beginning of this century. Suharwardy starts his work by a short statement, which reveals his overall purpose: "A careful perusal of this paper – the result of considerable labor and research – containing excerpts from works of the highest authority, will, I venture to hope, leave no doubt in the minds of the readers about the validity of the waqf of movables, including money, shares in companies, securities, stock etc."

After, consulting some of the most important Hanafite sources, Suhrawardy reaches the conclusion that the two great Hânafi jurists, Imam Mohammed and Abu Yusuf, differed concerning the validity of the waqf of movables. While the former has declared that such awqaf are valid absolutely, whether a pertinent custom exists in his time or not, the latter approves of them only subject to the existence of custom. In *Majma al-Anhur*, it is convincingly argued that since Imam Zufar had been asked about the validity of such

awqaf, it is clear that there was a practice of them. Consequently, waqf of movables are valid according to both great Imams.

On the other hand, Imam Mohammed's approval that the waqf of movables were valid not only subject to the existence of custom at his time but also subject to custom which may arise in another time and country, has had important implications. It is thanks to this flexibility that Islam gained two very important types of waqf in the later periods; the waqf of grain ships which made pilgrimage possible and the cash awqaf, both during the sixteenth century.

In short, the argument that the cash awqaf should be rejected because their *corpus* in the form of cash cannot be perpetual, is rejected on the grounds of custom and tradition, both more powerful than the analogy pertaining to perpetuity.

No doubt, it is based upon these considerations that today cash awqaf are considered to be legal in the enormous geography described above. Having thus established the legality of cash awqaf, let us now focus our attention the way they functioned in history.

approval is of further importance as it permits the establishment of cash *awqaf* with jointstock company shares as well.

## 6. CASH AWQAF IN THE OTTOMAN ECONOMY

In a society where health, education and welfare were entirely financed by gifts and endowments, the cash waqf carried serious implications for the very survival of the Ottoman social fabric. Moreover, they also provided major injections of capital into the economy of the cities where they functioned. Cash awqaf were established by well-to-do individuals who allocated a certain amount of money for pious purposes. The amount endowed had to be privately owned and the capital of the waqf was "transferred" to borrowers who after a certain period, usually a year, returned to the waqf the principal plus a certain "extra" amount, which was then spent for all sorts of pious or social purposes. These vague terms "transferred" and "extra" have been used deliberately here. For, whether the capital of the endowment was lent as credit to the borrowers and the return was in fact nothing but the ordinary interest rate constitutes a debate.

A summary of this debate, without going into the details, would be appropriate here. First of all, Imam Zufar's *fatwa* back in the eighth century that the *corpus* of the cash waqf should be invested through *mudarabah* and the return be used for the original purpose of the waqf did not find application in reality. In a separate study based upon a sample of 1563 Bursa cash awqaf and their respective profit/



capital ratios covering the period 1667-1805, this author found that the Ottoman cash awqaf lent money with a nearly constant return. The question now is whether this arrangement should be called ordinary interest or was it something else? To start with, Ottomans themselves never called it interest, *riba*. The term they used was the so-called *istiqlal*, which has been described as follows: "*istiqlal*... was outwardly construed as a sale: The borrower handed over to the lender a piece of real estate, supposedly as a sale, but actually as a pawn. If the borrower redeemed his debt after a year, the asset reverted back to him. In the mean time, the lender leased the asset to the borrower (so that the borrower could go on using it) and the "rent" which was often exactly 10% of the loan, was nothing but interest. In short, we have here a simple interest bearing loan with a piece of real estate as security.

Although, this arrangement may be dismissed simply as a cumbersome method of lending with interest, it is important that from the perspective of Islamic jurisprudence, it was fully sanctioned instrument. From economic perspective, however, since it provided fixed return to the capital lent, it was nothing but interest. To distinguish *istiqlal* from the ordinary rate of interest where the former acts in the economy just like the latter but is permitted by Islamic jurisprudence, we shall call it "economic interest". Rejection of Imam Zuhari's suggestion and the insistence of the trustees to lend the *corpus* of the cash awqaf through "economic interest" had far reaching consequences. We will now focus on this problem.

Looking at the problem from the perspective of capital accumulation, it can be envisaged that an entrepreneur could borrow money from an endowment with a modest rate of "economic interest". In short, a cash waqf could function in reality just like a bank, with one difference; whereas a bank accumulates funds from a multitude of savers and then transfers these to entrepreneurs and earns its profits through the different rates it utilizes (lending rate minus the borrowing rate constitutes the bank's profits). Cash waqf would actually distribute the life long accumulation of a single individual, endowment capital, to borrowers thus, in fact, functioning as an instrument of capital distribution. Moreover, whereas the bank has to pay a fixed rate of interest to the savers (borrowing rate), an endowment pays nothing for the fund it transfers to the borrowers. Put differently, the cost of capital for an endowment would be zero! Thus, the entire rate of return could be considered as profit, which would be spent for social and pious purposes.

It can be further assumed that since an endowment utilized the savings of a single individual, rather than the savings of

thousands of people, it would have relatively less capital at its disposal. So the possibility of capital pooling among the endowments, i.e., supply side capital pooling, assumes great importance. Capital pooling on the demand side, i.e., an entrepreneur borrowing from a multitude of endowments, is also, obviously, quite important. Implications of these assumptions should be fully understood. What is at stake here is the possibility of whether the cash awqaf could fulfil the function of the Western banks for Islamic societies.

Supply side capital pooling implies that substantial capital could be put at the service of the entrepreneurs and demand side capital pooling implies that a single entrepreneur can borrow from a multitude of awqaf so as to maximize the available funds at his disposal for a single project.

Evidence found in the Ottoman archives has confirmed that endowments, indeed, applied a process of capital pooling among themselves. This took the following form: founders of smaller awqaf stipulated that a part of the annual return of their awqaf be set aside to be submitted/incorporated to the larger awqaf.

Thus, the existence of supply side capital pooling was confirmed. On the demand side, however, totally unexpressed results were encountered. First of all, it was found that the borrowers were not entrepreneurs but consumers and that the capital supplied by the cash awqaf was not accumulated at the hands of a few enterprising individuals but was diffused throughout the society.

To conclude, research has revealed that cash awqaf which originally appeared as a promising and unique Ottoman institution of capital accumulation, actually functioned as an institution of capital distribution. Capital pooling was certainly practiced among the endowments but the borrowers were mostly small consumers and the endowments' funds were not utilized to finance important business ventures. A tiny minority of borrowers who did practice demand side capital pooling did so in order to lend the waqf funds at a higher rate of return to the *sarrafs* of Istanbul, thus in this process creating a secondary capital market.

At this point we must ask several questions. Why, indeed, did the Ottoman cash awqaf not function like the Western banks and contribute to the process of capital accumulation in the economy rather than limiting them primarily to the redistribution of capital? Why, in other words, did they finance merely consumption rather than entrepreneurial investment?

The answer lies in the method of lending and takes us back to Imam Zuhari who had suggested that the awqaf funds should be transferred to the borrowers as the capital of a







*mudarabah* partnership. Put differently, Imam Zufar had envisaged a *mudarabah* partnership between the cash waqf and the borrower; the former, i.e., the waqf being the principal, *rab al-mal*, of this partnership and the latter the agent, *mudarib*. We have, moreover, stated above that the trustees had refused to apply Imam Zufar's *fatwa*. While, this author is not aware of any historical source explaining this refusal, it can be deduced that the trustees must have been concerned about the risks of a *mudarabah* partnership. In any case, probably concerned about such risks, they applied not the recommended and completely legal *mudarabah* but the far more dubious *istiqlal* which was a legal device concealing a usurious transaction. While *istiqlal* conformed to the letter of the law, it violated its spirit by dangerously approaching *riba*.

Moreover, since *istiqlal* involved in the submission of substantial collateral in the form of a house, the borrower was severely limited. Put differently, unless a borrower put up his house as collateral, he could not borrow from the waqf funds.

Consequently, we should not be surprised if the entrepreneurs faced with the relatively small amount of capital at the disposal of the cash awqaf, could not resort to demand side capital accumulation, i.e., request funds from a multitude of awqaf so as to accumulate capital. To do so, would have meant that they would have had to provide several houses as collateral, as many houses as the cash awqaf they wished to resort to! In short, the trustees who refused to abide by the ruling of Imam Zufar were the real culprits. It was because of this refusal that the cash awqaf were limited to the role of capital distribution and could not contribute to the process of capital accumulation. The challenge for modern Islamic economists should be obvious here: re-designing the cash awqaf such that they contribute not only to capital redistribution but also to capital accumulation and at the same time obeying not only to the letter but also to the spirit of the teachings of Islam.

## 7. RE-DESIGNING OF THE CASH AWQAF

Resorting to *istiqlal*, probably caused by the risk aversion of trustees, had two important consequences. On the one hand, the cash awqaf were reduced to the role of merely capital redistribution, and on the other, they ended up utilizing an instrument, which was dangerously close to *riba*. In short, when we re-design the cash awqaf we should see to it that the asset side operates through the *mudarabah* and avoids *istiqlal* altogether.

Actually, the reader will have noticed by now the similarity

between the historical cash awqaf and modern Islamic banks: both were designed originally to operate through *mudarabah* and both ended up utilizing, from the Islamic perspective, less preferable instruments. This can not be a mere coincidence. What then were (are) the reasons behind this undesirable situation?

Although risk aversion must be a trait shared by both the trustees of the cash awqaf and modern Islamic bankers, the causes of risk aversion in history and today differ. Whereas the trustees in history were precisely instructed in the waqf deeds by the founders of cash awqaf how to utilize the capital, modern Islamic bankers apply *murabahah* on their own initiative. It has been shown elsewhere that there are two basic reasons why modern Islamic bankers insist on applying *murabahah* despite all the criticism they have been subjected to; managerial and financial. As far as the former is concerned, Islamic banks have found it very difficult to supervise and guide the individual entrepreneur in a *mudarabah* situation. This is quite natural, since *mudarabah* demands close, personal and continuous contacts between the principal and the agent. Moreover, this is not merely a moral problem and is not limited to monitoring the agent's activities. Such contacts in the form of mutual co-operation and assistance should constitute the very essence of any partnership. However, we have learnt from experience that, unless seriously reorganized, the large and bureaucratic Islamic banks are simply not suited for this task. Experience, again, has taught us that such co-operation is best provided by the relatively small, specialized companies as observed in the American venture capital sector.

Concerning the latter, Islamic banks encounter a mismatch of funds; whereas the deposits they collect are of short term nature, *mudarabah* investments usually involve long term commitments. It is precisely at this point, i.e., the problem of mismatch of funds, that cash awqaf represent an exciting potential. Let us imagine for one moment that it were possible to combine cash awqaf and Islamic banks.

Since waqf capital that is entrusted to an Islamic bank would represent a long term, even hopefully a perpetual fund, the problem of mismatch of funds would be definitively solved. We will now concentrate on how this combination can actually be realized in reality.

If cash awqaf and Islamic banks could be combined, the financial problem mentioned above would be solved leaving only the managerial problem unsolved.

Consequently, the merger of these institutions should be designed such that the managerial problem is also solved. Put differently, providing cash waqf /long term capital to the

banks would not suffice, we must also see to it that this capital is invested with close, continuous, personal management that *mudarabah* demands.

This necessitates that the management of *mudarabah* funds is totally separated from the bank management. This can be done in one of two ways: either Islamic banks establish associated companies with autonomous management which specialize in *mudarabah* investment or completely independent *mudarabah* companies are established by third persons and the capital of the cash awqaf is entrusted to these companies. Actually, this is not an either/or situation; these alternatives need not be mutually exclusive.

Let us see how a cash waqf would be linked to an Islamic bank. Assume that a person wishes to establish a cash waqf with his savings. Assume further that the purpose of this waqf is to help finance entrepreneurs who wish to establish their own businesses. The founder approaches an Islamic bank and informs them of his intention. Then he deposits his savings in a special account and establishes a waqf attached to the bank. The bank would thus become the trustee (or *mudarib*) of the waqf. Next, the bank would transfer the endowment capital to various specialized *mudarabah* companies. The bank may have provided equity finance to some of these companies or they may be completely independent. In any case, by transferring the waqf capital to a multitude of such companies, the bank actually creates a portfolio. In this process the bank signs a *mudarabah* contract in the name of the waqf with each of these specialized companies. Thus, each *mudarabah* company becomes in fact the *mudarib* of the waqf and agrees in advance that it can invest the awqaf funds only through *mudarabah* or *musharakah*. This solves the managerial problem mentioned above. Islamic bank is not any more involved in the management of waqf funds. This is entrusted to the specialized *mudarabah* companies. Actually, to be more precise, Islamic bank's involvement in the management of waqf funds in this model is limited to a periodic assessment of the performance of the *mudarabah* companies. If the bank is satisfied with this performance, the waqf funds can indeed remain with the *mudarabah* company in perpetuity. But to ensure this, the *mudarabah* company must perform. To provide further protection to the awqaf funds, the *mudarabah* company may also be required to ensure the *mudarabah* capital through *takaful* insurance that would guarantee the safety of the original waqf assets.

Next, we come to the linkage between the *mudarabah* companies utilizing the waqf capital and the entrepreneurs financed. Since, again, only *mudarabah*/*musharakah* instruments are used, there is no problem from Islamic

perspective. Structurally speaking, we are talking about a triple *mudarabah* arrangement here. The first *mudarib* is the Islamic bank also fulfilling a trustee function as just described. The second layer is the various *mudarabah* companies and the third is the entrepreneurs. In this structure, it is possible to form two different sets of portfolios and thus minimize the risks. The first portfolio is created by the bank and pertains to the *mudarabah* companies and the second one is created by each one of these companies and pertains to the entrepreneurs.

Reducing the risks by setting up two different sets of portfolio constitutes only one aspect of the perpetuity of the waqf funds. The other one is the re-investment of profits returned to the waqf. Research has revealed that in the Ottoman economy, more than a quarter of the cash awqaf established in the city of Bursa survived for more than a century and 81% of these surviving awqaf owed their resilience to capital enhancement realized either by re-investment of profits or receiving further donations from various other smaller cash awqaf (the so-called Rahmenstiftung model mentioned above). In view of this, it is suggested that the modern cash awqaf add their profit shares to their *corpus* thus ensuring the perpetuity of the endowment. Actually, it is quite possible that in this way, not only the perpetuity will be assured, but also, managed properly, the original endowment capital will substantially grow in real terms as well.

Actually, establishing a cash waqf within the framework of an Islamic bank and *mudarabah* companies, constitutes only one aspect of cash waqf creation. A modern cash waqf can also be created directly by endowing joint-stock company shares. This can be done as follows. An individual with substantial means can allocate a part of the shares he owns for a cash waqf. He can stipulate further that the returns to be generated by these shares would be allocated for a specific charitable purpose. In view of the previous paragraph, he would be well advised to stipulate further that a certain part of the total returns would be re-invested by purchasing more shares and added to the corpus of the cash waqf.

What we have just stated above does not constitute an original suggestion.

Muslim philanthropists have already thought of these possibilities and established cash awqaf as described above. The Vehbi Koç Foundation in Turkey constitutes perhaps the best example of such a waqf. The following excerpt dictated by the late Vehbi Koç, himself, and taken from the Deed of Trust of his foundation explains why he had decided to establish his foundation as a cash waqf: "Praise be to Almighty God, who with His Will enabled me to perform



charitable works during my lifetime with pleasure, and granted me the means to continue (performing ongoing charity) after my death. In my belief that the Turkish Nation will continue to exist so long as the world endures... and my wish being to establish this foundation in perpetuity, I have based this endowment on a commercial entity that will be able to adopt itself to the requirements of the day rather than on properties dependant on economic conditions and natural disasters. I have chosen to set up this endowment with the shares of Koç Holding. These are made up of numerous commercial and industrial enterprises, and are therefore less subject to risks. This foundation that I have established by the grace and kindness of God, I entrust, first of all, to my heirs and to their succeeding generations, to my business colleagues and to the Government of the Republic of Turkey. I call upon all my heirs, my close acquaintances, my business colleagues, my fellow citizens who may be involved in this Foundation, and the officials who will assume its administration, to accept this endowment as a bequest made to the Turkish Nation, to protect it, and strive with their best intention to achieve its original aims. I request the auditing authorities of the State and, when necessary, its authorized

agencies, courts and judiciary, never to depart from the dictates of their conscience when making decisions, lest this foundation suffers harm and be diverted from its aims. I have brought this enterprise into being as a result of lifetime of effort and sincere desire. I pray that God will regard it worthy of His protection and grant it success”.

The late Vehbi Koç’s personal statement reveals a number of important points on which we would like to comment. First, there is a deep sense of religiosity and gratitude to the Almighty for allowing him to do continuous charity even after his death. In other words, an awareness of the importance of sadaqa jariya and the Prophetic tradition mentioned at the beginning of this article. This is followed by an explanation why he has decided to organize his endowment as a cash waqf rather than one based on real estate. His decision was based on the concern that real estate awqaf may be vulnerable to economic conjuncture and natural disasters. Since, the shares of his own holding are made up of numerous commercial and industrial estates, “they are less subject to risks”. Here we observe a profound understanding of the way waqf functions. Vehbi Koç seems to have been fully aware of the vulnerability of real estate awqaf to



economic conjuncture. Such vulnerability has been demonstrated by Suraiya Faruqi based upon the seventeenth century records of Mahmut Pasa Vakfi. Faruqi has shown how stagnation can ruin a waqf by providing evidence that due to the stagnant trade conditions more than half of the Ankara revenue as calculated in gold coins was lost to this particular waqf and how the cloth market in Konya was allowed to fall into ruins.

Although we have no way of knowing as to how the Vehbi Koç Vakfi would fare under similar conditions, theoretically, it may be argued that a conglomerate capable of penetrating into international markets should be better equipped in dealing with stagnation by diversifying its markets. Indeed, there are more than 100 companies in the conglomerate with 40,000 employees and the total number of Koç Holding shares allocated to the foundation have been declared as 10,000. In this way, the late Vehbi Koç, a brilliant businessman, has diversified the risks.

At the end of 1993 the book value of the foundation's assets stood at \$ 120 million with an approximate market value of \$ 297 million. The foundation is then entrusted first, to the coming generations of his heirs, thus, this is essentially a family waqf in perpetuity, and then to the business colleagues and then to the Government of Turkey. The business colleagues were probably included with the view that if the heirs prove to be incapable individuals, the colleagues who run the Koç enterprises should interfere and manage the waqf with proper business perspective. Their inclusion in the deed would certainly enable them to have a say in the waqf affairs. Inclusion of the Government is also telling: Vehbi Koç had been an eye witness to the great destruction of the Turkish awqaf by the state that took place between the 1930s and 50s. Perhaps, by entrusting his endowment to the Government of Turkey he wanted to impose a moral obligation on the state.

Finally, he prays that "God will regard it worthy of His protection".

We are given further important information pertaining to the investment of the foundation shares in the waqf deed. Article 7 of the Vehbi Koç Foundation Deed stipulates that all excess cash of the foundation that accrue to the waqf on annual basis shall be converted into government bonds and kept as emergency fund. These bonds shall be used when the Koç Holding exercises a capital enhancement.

Should this process take place, the foundation shall participate therein, so as to maintain its relative share in the conglomerate. Should the emergency fund not suffice to maintain the foundation's share in the conglomerate, the

Board of Trustees can allocate 20% of the primary revenue of the waqf for this purpose.

Should a process of capital enhancement not take place, the excess cash of the fund shall be invested in shares and bonds, preferable those of Koç Holding companies.

Article 9 stipulates that a minimum of 80% of the total revenue of the waqf shall be allocated to social and cultural services. A maximum of 20% of the revenue shall be allocated to administrative expenses, emergency cash, and investments to buy properties for the waqf. These conditions also imply a deep understanding of institutional history. For, it is well known that waqf revenues allocated for charity were often usurped by the trustees. Consequently, while historically charity to total expenditure ratio has often declined, salary to total expenditure ratio has often either remained the same or increased at the expense of the former. Vehbi Koç seems to have been either aware of these historical tendencies or has been able to envisage them thanks to his great business acumen.

In any case, by stipulating fixed ratios of charity to administrative expenditure, he seems to have been determined to avoid such problems. Finally, we are informed that the Vehbi Koç Foundation has been granted tax-exempt status by the Council of Ministers on 28 December 1968.

The Vehbi Koç Foundation just explained constitutes an example of a large business enterprise establishing its own waqf. But the reverse, i.e., a waqf establishing its own firms, is also possible. In this case, a waqf or awqaf pool their resources and create a company or companies. They also share the profits generated by this company(ies) according to their relative contribution to its capital. The Diyanet Vakfi constitutes an example of a waqf creating a multitude of companies or providing equity finance to already established companies, while the Koç Foundation is the best example of a huge conglomerate creating its own waqf. The Koç specializes in education and has financed a highly ambitious secondary high school and a major university, while the Diyanet, like the Tabung Haji of Malaysia, is involved in the organization of the annual pilgrimage to Mecca and is represented in 700 localities by 90,000 religious functionaries.

The importance of these innovations cannot be emphasized enough. This is because, for the first time in the centuries' long history of awqaf we have this institution at last provided with the means to benefit from the dynamism of companies. It will be recalled that notwithstanding Imam Zuhayr's prescription that cash awqaf should invest their capital through mudarabah, Ottoman cash awqaf had invested their



capital by providing interest bearing loans, *istiqlal*.

Consequently, their income was limited to the “economic interest” that they had charged which always fell behind the market interest rate. In short, risk aversion had condemned Ottoman cash *awqaf* to inertia. In the post 1967 Turkish Republic, however *awqaf* have become direct recipients of companies’ realized profits. Thus, ironically, not the *awqaf* of, Ottoman, but of the staunchly secular Republican Turkey, actualized, at long last, Imam Zulfar’s teaching.

Moreover, we can also interpret these *waqf* -company relations as the rebirth of cash *awqaf*. Thus, Ottoman cash *awqaf* destroyed in 1954 by being incorporated into the bank of *awqaf*, *Vakıflar Bankası*, have, like a phoenix, been re-born albeit in a radically different organization structure and in a far more dynamic form. It will be suggested here that these latest developments taking place in Turkey should be carefully taken into consideration by those interested in re-designing cash *awqaf*.

We can now return to the complex relationship between the state and *awqaf* mentioned above. This is indeed a highly complex relationship. On the one hand, the rulers founded the greatest *awqaf* in nearly all the Islamic countries, on the other, many of them exhibited a relentless hostility towards this institution. While, the reasons behind this hostility have assumed different forms over time and space, the hostility, itself, has remained a constant. It is, therefore, all the more remarkable that this institution has managed to survive.

The hostility of the state towards *awqaf* has assumed a new dimension with the advent of colonialism. Both the British and French colonial powers were hostile to *awqaf*. This hostility was based on the same principles and took in practice very much the same forms. The colonial hostility, which sought an outright prohibition of *awqaf*, was supported by the indigenous modernists persuaded by the former.

The combination of these two forces was formidable and, thanks to the modernists, the hostility continued, even enhanced, after the colonial epoch.

While we would be justified to criticize the colonial powers and their modernist supporters for aiming to destroy an age old institution that has provided Islamic world with innumerable architectural masterpieces, financed education, health, infrastructure investments and municipal services at marginal cost to the state, we have to be far more restrained in our criticism when it comes to agriculture. For, the colonial/modernist onslaught has ended up transforming agriculture in the Islamic world from one dominated by *awqaf* and share cropping into one dominated by private ownership of land. Consequently, to the extent that small family ownership of land is more productive than *waqf* lands exploited through share cropping, aggregate productivity in the agricultural sector of Islamic countries must have been considerably enhanced. It is for this reason that we have concentrated in this paper primarily on cash *awqaf*. In our opinion, a *waqf* reform in modern Islamic world should not aim at transforming small, family owned lands into *waqf* held agricultural estates, but concentrate instead on urban real estate and cash *awqaf* where the real potential lies.

Finally, the definitive establishment of property rights in the post-colonial Islamic world means that Islamic philanthropy shall be transformed. To the extent that Muslims endowed their properties in order to escape confiscations, which, in it as we have seen, is a controversial point, this motive shall disappear. Thus, religious charity pure and simple shall dominate the Islamic world of future. But in the meantime much has been lost and philanthropic gap between the Islamic world and the West has widened: whereas the largest Turkish *waqf* has an approximate market value of US\$ 300 million, in the United States a donation of one billion US dollars has recently been reported.





## **Interview with Prof. Laurent Marliere**

CEO of ISFIN

By Alberto Di Gennaro



**Prof. Laurent Marliere** Professor of Marketing - Ceo of ISFIN - Islamic Finance and Markets - Global expert in marketing for professional firms. Laurent Marliere is an acknowledged observer of the ISLAMIC Economy and HALAL industry. He frequently speaks at forums in Asia and the Middle East on how to accompany companies in developing a Halal capacity for their conventional products

## Smart budgeting 2014 implies looking at Islamic markets

**Q: Many companies and firms are currently going through their budget planning. What is your advise?**

**A:** Since 2008, many firms have predominantly looked at cost cutting. Strategy was not the prime factor in their financial planning. They wanted to reduce their costs, sometimes quite irrelevantly as the frenzy was short-minded. However, sound budget planning is not just about spending money. It is about investing in the right sectors to manage income streams, as well. A budget is a two channels process.

Managing partners and their board have to look at macro-economics. Where will the economic and financial activity take place ?

The growth in the Eurozone remains dramatically low. Some politicians relayed by some media would like to announce positive news but when you assess the economical curves, it is unlikely that the UE will come back to substantial growth factors. Households are at threat and the retail industry just like real estate will provide poor results.

We have seen clear signs of weaknesses in the US. The threat of the shut down and the other potential “subprime crisis” are worrying signs showing that the United States are still heavily affected.

**Q: What about the BRICS?**

The BRICS have largely moved in the mainstream. Their estimate growth rate has shrunk and currently disappoint investors, although they will grow more substantially than in the West.

In a survey Goldman Sachs identified 11 countries that could rival the G7 over time and present interesting growth stories.

The N-11 include Bangladesh, Egypt, Indonesia, Iran, Korea, Mexico, Nigeria, Pakistan, Philippines, Turkey and Vietnam.

With the exception of Korea, Mexico and Vietnam, the N-11 are all predominantly Islamic markets or at least markets with a substantial Muslim population.

Their performance and prospects are remarkable along a range of sectors like energy, urbanisation, infrastructure, health and technology.

The N-11, which comprise 7% of the world economy, account for 9% of the world’s energy consumption.

Some of the N-11 are attractive destinations for infrastructure investment. Trillions have been invested in infrastructure projects between 1990 and now. Yet much more is needed going forward. Some of the «poorest» N-11 countries have been posting triple-digit growth in recent years. Many of the N-11 require advisory and professional services as well!

So if you combine in a global overview, which markets have the needs and assets to invest, you realize that the real areas of growth are Asia, GCC and Africa. These regions will not only experience growth locally, they now have huge amount of liquidities to invest. These investments occur on a global scale and sovereign funds for instance go shopping in Europe or in America. The most developed hubs like Dubai, Abu Dhabi, Doha or Kuala Lumpur tend to attract market shares from the West. Aviation traffic is a noticeable example. They are not quite there yet so they will need to invest further to achieve that goal of shifting south the belly-button of world economy.

**Q: How can one look at those markets?**

In Asia and the GCC, companies and professional firms generally had a country approach. We have seen those «Chinese desk», «Indian desk», «Turkish desk»,... flourish. Small offices have been opened in the Middle East with a limited amount of resident partners.

That is one way to do it.

Another way to do it, is to put your “Islamic spectacles” on.

Most of the emerging countries are homogenously or partially Muslim countries. Figures tell: In 2030, a third of World’s population will be Muslim, 65 % of the Muslims are Asians, India is the second largest country in the world, there are more Muslims in China than in the GCC...

Africa is currently going through an important process of islamization.

The conventional industry has clearly understood these trends and has started developing a “Islamic capacity” also called a “Halal capacity”. That means that the clients of the law firms in the Food, Cosmetic, Pharma, Transport, Banking, Real Estate,... sectors have embraced those market segments.

Professionals and advisors tend to be reactive rather than proactive and have not yet anticipated what is becoming the world’s fastest growing area of world industry. The Halal industry is there to stay. The investment power from the Muslim world, boosted by the high energy prizes, is there to stay.

Law, accounting and auditor firms, financial advisors will realize this when their clients will ask them to operate with that “Islamic capacity”. For some firms, it will be too late and they will lose market shares to more innovative or clairvoyant firms.

### **Q: To acquire that capacity is a substantial investment. How expensive in a budget can this be?**

You can of course play the heavyweight and hire, poach or train qualified professionals in the area; open offices and develop the project from scratch. This is what global firms are doing. The Big Four, the top 10 London law firms and large banks are investing heavily there...

Or you can look at the value of networking which offers excellent value for money.

This is where our ISFIN project has proved to be very innovative. We were granted the attention of the Financial

Times Innovative Awards for our corporate strategy in the sector.

You do not need to have in-house Shariah-accredited professionals when most of the investments or transactions happen in a conventional way. When a deal has a Shariah compliant dimension than you can pull the expertise of the highly qualified lawyers of the network. ISFIN, which now covers some 60 jurisdictions with 60 top tier law firms, accompanies investors from the Muslim world into the Western world and vice-versa we help our Partner firms accompany their Western clients into the Muslim world.

We are an entrepreneurial project dedicated to facilitating the exchange of business and legal consultancy in the Islamic world. A company only specializing to promote the benefits of our partner firms and their clients when they deal in this fast growing sector.

The real challenge when dealing with the Muslim world or when dealing with the Western world is not the technicality, it is the cultural gap.

In 28 months of existence, we have become the world leader in the supply of legal advice to the Halal industry. We are now expanding to new sectors: Audit & accounting, Banking, Wealth, Real Estate, Consultancy.

We are confident that ISFIN will keep growing as it is a worldwide project with professional firms and advisors fulfilling a growing demand in Latin America, Africa, Asia, Europe,...

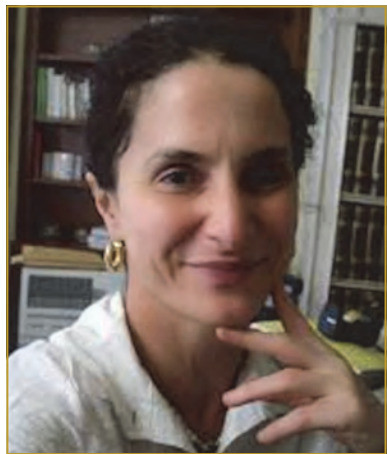
Intelligence is not a crime and partners, in charge of budget within professional advisory firms, will look at figures that open alternative income routes for their structure...











Bruna Soravia

Researcher, Islamic History and Culture at Luiss University of Rome, professor of African and Asian Islamic history

# The Sunni Caliphate and its Appeal in the Contemporary Islamic World

By Professor Bruna Soravia

Almost a century ago, on March 3 1924, the Grand National Assembly of Turkey abolished the Ottoman Caliphate. The decision was by then unavoidable, after the abolition of the political Sultanate, on November 1922, followed by the foundation of the Republic of Turkey, on October 29 1923, and the proclamation of Ghazi Mustafa Kemal, the leader of the Turkish nationalist struggle, as its first President. While the symbolic meaning of the caliphal function scarcely resonated within the new secular state, its abolition had wide and unpredictable consequences in the Muslim Sunni world at large, where the mere presence of a Caliph leading a large part of the Umma was a sign of continuity with the tradition of the early Islam, and a guarantee of a legitimate direction, both religious and political. The disappearance of this symbol marked then the very end of the Islamic ancien régime and the entrance of the first Islamic nation states in the modern political world system.

As a matter of fact, the Islamic caliphate, the one beginning with the four Orthodox Caliphs following the Prophet Muhammad, between 632 and 661, came to its end in 1258, trampled under the hooves of the horses of the Mongol warriors who invaded Iraq and sacked Baghdad. The only survivor to the slaughtering of the entire Abbasid family was an otherwise obscure individual, whom the Egyptian Mameluks took to Cairo and proclaimed as their legitimate Caliph with the name of al-Mustansir II, under their tutelage to be sure. In 1517, the Ottoman conquest of Egypt, led by Selim I, interrupted the series of the Mameluk-backed puppet-caliphs. The Ottoman sultans seemed to be indifferent to the appeal of a Caliph, choosing instead to establish a strong relation with the traditional ulema, and especially with the Hanafite juridical school. This wise political strategy obtained them the legitimization of their political power (the Sultanate), against the full recognition and the protection of the Sunni ulema's religious and juridical authority.

In fact, the Ottoman sultans couldn't claim the caliphal succession under the terms laid down in the classical political theory by the V/XI century thinker al-Mawardi. According to Mawardi, the Muslim Caliph has not only to be male, of sound mind, brought up in the Islamic tradition but he must descend from the Prophet's tribe



(that is, to be Arab and Qurayshite). This last condition was of paramount importance in the Sunni tradition and even more so in the Shiite one, where the imamate, that is, the spiritual caliphate, has a direct biological link to the Prophet and His close family, as formed by His daughter Fatima, His cousin and Fatima's husband 'Ali and their sons.

However, it had lost weight by the end of the XII/XVIII century, when the Islamic societies and their Law, the shari'a, underwent the beginning of a radical transformation, under the violent pressure of the expanding European states. It was then that the Ottoman sultan rediscovered the importance of being the Caliph of the Muslims, both in the calls for resistance against the European powers (Russia between the end of XVIII century and the second half of the XIX century, and the Allied Powers during World War I) and in his function as Lawgiver (for instance, in the text of the 1878 Constitution). The highest Sunni authorities approved the reclaiming of the title, in spite of the weakness of its legal principle. Likewise, it won the favor of the Arab populations, who, under the attack of the European colonial powers, were willing to consider the Ottoman Sultan-Caliph as the legitimate Muslim ruler who would protect the Umma. Even the anti-colonial Indian national movement, uniting Muslims and Hindus, adopted the idea of the universal Caliphate as a solution to the problem of the coexistence of different religious communities in the future Indian independent state, to the point that Gandhi himself adhered to the Khilafat (Caliphate) Movement.

As stated in the beginning, the newly reclaimed Ottoman caliphal authority didn't survive the First World War, which brought the empire to its end. What Mustafa Kemal abolished wasn't but an empty shell, but the symbolic meaning of the universal caliphate continued to appeal to the political aspirations of the Islamic community, undergoing a peculiar transformation. Between 1924 and 1926, the former sharif of Mecca and Hashemite ruler of Hijaz, Husayn b. Ali, claimed the title of Caliph on the basis of his own descent from the Prophet's close family, in the vain attempt to salvage what was left of his plan for an Arab kingdom, and to resist to the prevailing military power of his enemy, the emir 'Abd al-Aziz Ibn Sa'ud. In the same years, the Egyptian king, Fu'ad I, was sponsoring a series of religious

conferences aiming at reviving the need for a Sunnite Caliphate, for which he would be the chosen candidate. Needless to say, Fu'ad himself, being the heir to a military dynasty of Albanian stock, didn't have either the genealogical title to back his pretense or the necessary political consensus beyond Egypt. In fact, neither ruler received the ulema's final backing and both claims were soon relinquished.

As a matter of fact, a new movement was coming to the fore in the same period, following the abovementioned events, and it would soon inherit the call for the political and religious guidance of the Umma. In 1928, at Isma'iliya on the Suez Canal, Hasan al-Banna founded the Muslim Brotherhood, whose program dictated the institution of a supranational Islamic state, based on the Koran and governed by a political élite of religious training. Al-Banna's political vision aimed at substituting the universal Sunni caliphate, embodied in a real ruler, with the collective guidance of the community led by the Islamic parliament, the shura, charged with the duty of enacting the religious Law, the shari'a, as the state law.

Since then, the Muslim Brotherhood's call for an Islamic state has been construed as the most likely heir to the Sunni Caliphate, as well as the most influential model for a modern political and religious guidance of the Umma. (Among the rare and marginal alternative claims in the Sunni world, one could mention the attempted seizing of Mecca, in 1979, by a rebel group of apocalyptic inspiration, led by a self-styled Mahdi; or the Taleban chief, the reclusive mullah Omar's mock-bay'a (the caliphal investiture) as amir al-mu'minin in 1996). In the same frame of mind one could understand the reference to a "sixth Caliphate" (after the Orthodox, the Umayyad, the Abbasid, the Fatimid –this latter being in fact Ismaili- and the Ottoman ones) that echoed in the Islamist milieu after the Arab revolutions of 2011, alarming the Western media. In the sense, that is, of the call for a religiously inspired governance of the Islamic community, leading the Umma beyond the national borders of the contemporary Arab states.





# The Madrassa of Al-Qarawiyyin

By Kyle Perra

The Al-Qarawiyyin Mosque is one of the largest Masjids (mosque) in Africa and one of the world's oldest universities. Al-Qarawiyyin is the perfect historic example of how Islam, which is not separate from life's affairs, combines both spiritual and educational growth in this small corner of the globe, and it sheds light on the esteemed role that women played in the Islamic community - an aspect of Islam that is often misunderstood.

The Madrassa (educational institution) of Al-Qarawiyyin, also known by its westernized name, Al Karaouine, was founded in 859 C.E. as a religious university which I believe attests to its lengthy duration. However, there are many that consider religious universities to be flawed in their pedagogy and, more recently, even dangerous for the rest of the world. Such universities and, more importantly for this essay, those which are tied in with the Islamic religion, have been under great speculation recently for the supposed teachings of dangerous and hateful ideas towards western society. It will be the point of my essay to educate naysayers of religious teaching on the Madrassa Model as a whole, in hopes that their better understanding of the subject will lead them away from stereotypes. Moreover, I will explain how a student's understanding and dedication to the sacred does absolutely nothing but further enable knowledge acquisition. Through these arguments I will also show that knowledge and the sacred are largely inseparable.

For well over twelve hundred years now, Al-Qarawiyyin has been in operation as both a place of worship and higher education. The mosque as a whole is of the typical madrassa style as it is greatly distinctive in its architecture, which has been changed a few times within its lengthy existence. The mosque itself also has an interesting beginning, which sheds light on some of the great benefits of being a part of the Islam society during this time period. The madrassa was founded in 859 C.E. as previously mentioned, in Fez, Morocco by a young princess, Fatima Al-Fihiri. The young princess migrated to Fez with her father, Mohammad Al-Fihiri, from a town named Qairawan (present day Tunisia). Mohammad Al-Fihiri was known as a successful businessman and, at the time of his death, passed along a great fortune to Fatima and her sister, Mariam. Both sisters were believed to have been well educated, as is typical in Muslim society, and decided the best way to spend their inheritance would be the building of a large mosque in their new hometown. They decided to name the mosque Al-Qairawaniyyin, which was slowly shortened to Al Qarawiyyin due to the fact that many people of their old city Qairawan now resided with them in Fez. Originally the mosque was built of only medium size when compared to its sister madrassas which were mainly on the eastern half of what was

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known as the Greater Middle East. From the mosque's history, we are able to see that women played a large role in many factors of Muslim life and the fact that the two sisters were even able to be educated attests to the greater amount of equality within Muslim society. Also interesting, when considering the history of Al-Qarawiyyin, is the devotion that people had towards education. These two sisters could have spent that money for their own personal gain, but chose to better their society's educational prospects instead. Fatima and Mariam were also not alone in their contributions, as various sultans did not delay in providing the mosque with subsidies, gifts and sometimes with treasures, especially books.

After its completion, Al-Qarawiyyin quickly developed into a place of religious instruction and political debate, gradually extending its curriculum to include the natural sciences as well. Among the subjects taught, alongside the Qur'an and Fiqh, were courses on grammar, rhetoric, logic, medicine, mathematics, astronomy, chemistry, history, geography and even music. The great variety of topics that were able to be deeply explored quickly drew in scholars from the entirety of the Muslim world, which was quite huge during this period. Eventually the number of applicants became so overwhelming that the university had to introduce a much more rigorous selection system than it previously had which included many things, but primarily required a completion of learning the entire Quran. This rigorous system did not go to waste, as Al-Qarawiyyin quickly attained prestigious fame for producing a number of high profile scholars and pioneer scholars: Abu Abdullah Al-Sati, Abu Al-Abbas al-Zwawi, Ibn Rashid Al-Sabti, Ibn Al-Haj Al-Fasi, Abu Madhab Al-Fasi, Ibn Maimun (Maimonids), and Al-Idrissi. Sources also list a number of peers such as Ibn Al-'Arabi, Ibn Khaldun, Ibn Al-Khatib, Alpetragius, Al-Bitruji, Ibn Harazim, and Ibn Wazzan, all said to have all taught in Al-Qarawiyyin.

A university with such a high number of scholars who would inevitably shake the foundation of the world over with their treatises, experiments and conclusions surely had a great pedagogy and there were many factors to the madrasa model that would inevitably demand its fame for teaching. The madrasa model was also very distinct at the time of its creation for not just being heavily involved with spirituality and the sacred, but also for having almost its entire curriculum based on the teachings of such. This is where the madrassas gain most of their negative speculation, however I believe that this is where the madrassas also gain most of their benefits.

There are many strengths, alongside with having your

education based on religious devotion, a few of which I will be addressing in this paper. First and foremost, the enthusiasm and determination in which Muslim students place upon their education is completely outstanding when compared to students in an educational system without religious devotion. This is because of many things, but primarily because of what the entirety of the Muslim religion is all about: a person's submission to god. A submission to god requires many things within the Muslim religion, one of them being a devotion to the acquisition of knowledge. Before a Muslim student can even begin their path towards higher education, that same student must first go through the basic and elementary teachings of the Quran. The Quran will eventually become the students guide book to life not only in a moral sense, but also in an educational one when considering many upper division classes use the Quran as their textbook. It is only after the student has mastered the Quran and its verses that this student may then begin their application process to one of the many mosques that involve themselves higher education. When a student is put in a classroom and is asked to participate in the enhancement of their knowledge it is surely beneficial to have sufficient reasoning. This is exactly where institutions without religious devotion severely lack behind the madrasa model, for it is the initial focus of the student that will lead to their better acquisition of knowledge. This is why parents are always so greatly connected to the educational system, for without religious devotion it becomes the parent's job to encourage their children to sit in a classroom all day when they could be involving themselves in the simple pleasures of childhood. When you are able to connect education to the purpose of someone's existence, it surely makes a great impact on that person's thinking. Children within Muslim society quickly learn of the necessity of their devotion to God and when it states in a person's guidebook to life, like the Quran is for these Muslim children, that a person must educate themselves, they gain an initial enthusiasm which will push them to surpass those without it. This kind of determination is key to the success of the madrasa model and can also be shown within many factors of it. For example, a Muslim child reads the Quran and follows the society in which he or she was born into. This same child eventually succeeds into higher education and performs their devotion to God. Now that this person has followed through with their education, they many now go into one or many of the several working positions of the Muslim society. For the purpose of this example, let's say this person decides to become a teacher. Now we have the initial factor - children who believe they are doing God's work by receiving

education, and we have a secondary factor - the teacher who believes in the same submission to God. Both of these factors can only be benefited by their respective enthusiasm and determination, thusly leading to just one of the many great strengths of the madrasa system.

Now that we have both students and teachers essentially working with the enthusiasm one might work with when considering the entirety of one's purpose, the madrasa model can really start to pick up pace. This initial enthusiasm to submit one's self to god, which as I have shown eventually leads to the enthusiasm in everything a Muslim person might do, only benefits virtually every factor of Muslim education. The required completion and understanding of the Quran in its self can also be shown as a benefit to the Madrasa Model. It is widely known today that a person's reading is directly relevant to that same person's intelligence. It is through this and the idea of cognitive development that the madrasahs of Al-Qarawiyyin's time period were able to gain the interest of Professor Glenn Hardaker of the University of Huddersfield. Professor Hardaker took note of how, "The level of memorization that students can achieve and the importance of orality in transmitting the sacred text underpin the teaching. For example, a typical student of al-Qarawiyyin is able to memorise a page of text in approximately five minutes." This is an incredibly remarkable task that was likely only possible during the period in which Al-Qarawiyyin was first constructed by the methods of the madrasa model. Professor Hardaker went on to explain that, "Our observations found that Islamic pedagogy shares many similarities with the cognitive perspective to learning theory... Chomsky (1962) claimed that higher learning could only be achieved through a combination of conditioning and the internal mental state of the learner, which, he argued, should also be analyzed and understood. This view is extended by research into cognitive learning styles that also identifies the increasing importance of cultural sensitivity (Evans and Cools, 2009). The notion of 'conditioning' and 'cultural sensitivity' can also be seen in the context of the educational environment of al-Qarawiyyin, where pedagogic strategies for influencing the internal mental state of the learner are adopted." Alongside this, the separation from the modern environment in Fez, Morocco completely compliments these ideas of 'conditioning' and the 'internal mental state of the learner' both physically and spiritually. It is physically supported through Al-Qarawiyyin's lasting architecture, which for example does not allow automobile access. It is supported spiritually through how "classes are scheduled around the five daily prayers, and the call to prayer (adhan) sets the rhythm

of the day." This type of approach on education also reflects the importance of the cognitive learning theory. Professor Hardaker shows this by mentioning how, "al-Qarawiyyin supports the belief of knowledge and the sacred through the daily recitation of the Qur'an from sunset or maghrib prayer. For some the education of the day is reinforced by the continual recitation of the Qur'an... The cognitive perspective adopted by many educationalists has similar constructs of importance and for some an acceptance of spiritual belief playing an important part in the cognitive learning process. The concept of self-efficacy, a learner's belief that they can positively take action to manage a situation, was central to the development of the theory. In our experience at al-Qarawiyyin we felt that the institution's pedagogical model provides a unique insight into such an application, in particular, through memorization and the potential for the embodiment of knowledge." Al-Qarawiyyin's unique construct and the entirety of the madrasa model surely thusly can be shown to greatly improve a student's perception, attention, memory, language and thinking; all a part of cognitive psychology.

Perhaps one of the greatest parts about the madrasa model's ability to develop a student's cognitive skills is that the development of those skills were likely started at a very early age. Furthermore, this cognitive ability would have already been at least slightly developed by the time the student went into higher education as the recitation of the Quran is required for the madrasahs that dealt with higher education. Considering this, it can be assumed that when a Muslim student was deemed ready for higher education, that same student had the determination of his life goal carrying him and his cognitive ability was at least slightly matured. This brings us to the next strength of the madrasa model, which is simply the madrasa's basic format: the Halaqat al-'Ilm (Halaqa for short).

The Halaqa was and still is today possibly the most distinctive part of the madrasa model. Halaqa, which can literally be defined as 'a gathering of people seated in a circle,' or 'a gathering of students around a teacher,' was essential to the means of a Muslim education. The 'study circle' as it is sometimes referred to, has many strengths behind it and was possibly one of the greatest reasons as to why Muslims dominated education during the time of Al-Qarawiyyin's initial construction. Part of this is because of the close connection between the students and their teacher. Firstly, the environment is obviously extremely informal, allowing both the students and the teachers to feel more at ease. This informal environment was essential to the pedagogy of



Muslim education, as much of what was taught was taught through debate. Allowing both the teachers and students to be more at ease would insure that these debates not be quiet by any means and, “Although the teachers were in charge of the Halaqas, the students were allowed - in fact, encouraged - to challenge and correct the teacher, often in heated exchange.” Knowing that a person wouldn’t be discouraged then for their comments or questions surely led to a strong teacher-student connection. This brings us to the second strength of these Halaqas – these teachers were likely greatly respected by their students. Especially at a young age, the teacher becomes an instant role model for their students, whether they like it or not. Everything that teacher therefore does will reflect directly upon to the students. Considering this, I cannot think of a stronger bond than that of a teacher and student, other than those of family. When you add that type of bond to the enthusiasm in which both persons are reacting, something truly special must have been created. Such relationships were a standard for the madrassa model and when such a relationship is used educationally, the possibilities surely must be endless. Students would automatically be more at ease, which in turn relaxes the teacher. With the teacher relaxed, discussions go more smoothly. When students are more at ease they are more likely to speak their mind, resulting in more advanced and complete discussions. When these same students speak their mind, their vocational skills mature and the cycle continues. All of this complimented by the fact that both teacher and student believe they are acting upon God’s will, and such an act is the purpose of their life – the submission to God.

Such a system continued itself into our own present day, giving us with the longest continually operating educational institution of the world. But could anyone be surprised that such a solid pedagogy became what it is today, for I surely am

not. However there are still those naysayers who don’t believe such a system should be acknowledged for its accomplishments and there are still those who believe that it’s nothing but dangerous to teach opinions of how to live as absolute fact. I might agree with the latter, but not with the Muslim religion. Furthermore, I would point out of any of the Ten Commandments can be found in multiple places of the Quran. Therefore, if these Muslim schools have no place teaching religious items as absolute fact then neither do the Christian ones of the western world. Also, to those who would mention that knowledge and the sacred should simply be separate of each other, I would say that their separation is clearly impossible. Although there are those who have completely de-sacrilized knowledge after being formed as such by modernization, “the root and essence of knowledge continues to be inseparable from the sacred for the very substance of knowledge is the knowledge of that reality which is the Supreme Substance, the Sacred as such, compared to which all levels of existence and all forms of the manifold are but accidents.” Considering that intelligence is the tool of man towards knowledge, and that intelligence can also and is also used every day to try to define the Absolute, I must inevitably find them inseparable. Regardless of this idea, I believe it must be allowed, for not only Al-Qarawiyyin but by all religious universities, that such universities exercise their own pedagogy. For that of Al-Qarawiyyin and the rest of the madrassa model, I believe the system by which they teach their students must be recognized firstly by its unprecedented success. Furthermore, the religious aspect of the madrassa model must be recognized solely by its ability to inspire not just students but the entirety of that educational system.



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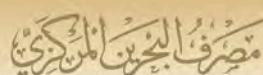
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