



# Financing Kindness as a Society: The Rise & Fall of Islamic Philanthropic Institutions (Waqfs)

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## Author Biography

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## Introduction

From approximately the ninth century, roughly two hundred years after the death of the Prophet Muhammad ﷺ, charitable foundations and endowments (*waqfs* or *awqāf*) began to emerge and spread across the Islamic world. Over the next millennium, charitable foundations and endowments would become fundamental to the conceptualization and manifestation of an Islamic society to such an extent that it would become nearly impossible to envision the Muslim world without *waqfs*. They had become the thread that stitched together the diverse tapestry of the Islamic civilization. By the early 1800s, according to one conservative estimate, more than half of the real estate in the Ottoman Empire was classified as endowed (*waqf*).<sup>1</sup> According to another reliable source, charitable endowments (*awqāf*) comprised

an estimated 75 percent of arable land in the area of today's Turkey, one-fifth in Egypt, one-seventh in Iran, one-half in Algeria, one-third in Tunisia, and one-third in Greece. At the end of the eighteenth century, an estimated 20,000 *waqfs* in the Ottoman Empire had a total annual income equal to one-third of annual government revenues, and perhaps including as much as one-half to two-thirds of arable land.<sup>2</sup>

The institutionalization of charity in Islam became a defining factor that would exert dominating influence on urban planning and the development of cities and towns, social welfare, religious habits and practice, the production of art and the development of aesthetics, the structure and stability of markets and economic forces, political stability, as well as the production of Muslim culture in all its diverse representations. As a famous historian remarked:

from about the tenth century, private *waqfs* replaced *zakāh* as ‘the vehicle for financing Islam as a society...they offered the material foundation for most specifically Islamic concerns, supporting religious, social, cultural, and economic activities, while equally serving political functions...Through the *waqfs*, the various civic essentials and even amenities were provided for on a

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<sup>1</sup> Wael B. Hallaq, *Sharia: Theory, Practice, Transformations* (New York: Cambridge University Press, 2012), 402.

<sup>2</sup> Amy Singer, *Charity in Islamic Societies* (New York: Cambridge University Press, 2008), 186.

private yet dependable basis without need or fear of the intervention of political power.<sup>3</sup>

From about the middle of the nineteenth century, this integral element of Islamic civilization would be taken over by the newly created nation-state and, in some cases, purposefully obliterated. Coterminous with the decline of the *waqf* was the rise of Westernization and reform projects in the Muslim world that sought to move the Muslim world forward towards “progress” in the name of “civilization.” The *waqf*, as a uniquely Islamic institution, would come under assault and thereby usher in a transformation of the Islamic world.

This paper explores both the origins and transformation of charitable foundations and endowments in Islam. I divide the history of *waqfs* into five different phases. The first is the formative period for *waqfs* and I begin with an overview of the origins and formation of this institution. In this section, I explore central concepts and themes that were critical for the foundation and establishment of Islamic philanthropy as an institution. The second phase is the post-formative period for *waqfs*. There, I describe how the term *waqf* emerged in the midst of much cultural and terminological diversity. I further outline the first recipients of Islamic philanthropy in form and content. The third phase is the maturation period for *waqfs*. In this section, I outline various examples of *waqfs* in a more mature form and how they operated. I provide examples regarding how *waqfs* affected a variety of places and beneficiaries in various parts of the Muslim world. Of significant importance in this section are the details about the founding of *waqfs* for animals as well as endowments and foundations established by Muslim women solely for single women. This provides special insight into how pre-modern Islamic societies developed creative mechanisms to cultivate an atmosphere of inclusion and belonging by devoting certain *waqfs* to the cause of providing space for those on the margins of society. The fourth phase is a transformation period of *waqfs* and in this section, I describe how the issue of concreteness and perpetuity of *waqfs* began to be applied to cash, something more mobile and practically useful in preparation

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<sup>3</sup> Marshall Hodgson, *The Venture of Islam*, vol. 2 (Chicago: University of Chicago Press, 1974), 124; also see Singer, *Charity*, 91.

for a new world. The final period is the period that marked the deterioration of *waqfs*. In this section, I attempt to reveal the causes and consequences of the decline of *waqfs* in the Muslim world.

In chronicling an epic institution such as the *waqf* in Islam, it is important to acknowledge that this topic is widely researched. What I am attempting to accomplish in this paper is a general synopsis and synthesis of major source materials regarding the institution of *waqfs* in order to provide the reader (both Muslim and non-Muslim) with a central source that both maps the landscape of the history and development of the institution of *waqfs* and provides scholarly integrations in order to explain this profound aspect of the Islamic civilization. To comprehend the institution of *waqfs* is to understand Islamic philanthropy. This paper, in short, seeks to unveil and present the core and the branches of the greatest form of the Islamic philanthropical enterprise.

## **The conditions allowing for the cultivation of Islamic philanthropy (*waqfs*)**

Islamic philanthropy as a social institution (the *waqf*) emerged against the backdrop of two distinct and ubiquitous practices in Muslim society. The first backdrop was the pervasive theological and ontological framework of the centrality of charity to life itself that gives momentum to giving in the first place. The second backdrop consisted of the legal and sociological consequences of death, preparation for them, and the resulting issues of bequest and inheritance.

In Islam, from birth throughout a person's lifespan, charitable giving fashions a person's daily, nightly, and monthly routine. Even the body itself is included in the expectation of charitable giving for the Islamic tradition encourages a person to engage all their bodily limbs in charitable acts. The Prophet Muhammad صلى الله عليه وسلم stated that:

Each joint of every person must perform a charity every day the sun comes up: to act justly between two people is a charity; to help a man with his mount, lifting him on to, it is a charity; a good word is a charity; every step you take to prayers is a charity, and removing a harmful thing from the road is charity.<sup>4</sup>

Kind words, helping another across the road, removing litter from the street, showing affection towards one's spouse, feeding the poor, and even remembering God are among the numerous actions that are considered charitable in Islam. Islam encourages charitable actions on a daily basis through a myriad of practices that can be done, ranging from very easy and simple to grand and socially transformational, such as speaking out against injustice. Furthermore, charity was codified in the Islamic calendar during various days, nights, weeks, and even months. Friday, the occasion of the Muslim congregational prayer, is designated the most advantageous day of the week for charitable giving. Giving before and especially after the Friday Prayer is a practice enshrined in Islamic norms throughout Islamic history. The feeding of the poor especially is encouraged after the Friday Prayer and a practice found in Muslim sources. The last ten nights of Ramadan are considered the most virtuous nights for giving and for charitable actions. The first month of the Islamic calendar, Muḥarram, is known as the first month for charity in the year. The tenth of Muḥarram, known as 'Āshūrāh, whose significance is shared between both Sunnis and Shi'is, is known for its being an occasion for charitable giving and virtuous actions. During the third month of the Islamic calendar, the month of Rabī' al-Awwal, the Prophet's birth is usually commemorated by Muslims globally. The celebration, although originating in the Mamluk era from Muẓaffar al-Dīn (d. 682/1283), brother-in-law of Ṣalāḥuddīn Ayyūbī, would become part of both Sunni and Shi'i social norms.<sup>5</sup> The practice of commemorating the Prophet's birth always involved feeding people and the distribution of gifts as an act of charity. The sacred months of Rajab (the 7<sup>th</sup> lunar month), Sha'bān (the 8<sup>th</sup> lunar month), and Ramadan (the 9<sup>th</sup> lunar month), are also designated as months for charity. Rajab historically was designated as a month for

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<sup>4</sup> Related by Bukhārī and Muslim (see hadith no. 26 in *al-Nawāwī's Forty Hadith*).

<sup>5</sup> See Singer, *Charity*.

gift-giving to the descendants of the Prophet Muhammad ﷺ. The middle night of the month of Sha‘bān, called *Laylat al-Barā’*, is considered a night of prayer and penitence. On that night, Muslims are highly encouraged to ask forgiveness and to perform acts of charity in hopes of having their sins absolved. Ramadan, as a month for fasting and charitable giving is widely known by Muslims and non-Muslims alike. The first day of Shawwal, the tenth month in the Islamic calendar, is considered a grand festival day, *‘Īd al-Fiṭr*, marking the completion of Ramadan and is the first of the two grand festivals for giving. Finally, Dhū al-Hijjah, the twelfth and final month in the Islamic calendar, contains the Pilgrimage as well as the second grand festival, *‘Īd al-Aḍḥá*. This festival is a holiday devoted to feeding others, gift-giving, and other forms of charitable giving lasting for three consecutive days. Days, nights, and months punctuate the Muslim’s life-span with an overall climate of charitable giving that Muslims are literally born in to: seven days after the birth of every child, the charitable act of the distribution of food to the poor and non-poor alike is a religious practice called *‘Aqīqah* for the purpose of giving thanks to God for the gift of a child. Charitable giving was even considered central in the early childhood education of children. Ibn Nujaym (d. 970/1563) quotes the famous Sunni theologian Imam Abū Manṣūr al-Māturīdī (d. 333/944) as saying:

The believer is obligated to instruct their child in generosity and charity just as they are obliged to instruct them in monotheistic doctrine and belief, for the love of this world is the source of all sin.<sup>6</sup>

Like amniotic fluid that functions as a source of protection for the developing fetus, as well as facilitates the exchange of nutrients and water between mother and child, the encompassing atmosphere of charity insulates the Muslim community from the blows of natural calamities, staving off the worsening of conditions while allowing for the exchange of material blessings between various members of the community so that each segment of the community comes to value and appreciate the presence and well-being of the other.

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<sup>6</sup> Ibn Nujaym, *al-Baḥr al-Rā‘iq*, vol. 7 (Cairo: Dar Iḥyā Turāth al-‘Arabī, 2010), 284.

The second framework that forms the backdrop to the emergence of the *waqf* was death itself and the preparation for transition to the afterlife. Death and dying in Islam ushered in two extremely significant Islamic legal mechanisms: the bequest (*waṣīyah*) and inheritance (*mīrāth*). The relationship between these two legal actions in Islam, coupled with a terminal illness (*marad al-mawt*) brought to the forefront of Muslim families and jurists the problem of protecting heirs and creditors in the event of a dying person's last testament. In Islamic law, bequests are restricted to one-third of a person's property. This restriction to one-third, along with the strict rules of Islamic inheritance shares, posed a problem for Muslims on their deathbed wishing to donate a significant portion of their wealth to the poor in perpetuity. The challenge of distinguishing normal, regular charitable giving in the form of a bequest, subject to Islamic inheritance laws, from the creation of an institution for ongoing charity that would benefit the donor in the afterlife on an ongoing basis contributed to the creation of the *waqf* as a separate and uniquely developed Islamic institution. The impetus for ongoing charitable giving was given by the Prophet ﷺ who explained that:

When a human being dies, their work comes to an end, except for three things: ongoing charity, knowledge benefitted from, or a pious child who prays for them.

Muslim scholars have interpreted “ongoing charity” as a reference to Islamic philanthropic institutions (*waqfs*). But early on in Islamic history, this distinction was not overtly clear, for both the practice of charitable giving and term for giving (*ṣadaqah*) would confuse matters leading to a need to distinguish the general practice of charitable giving (*ṣadaqah*) from ongoing or perpetual charitable institutions (*waqfs*). This would lead to the rise of the *waqf* as both a legal and social phenomenon that produced an entirely new layer of meaning for Muslims and Muslim societies for well over a thousand years. Financing kindness would transcend individual and personal boundaries to become spiritual, familial, communal, social, political, cultural, philosophical, regional, international, and even global. In the modern era, it would become a colonial priority to dismantle the

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<sup>7</sup> Muslim, hadith 1631, narrated by Abu Huraira, *kitab al-wasiyyah*, *bab* the reward which reaches a person after their death.



*waqfs*, leading to their being disrupted and falling into significant decline as a result of external pressures from colonial forces abroad and internal pressures from Muslim reformers seeking to replicate European Enlightenment at home. With this backdrop in mind, I now turn to the five phases in the historical development of the *waqf* as the premier Islamic philanthropic institution.

## The formative period for Islamic philanthropical institutions

The formative period for Islamic philanthropy began after the Prophet's migration to Medina and ended around the early Abbasid era. During this period, the essence and contours of Islamic philanthropy were established by Qur'anic and Prophetic decree and philanthropic giving emerged in various forms.

As ubiquitous as the *waqf* is in Islamic history, it is quite interesting that the term *waqf* does not appear in the Qur'an itself nor in the hadith literature. The term *waqf* is believed to have emerged around the middle of the third century in Islam, during the post-formative period of Islamic law. Although the term itself does not exist in the Qur'an, scholars of Qur'anic exegesis explain the following Qur'anic passage as providing the basis for Islamic philanthropic giving:

None of you (believers) will attain true piety unless you give out of what you cherish: whatever you give, God knows about it very well.<sup>8</sup>

Upon hearing this verse of Qur'an, Abū Ṭalḥah, a notable Companion of the Prophet Muhammad ﷺ donated his most cherished possession, a large date-palm grove with over 600 date palm trees to the service of the poor in the city of Medina. He explained the reasons behind his gift to the Prophet Muhammad ﷺ by saying that the date-palm grove was his most cherished possession and that he hoped that by gifting it to the poor that he would attain the status of true piety in the next life. Upon declaring his gift to those in need, in the presence of the Prophet Muhammad ﷺ, Abū Ṭalḥah returned home to find his wife and child relaxing in the grove. Abū Ṭalḥah immediately informed his wife that he had gifted

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<sup>8</sup> Qur'an 3:92.

and endowed the grove to serve the poor of Medina in service of Islam. His wife asked him, “Did you do this in your name only or in our name collectively?” Abū Ṭalḥah replied that he had done so in both of their names. His wife replied, “May God be pleased with you, Abū Ṭalḥah! I was considering the exact same thing after having thought deeply about what to do for the poor in our midst. But I did not have the courage yet to do something about it. May God accept our offering and let us now leave the grove together.”<sup>9</sup> This dedication of their most valuable real estate for the good of the poor of Medina, in service of Islam, became known as the first act of endowment (*waqf*) in Islam.

From the perspective of the Sunnah of the Prophet Muhammad ﷺ, we have more specific details for the establishment of the *waqf*. First, the Prophet ﷺ died leaving only three items: a mule, his weapons, and some land that he designated as being reserved for charitable purposes (*ṣadaqah*).<sup>10</sup>

Second, the Prophet Muhammad ﷺ instructed his Companion Umar how to endow property for Islamic philanthropic purposes and this became the model for the *waqfs* of many prominent Companions of the Prophet ﷺ. Imam Mālik mentioned this advice from the Prophet ﷺ as having established the precedent for *waqfs*—which were called *ahbas* by Imam Mālik.

According to Islamic history, ‘Umar ibn al-Khaṭṭāb had acquired some property in Khaybar and consulted the Prophet ﷺ on what to do with it. The event is reported as follows:

‘Umar said: ‘I have acquired land in Khaybar, and I have never acquired property more precious to me than it. What do you command me to do with it?’ The Prophet ﷺ replied, ‘If you want, sequester its principal and dedicate (the profits) for charitable purposes.’ Ibn ‘Umar said, ‘‘Umar gave away the yields as alms on the condition that it (the principal) not be sold, given away as a gift, or inherited. ‘Umar gave the yields away as alms for the poor, kin relations, freeing of slaves, (the funding of) military

<sup>9</sup> Osman Topbas, *Medeniyetimizin Fazilet Zirvelerinden: Vakif, Infak, Hizmet* (Istanbul: Erkam Yayinlari, 2006), 24–25.

<sup>10</sup> Related by Bukhārī (*sahih*), as cited in Peter C. Hennigan, *The Birth of a Legal Institution: The Formation of the Waqf in Third Century A.H. Hanafi Legal Discourse* (Boston: Brill, 2004), 169.

expenditures, travelers, and guests. It will not be held against the one who administers it if they eat from it in an appropriate manner or gives something to a friend so long as they do not appropriate any of the property.<sup>11</sup>

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

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

<sup>11</sup> Al-Bayhaqi, *Sunan*, chap. 6; Al-Dāraqūṭnī, *Sunan*, chap. 4; Aḥmad ibn Ḥanbal, *al-Musnad*, vol. 6; Hennigan, *The Birth of a Legal Institution*.

witness for the document. ‘Umar named his daughter, Ḥafṣah, as trustee, administrator, and manager of the property he endowed, in his words, “for as long as she lives.” He then stipulated that after her, it should be administered by a person of sound judgment from her family...The yields were to be spent, as the administrator saw fit, for beggars, the destitute, and kin. It is not objectionable if the administrator eats, feeds, or purchases servants to work the property.<sup>12</sup>

Imam Shāfi‘ī explained that “knowledge of *ṣadaqāt* [*waqfs*] has been preserved by a considerable number of the Emigrants (*Muhājirūn*) and Helpers (*Anṣār*). Indeed, a great number of (the early Muslims’) descendants and relatives continued to administer their *ṣadaqāt* until they died. The majority of them transmitted this on the authority of the majority, so there is no dispute in this matter.”<sup>13</sup>

Al-Wāqidī (d. 207/823) reported that the Companions had transformed their dirhams and date trees into endowments (*ṣadaqah*), while al-Ṭabarī (d. 310/923) related the conversion of conquered lands into endowments (*ḥabs*) during the first century.<sup>14</sup> Among the prominent Companions who established Islamic philanthropical endowments (*waqfs*) are: ‘Umar, ‘Uthmān ibn ‘Affān, ‘Alī ibn Abī Ṭālib, Sawdah bint Zam‘ah (the Prophet’s wife), ‘Ā’isha bint Abī Bakr (the Prophet’s wife), al-Zubayr ibn ‘Awwām, Mu‘ādh ibn Jabal, Zayd ibn Thābit, Asmā’ bint Abī Bakr, Umm Salamah (the Prophet’s wife), Umm Ḥabībah (The Prophet’s wife), Ṣafīyyah bint Ḥuyayy (the Prophet’s wife), Sa‘d ibn Abī Waqqās, Khālīd ibn Walīd, Abū Arwā al-Dawsī, Ḥafṣa (the Prophet’s wife), Jābir ibn ‘Abd Allah, Sa‘d ibn ‘Ubādah, ‘Uqba ibn ‘Āmir, and ‘Abd Allah ibn Zubayr—may Allah be pleased with all of them.<sup>15</sup>

<sup>12</sup> Hennigan, *The Birth of a Legal Institution*, 160.

<sup>13</sup> Hennigan, *The Birth of a Legal Institution*, 107.

<sup>14</sup> Ibid.

<sup>15</sup> See Al-Khaṣṣāf, *Aḥkām al-Awqāf*, (Cairo: Diwan Umum al-Awqaf al-Misriyya, 1904).

## The post-formative period for Islamic philanthropical institutions

The post-formative period began in the early Abbasid era (around 250/864) and ended around the beginning of the Mamluk rule in Egypt (648/1250). During this period, the term *waqf* became codified within Islamic legal parlance across legal schools and *waqfs* adopted the concrete forms of mosques and *madrrasah* colleges. Early on in this period, a terminological problem emerged. Scholars and jurists of this period employed the following terms to refer to what we know today as *waqfs*: *ḥubs*, *aḥbās*, *ṣadaqah*, *ṣadaqāt muḥarramāh*, and *ṣadaqāt mawqūfāh*. The Mālikīs, early Shāfi'īs,<sup>16</sup> and scholars of the Zāhirī School employed the terms *ḥabs* or *ḥubs* (to retain or detain) and variants of this term, such as the plural *aḥbās*, and other derivatives like *taḥbīs*, *ḥabā'is*, *ḥabisa*, and *iḥbās*.

Imam Shāfi'ī and other scholars preferred the term, *ṣadaqāt muḥarramāt*, or inviolable charity. Others preferred to add different qualifiers to the term *ṣadaqah* (charity) such as *ṣadaqa mu'abbadah* (eternal charity) and *ṣadaqah jāriyah* (ongoing charity). Imam Shafi explained that *ḥubs* is a term that meant *ṣadaqāt muḥarramāt* and that *ṣadaqāt muḥarramāt* was a term for *waqf*. Later Shafi scholars followed that view and now universally employ the term *waqf*. Early Ḥanafī scholars also employed the same differing terms and only later in this period settled on *waqf* as the preferred signifier. The same with Ḥanbalī scholars. The Mālikī scholars however preferred to retain the term *ḥubs* over the term *waqf* and therefore *ḥubs* (or *habous*) became normative for the Muslims of North Africa (the Maghrib) and the Iberian Peninsula (Al-Andalus).

For Shia Muslims, the scholars of the Ja'farī School distinguished between the meaning of *ḥubs* and *waqf*, and they employed both. For them, *ḥubs* referred to Islamic philanthropic entities whose existence was not intended to extend into perpetuity. *Waqf*, however, refers to all endowments that were stipulated to exist in

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<sup>16</sup> Including Imam Shafi'ī himself, although he did use the term *waqf*.

perpetuity. This was not the case for Ismā‘īlī and Zaydī scholars, most of whom employed the term *waqf*.<sup>17</sup>

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

The post-formative era in Islamic history was further characterized by tremendous urban and rural development on account of *waqf* institutions. Beginning initially with the patronage of learning, Islamic arts and sciences began to flourish in this period on account of Islamic philanthropy and royal patronage. Science, literature, philosophy, architecture, glass and crystal making, painting and pottery, writing and calligraphy, textiles and technology, all were among the earliest Islamic philanthropic dependents during this period, particularly in major urban areas. Education, research, and invention became extensions to and part of ritual worship and for this reason, Islamic colleges (*madrasahs*) were constructed adjacent to major houses of worship (mosques). In rural areas, however, agricultural materials such as farming tools, work animals, and agricultural real estate continued to form the majority of endowments (*waqfs*).

The development of major mosques and *madrassa* colleges with libraries together as *waqfs* characterizes this period. Salient examples of this heritage which emerged after the pioneering House of Wisdom (*Bayt al-Hikmah*) are: Al-Azhar Mosque and Madrasah College in Cairo, Egypt built in 969/1562 by the Fatimid Caliph Al-Mu‘izz; The Qarawiyyīn Mosque and Madrasah College in Fez, Morocco founded in 859/1455 by Fāṭimah al-Fihriyah, a descendant from the Quraish tribe of the Prophet ﷺ; Fatima’s sister, Maryam al-Fihriyah established the Al-Andalus Mosque in Fez around the same year; and the Nizāmīyah Madrasa

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<sup>17</sup> Ahmed Akgunduz, *Islam Hukukunda ve Osmanli Tatbikatinda Vakif Muessesesi* (Istanbul: Osmanli Arastirmalari Vakfi, 1996), 78–81.

College which was established in 1065/1654 as a *waqf* in Baghdad by Nizām al-Mulk and employed the famous Imam al-Ghazālī as lead professor. These institutions produced a learned society throughout the Muslim world and helped foster the cross-pollination of ideas and inspirations that helped enhance Muslim society further. The establishment of such grand, imperial *waqfs* enabled the development of smaller, more influential communal *waqfs* to emerge in a variety of ways which paved the way for a new era of *waqf* creation that transformed Muslim society in general. This also ushered in a transformation in Muslim women’s leadership and education and aided in the dispensing of Muslim social services in a post-Crusades/post-Mongol invasion Muslim world.

## The maturation period for Islamic philanthropical institutions

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

- Sufi lodges (*zāwiyah/tekke/khanqa*); travelers’ inns; soup kitchens; public baths; famine relief centers, the construction and maintenance of tombs of scholars; hospitals; veterinary services, animal fountains; prayer rooms along travel routes; libraries; public water fountains; orphanages; public bathhouses; cemeteries,

kindergarten/primary schools founded independently adjacent to many mosques for the primary purpose of teaching the Qur'an; institutions devoted to charitable causes such as freeing slaves, feeding the poor, paying debts, the distribution of gifts on the two Eids, and the preparation and burial of the deceased.

Among the many examples of flourishing *waqfs* that went beyond the mosque-*madrrasah*-college form that are worth highlighting are the single-women housing *waqfs* called *ribāṭs* established in the Mamluk era (1250-1517). *Ribāṭs*<sup>18</sup> were known to be female-only Sufi institutions that originated in the 6<sup>th</sup>/12<sup>th</sup> century during the Fatimid era, developed greatly in the Mamluk period, and fell into decline in the early Ottoman era. *Ribāṭs* housed single women exclusively. Oftentimes elite women, poor women, recent divorcees, and widows would share spaces together in a *ribāṭ*. In addition to providing rooms for single women, strict devotional activities were required in exchange for paying rent. Personnel were on hand to take care of the basic needs of the residents of the *ribāṭ*. Residents were expected to attend the *dhikr* ceremonies, the five daily prayers, and the Friday Prayer service which was led by the resident scholar *shaykhah*. In addition to their charitable function for single women, *ribāṭs* functioned as spaces for the cultivation of female piety as well as a solution to female homelessness. Ibn Taymīyah's family used to provide cleaning items for a *ribāṭ* for elderly women that was adjacent to his family's home. *Ribāṭs* were ubiquitous during this period and as Rapoport explains:

The establishment of *ribāṭs* in all Mamluk urban centers reached a peak in the latter half of the thirteenth century and the first half of the fourteenth. The *Ribāṭ al-Baghdādīyah*, established in Cairo in 684/1285, was the most famous *ribāṭ* devoted exclusively to women. The daughter of the Sultan Baybars, Tidhkarbay Khatun, endowed the institution for the benefit of a female mystic called Zaynab al-Baghdādīyah, after whom it was named. Shaykhah Zaynab had already acquired a large following among the women of Damascus when Tidhkarbay invited her to come to Cairo. The *ribāṭ* was

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<sup>18</sup> Yossef Rapoport, *Marriage, Money and Divorce in Medieval Islamic Society* (Cambridge: Cambridge University Press, 2005), 39–40.



located next to Baybars' *khanqah* and was probably intended as a sister institution. In 694/1295, the *amīr* 'Alā' al-Dīn al-Barabah established a *ribāṭ* for the use of Sitt Kalla, the widow of another senior *amīr*. In 715/1315, the *amīr* Sunqur al-Sa'd attached a women's *ribāṭ* to the *madrasah* he endowed in the city. Al-Maqrizī and Ibn Ḥajar agree that the primary function of these *ribāṭs* was to provide shelter for widows, divorcees, and abandoned women. At least six additional *ribats* for widows and old women operated in the Qarāfah cemetery during the fourteenth century... Syrian cities had an even larger number of women's religious houses. In Damascus, the term *ribāṭ* had come to mean a specifically female place of worship. A Damascene author, Ibn Zufar al-Irbīlī (d. 726/1326), remarks that a *ribāṭ* is a *khanqah* devoted exclusively to women (*al-rubūṭ hiya al-khawāniq allatī takhtaṣṣu bi-l-nisā*). He then enumerates twenty such institutions, fifteen within the city itself and an additional five in its suburbs.<sup>19</sup>

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

Ibn Baṭūṭah describes his encounters with an overwhelming number of endowments during his travel to Damascus. He explains that,

The varieties of the endowments at Damascus and their expenditure are beyond computation, so numerous are they. There are endowments in aid of

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<sup>19</sup> Ibid.

persons who cannot undertake the Pilgrimage, out of which are paid to those who go in their stead sums sufficient for their needs. There are endowments for supplying wedding outfits to girls, to those namely whose families are unable to provide them with the customary paraphernalia. There are endowments for freeing prisoners and endowments for travelers out of which they are given food, clothing, and the expenses of conveyance to their countries. There are endowments for the improvement and paving of the streets, because the lanes in Damascus all have a pavement on either side on which the foot passengers walk, while riders use the roadway in between...As I went one day along a lane in Damascus, I saw in it a young slave-boy out of whose hand there had just fallen a Chinese porcelain dish and had broken into bits. A crowd gathered around him and one of them said to him, ‘Pick up the pieces and take them with you to the custodian of the endowments for utensils.’ So he picked them up and the man went with him to the custodian, to whom the slave showed the broken pieces and thereupon received from him enough to buy a similar platter.<sup>20</sup>

The Ottoman Empire is known to have pioneered the term “*waqf* society” for itself. As historians explain, the *waqfs* in Istanbul were,

...a quintessential system of welfare, used both to develop the economy of the city and to guarantee the material conditions and well-being of many of the city’s inhabitants. It contained elements of prestige and display, and of protection of family wealth. For many of the inhabitants of the city, it was a cradle-to-grave institution, for a man could be born into a *waqf* house, sleep in a *waqf* cradle, eat and drink from *waqf* provisions, read in *waqf* libraries, teach in a *waqf* school, take his wage from the *waqf* administration, and when he died, be put in a *waqf* coffin and be buried in a *waqf* graveyard. It was the *waqf* institution that fed, educated, housed, washed, and gave medical treatment to the population. It provided people with a livelihood and rescued them in times of natural disaster. They went shopping in the *waqf* shops, they prayed in the *waqf* mosques; and the physical features of their

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<sup>20</sup> H. A. R. Gibb, *The Travels of Ibn Battuta (A.D. 1325–1354)*, trans. and ed. with revision and notes from the Arabic text by C. Defremery and B. R. Sanguinetti, vol. 1 (London: Munshiram Manoharlal Publishers, 1829), 148–49.

city were to a great extent shaped by the *waqf*. In short, life in Istanbul without the *waqf* institution was unthinkable.<sup>21</sup>

According to official records of the General Directorate of Waqf Archives of the Ottoman Empire, now located in Ankara, Turkey, there are a total of 26,300 *waqfs* that were officially recorded as having existed in the empire, 1,400 of which were established by Ottoman Muslim women.<sup>22</sup>

During this period, the integral pillars required for the creation of a *waqf* were refined on account of the prevalence of *waqf*-making among the masses, as opposed to just from rulers and governors. Scholars of Islam stipulated that the establishment of a *waqf* required four elements. First, a declaration in writing had to be made. This declaration had to be authorized by the court and recorded as an official document. This condition also meant that the term *waqf* or *ḥabs* had to be used for the validity of the endowment in Islam. Second, the wealth or property endowed had to be designated for a particular purpose. Recalling the hadith from above, property or wealth had to be sequestered for the use of generating proceeds to be used for charitable purposes. Third, a beneficiary had to be named, meaning a person or persons, a category of people like orphans, the poor, or the public in general. And, fourth, the benefactor of the *waqf* had to be named and had to be alive during the time of this action, as this action was required to stem from their free will. Once these four elements had been established, then the *waqf* was formally established in Islam and could not be revoked, sold, gifted, or inherited. *Waqf* deeds were considered bound by Islamic contract law, and therefore *waqf*-making was viewed as a transaction on account of the fact that ownership of property changed hands.

Exactly who owned the property was a matter of unresolved contention among Muslim jurists. The Ḥanafīs and most of the Shāfi'īs, and an opinion narrated from Imam Aḥmad affirm that ownership of property was transferred from the benefactor to God and took the form of a public trust. The Mālikīs, some Ja'farīs,

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<sup>21</sup> Ebru Boyar and Kate Fleet, *A Social History of Ottoman Istanbul* (New York: Cambridge University Press, 2010), 130.

<sup>22</sup> Topbas, *Vakif, Infak, Hizmet*, 34.

some Shāfi‘īs and Ḥanbalīs, and Ibn Humām of the Ḥanafīs affirmed that it transferred to the endowment itself. Stated differently, it was retained from all other forms of ownership and reserved exclusively for the *waqf* to disburse to others in order to create ownership. According to the preferred opinion of the Ḥanbalī School and other Shāfi‘ī and Ja‘farī scholars, ownership transfers to the beneficiaries and is only managed by the administrator or trustee (*mutawallī*).

Possession of the property<sup>23</sup> was relative to what the item for *waqf* was in the first place. Possession occurred when the property was either used (in the case of real estate or tools), or when the property was received in hand (in the case of food or money), or even as early as the moment the *waqf*-deed was approved by the court. The endowment deed had to be a legal document. The court’s approval of the *waqf* deed as an official legal document was itself deemed “possession” and this was an opinion attributed to Abū Ḥanīfah himself. Further necessary as part of the drafting of the endowment deed was the required stipulation of the phrase “in perpetuity” (*‘ala ta’bid*). The Ḥanafīs, most of the Shāfi‘īs, the Ḥanbalīs, The Ja‘farīs, and Zahirī Schools all required the declaration of the phrase “in perpetuity” as a conditional element of the validity and binding irrevocability of a *waqf*. Stipulating an endowment to last 99 years, for instance, would be invalid. Other Muslim jurists, such as the Mālikī School, some Shāfi‘ī and Ja‘farī scholars, disagree with the aforementioned view and collectively they affirm two opinions: one opinion affirms the position that upon mentioning a time limit (e.g., 99 years) that when the time reaches its limit, the property reverts back to its original state of ownership. The second camp affirms that the endowment act itself is valid, but the stipulation of the time limit is invalid.<sup>24</sup> Regardless of whether perpetuity was declared in the legal document establishing a *waqf*, the only Muslim jurist on record who affirmed that *waqf* property was revocable, even after being a legal document, was Abū Ḥanīfah. All other scholars, even in the Ḥanafī school itself, consider legal *waqfs* to be irrevocable.

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<sup>23</sup> Termed *qabḍ* in Islamic law.

<sup>24</sup> Akgunduz, *Islam Hukukunda*, 140–141.

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

As to the benefactor, he/she/they had to have reached the age of maturity (which was 18 years for females and 21 for males in the Ottoman period), be in possession of their mental capacities, meaning neither insane nor intoxicated, and freely able to discharge their wealth. Abstract persons or legal entities like corporations and governments may also establish *waqfs*.

As a ‘*waqf* society,’ rarely did people during this period experience extreme poverty or remain extremely wealthy. All people were both donors and recipients of *waqfs* at all levels of society. To emphasize this in Islamic art, the letter *wow* was designed in writing to encapsulate this lived reality: the fact that we all are givers and receivers, donors and beneficiaries of *waqfs*. The famous circular design of the letter *wow* reminds us of the three components inherent in the *waqf* system—not from a legal vantage point but from a social-spiritual one: the first letter *wow* symbolized the sacred oath, ‘I swear to Allah’ or in Arabic, *wallāhi*—indicating that the *waqf* action is done in the name of God and that the *waqf* action is binding. The second letter *wāw* indicates the trustee of the *waqf*, entrusted with the administration of the endowment—the *wālī*, also known as the *mutawallī*; the third letter *wow* is a reference to the *waqf* itself. The fact that each

letter *waw* attaches and connects to the next one reminds the observer that each person is connected to another through the *waqf*. Furthermore, the letter *wāw* is written in two ways, one with the tail going out, away from the letter, and the other with the tail curved back towards the letter. The former indicates that what leaves from your possession exits your ownership and is no longer yours; the latter indicates that what goes around comes around and that we are all recipients of giving.

## Symbolism behind the meanings of the letter و

- 1 The will or bequest called **wasiyyah** وَصِيَّة
- 2 Theology and dhikr from the oath **wallahi** وَاللَّهِ
- 3 Trustee or guardian of the endowment known as **wali** وَوَلِيِّ
- 4 Philanthropic giving endowments known as **waqf** وَقْفٌ

## Symbolism behind the writing of the letter و

Inscribed in this calligraphic design, which adorned houses and mosques alike, and symbolizing an earthly and eternal link, the *waqf* institution established a connection between people, God, wealth and welfare in a circle of life that nourished Muslim society by creating the incentive and outlets for personal responsibility and virtuous creativity through discovering what one could do to make the world a better place, one contribution at a time. Grounded in real property during this period, *waqfs* reached their maturation and would soon expand from land to cash, a deeply controversial transformation that occurred in the second half of the Ottoman era.

## **The transformation era for Islamic philanthropical institutions**

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

The latter half of the Ottoman Empire, from the 16<sup>th</sup> century to the middle of the 19<sup>th</sup> century, may be considered the era of the transformation of *waqfs*. As Islamic philanthropical institutions reached their pinnacle in the late 16<sup>th</sup> and 17<sup>th</sup> centuries,

two noteworthy transformations occurred that contributed to this time period being transformational.

The first transformational component of *waqfs* was their becoming common practice among Jews and Christians residing in Muslim lands. Although medieval Islamic law did not allow for the establishment of *waqfs* exclusively for the benefit of churches and synagogues, Islamic law did allow Jews and Christians living in Muslim lands to establish their own *waqfs* and allowed for the management of such *waqfs* by Jewish and Christian trustees. This practice existed all over Muslim lands and was common in Morocco, Palestine, Lebanon, the Balkans, Turkey, and Egypt. A notable case in point was the Jewish woman, Bannita bint Barakat, a resident of Jerusalem, who established her house as a *waqf*, and stipulated that her son and his heirs serve as the beneficiaries. As Amy Singer explains about this case:

If the line of descendants ended, the poor of the Jewish community would become the beneficiaries, a purpose accepted in Islamic Law. If, for some reason, the revenues could not be spent on the poor, then the money should be used for the Dome of the Rock in Jerusalem. Thus in her *waqf*, Bannita articulated the seemingly remote possibility that there might one day be either no poor people among the Jews in Jerusalem or no Jews left in the city... That some Jews and Christians saw fit to make endowments according to Muslim law, recorded before Muslim legal authorities, suggests that they acknowledged the strength of Muslim legal institutions in safeguarding their own interests.<sup>25</sup>

The second transformation was in the nature of what was endowed—the *waqf* itself. More and more during this period, particularly in the Ottoman Empire, cash was beginning to take the place of real estate, a phenomenon known as cash *waqfs*. Cash *waqfs* essentially involved the use of interest-based lending of the proceeds earned from an investment. This new transformation created lines of credit that were endemic in the Empire, long before modern banking emerged. Although not considered legal by many scholars in Islamic law of the period, the famous Ottoman Shaykh al-Islām for 30 years, Ebus Su’ud Efendi<sup>26</sup> (d. 982/1574)

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<sup>25</sup> Singer, *Charity*, 99–100.

<sup>26</sup> Also known as Abu al-Su’ud al-Afandi.



legitimized the practice of cash *waqfs* in a legal epistle he wrote in 1545. In it he stipulated that cash *waqfs* were valid and permissible with two conditions: 1) by ensuring through certain Islamic legal devices that the contract took on the formal requirements of a sale; and 2) that the interest did not exceed 15%. In the Ottoman Empire, it should be noted that the maximum allowance for profit at the time was 11%.<sup>27</sup> Cash *waqfs*, although common in the Anatolian regions of the Ottoman Empire, were mostly non-existent in majority Arabic-speaking regions controlled by the Ottomans, such as Egypt, Syria, Jordan, Yemen, and the Arabian Peninsula.

## The deterioration period of Islamic philanthropical institutions

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

Education morally and physically is set aside. Notwithstanding...a soup kitchen at Rhodes from which soup is distributed thrice a week to the indigent muslimans, no other pious or benevolent institutions exist on the island. There is no hospital, no infirmary, no asylum; the lame, the blind, the mad, and the old are all left to their fate...(the reformers) have laid their greedy hands on nearly all *vakoufs* [*waqfs*] of the empire...Hence, with very

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<sup>27</sup> See Akgunduz, *Islam Hukukunda*, 227; Singer, *Charity*, 99.

few exceptions, we see the heads of mosques and the medressehs in abject poverty, the rabble of religious students in rags, the most beautiful of temples and minarets shamefully neglected and hurrying into decay...It is notorious that since the *wakoufs* have been administered by the government nothing has been done to maintain the works of public utility.<sup>28</sup>

In the Ottoman Empire, an Imperial Ministry of Endowments was established which gradually took over the administration of all *waqfs*, including what we call waterworks. We know that at least one-half to two-thirds of real property in the Ottoman Empire was designated as *waqfs*. All the revenue from the properties as well as the properties themselves became property of the Ministry. The budget allocations plummeted to less than 50% of what they were before the Ministry's application of eminent domain to all *waqfs*. In the case of North Africa, the French settlers, "by hook or by crook...managed to amass a good deal of property coming from the *waqf* domain...During the first year of conquest, France had already declared the entire colony, including *habous* or *waqf* lands, to belong to the public domain. In 1844, the *habous* were confiscated and the administration was charged with the tasks of funding the religious and educational endowments and their employees."<sup>29</sup> This wholesale confiscation of *waqf* lands by British, French, and Dutch colonial power decimated the *waqf/habous* as institutions and led to the loss of historical memory of the significance and scale of impact that Islamic philanthropy has had in developing society in Muslim history, for Muslims, Jews, and Christians.

## Conclusion

The twentieth century has been marked by a series of global catastrophes. Referred to as the age of extremes,<sup>30</sup> this century was notorious for the kind of human suffering never witnessed before in human history, beginning with World War I (1914-1918), the Great Depression (1929-1934), World War II (1939-1944), the

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<sup>28</sup> Hallaq, *Sharia*, 403, no. 18.

<sup>29</sup> *Ibid.*, 434.

<sup>30</sup> Eric Hobsbawm, *The Age of Extremes: A History of the World, 1914–1991* (New York: Vintage, 1994).

Cold War period (1947-1991), the Gulf War (1990-1991) and the century's close with the Bosnian Genocide (1992-1995). This century has decimated not only human lives but more importantly produced trauma in the psyches of many people, Muslims in particular. The legacy of Islamic philanthropy must be revived if we are to begin the work of healing hearts, minds, and communities. If nothing else, the legacy of Islamic philanthropical institutions (*waqfs/habous*) tells us that more often than not, the solutions to social, economic, moral, and even political problems lie in our willingness to take the initiative to do something for others and to leave behind a world that is a little better than when we found it. And by systematically (and systemically) deleting and not remembering positive, lasting contributions to our conditions, we cease to build on greatness and instead abdicate our moral and spiritual cultivation in favor of the degenerative nature of materialism in the name of progress. Financing kindness as a society was what made the Islamic civilization a just, beautiful, lasting, and great civilization. Perhaps the institution of the *waqf* teaches us that, in sequestering our most cherished property, we are indeed preserving the best of who we are and what makes us great, thereby preserving it for others to benefit from and to enhance their lives and well-being. Perhaps this, in the end, is the communal goal of Islam.