

RELATIONS BETWEEN *WUQOOF* AND THE STATE DURING THE OTTOMAN EMPIRE

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Abstract

Waqf and the institution of *wuqoof* played crucial role in the daily life of the Ottoman Empire, and also in the development of educational, cultural and religious life of the population. In the Ottoman Empire administration, the *waqf* was regulated by law, as it was fully based on the Islamic religious law called (sharia) and all material goods that were left in the name of *waqf* were coded in a very detailed manner. Thus, it is impossible to research one single aspect of the social and legal relations included in the socio/legal, political and economic life of the Ottoman Empire, without taking into account the institution of *waqf*. Quite simply *waqf* was the main pillar of the social life in the ottoman period and its importance continued for the Muslims even after the ottoman period, respectively in the period of creation of Muslim communities in the countries where the Ottoman Empire it is withdrawn. In this paper, I have analyzed the relations between the institution of *wuqoof* in the Ottoman Empire and as well its influence during the Ottoman Empire.

Keywords: waqf, state, Ottoman Empire, relations, solidarity

1. Introduction

It is facts that in the Muslim community, and almost all endowments were established as *wuqoof*. In that manner, means for maintenance of many public objects or institutions were provided, because the revenues from the *waqf* that were made from various sources were regularly spent for charity purposes. According to a sort of a juridical fiction, only God had the proprietary rights over the *waqf* from the moment of its' establishment. Based on that, even when governments and countries changed, the continuation of a public service of this kind was guaranteed. In the "*waqfiyyah*" that was entered into the judges' register, the founder was determining the purpose of his *waqf*, the conditions and manner how it will be managed by naming a *mutawalli*, the main custodian.

However, in the Ottoman Empire, the state was controlling and confirming all the established *wuqoof*, because they had the character of a free property. Financially and administratively, the *waqf* was an autonomous foundation.

They acted in the following scopes:

- a) In the area of education: Schools, madrasas, libraries.
- b) In the area of religion: mosques, *tekkes*, *masjids*, *muwaqithaans*.
- c) In the area of health and social services: hospitals (*darushifa*'), *caravan-sarays*, *emarets*, nursing homes, breastfeeding houses for toddlers, roads, bridges, fountains, cemeteries.

- d) In the area of sport: Wrestling loges and shooting ranges.
- e) In the civil and military area: military quarters, castles, armouries, gardens.

Wuqoof was created as a result of the relations between state, population and religion. That is the reason why endowments were shaped as an initiative of individuals, and not of the state budget, through services that were provided for the public good of the Ottoman Empire.

The *wuqoof*, as special institutions of solidarity that also served as a catalyst between the state and the population, was the most important characteristic of the Ottoman Empire and its society. It represented a unique system of how efficient was the state and cities in the sense of social, cultural, economic, political, and religious aspects.

2. The relations between wuqoof and the state during the Ottoman Empire

The Ottoman Empire was a cosmopolitan state in which all religions and nations were considered as an integral part of the same unit, the Ottoman Empire was also a territory where orthodox Christians of the Balkans and Muslims from Anatolia into one single state lived and coexisted. The principalities of the warriors in western Anatolia accepted the traditions and institutions of the Seljuk sultanate without opposing, the state tradition that was grown in various dynasties that led the Muslim community, in the Ottoman state was synthesised through the Byzantine concept of statehood and in that manner, a concept of a state appeared that was spread all around the world. Without a doubt a state like that was supposed to have a philosophy of statehood through which it would build institutions to reach state vitality. In that manner, Osman's son Orhan, established the first silver coins in Bursa in 1327, built the first *Madrasah* in Nikea in 1331, in 1340 he also built a trade centre in Bursa, a bazaar and a *bezisten* which was a closed market where precious stock was sold. The Arabian writer Ibn Battuta stayed in Bursa in 1333 and described it as "a big city with beautiful bazaars and wide streets" (Gibb, 1958). During this period the main social and cultural background were representing dynamic agents for the Ottoman conquests; the administrative and cultural forms applied in the conquered territories were highlighted from the tradition of politics and civilization of the Middle East, and the experience of the conquered territories in the administration and leading the country was accepted in a reliable manner. By this theory of state, the justice was being balanced through protection of the subjects from abuse of representatives of the authorities, and especially from illegal imposes. The most important duty of the sovereign is to secure a protection of its subjects.

In the traditional empire of the Middle East, the state was caring about the public objects, namely about building and maintenance of canals, embankments, roads, bridges and *caravan-sarays*, because it was considered that through enhancement of the trade and agriculture, more treasure in the ruler's cashier was provided. The Muslim historian Tabari (passed away in 923) he narrated how the Sassanid's held the opinion that the basic duty of the sovereign is to establish cities and villages and to build roads and bridges. In the Islamic period, this tradition was suppressed by the opinion that raising public objects is a deed of piety and charity; therefore, objects of that kind, including ones that were established by the Sultan, were regarded as independent institutions outside the state scope.

Holding up to the tradition of the Middle East, the Ottomans insisted that their centres – including Bursa, Edirne and Constantinople – should be transferred into big cities, by increasing the number of their inhabitants and enabling them to turn into trade centres. This can be understood by looking at the case of Constantinople. Before the Ottoman conquest, the number of inhabitants in Constantinople declined to thirty from forty thousand people. After the conquest, the Turkish Ottoman Sultan Mehmet II the Conqueror couldn't stop his soldiers

from robbing Constantinople, as that was guaranteed by Islamic law, because the city didn't surrender, but Mehmet Fatih wanted to take over his next capital city with minimum damage possible.

Immediately after the conquest, Mehmet II took the initiative to transfer Constantinople into the biggest capital city in the world. Firstly, he insisted to make sure refugees would come back, by promising them to return to their properties, they were guaranteed freedom of religion and freedom of work. He released the prisoners and also exempted them from paying taxes for a while. Next, he ordered the provincial authorities in Rumelia and Anatolia to find thousands of families to come to inhabit the Constantinople, by proclaiming that he will give them the abandoned houses to the new citizens. Those families not necessarily need to be Muslim ones, however it was necessary that at least one member of those families had needs to be a rich man, trader or a craftsman. The requests of the sultan was not wholly fulfilled but later on the conqueror made a selection between the traders, wealthy people and craftsmen from many important cities, he convinced them and brought them to Constantinople (Inalcik, 2003).¹⁶

Through building of the *emarets* – those were municipal buildings that were supported by revenues from the *wuqoof* – Constantinople got public services and markets; this had an important role in its development. The *emaret* was an old institution of the Middle East and was revived by the Ottomans while they were building Bursa, Edirne and other cities. Here, we are talking about objects like mosques; *madrasas*, hospitals, *haans*, water supplying systems, roads and bridges, and all these were established and founded by religious and humanitarian initiatives. As a part of them, institutions and objects that were built with the purpose of their maintenance were also built, like restaurants, bazaars, *caravan-sarays*, public baths, water mills, craft shops, slaughterhouses or canteens. Religious and humanitarian foundations were usually near the mosque, whereas the trade buildings were in their nearest surroundings or at an appropriate and busy location. *Emarets* were an important part in the plans of all ottoman cities, by giving them a specific character and until recently they were dominating the views of many big and small cities in Anatolia and the Balkans. In most cases, the founders organized their *emarets* as *wuqoof*. “The word *waqf* comes from the Arabic verb *waqafa* which means to stop, to hold, and to dedicate (Muftic, 1973) and indicates the fact that the *waqf* property (the property being left in testament) is the property excluded from the regular legal domain of goods and determined in some other purposes” (Hrvačić, 2001). The *waqfis* usually defined in the Islamic jurisprudence books as exception of property by will from a certain individual from his ownership and its' dedication for certain purposes. The purposes achieved through leaving

¹⁶ In this manner, in various parts of the capital, he inhabited the christians from Amasra (1459), Old and New Focsea (1460), Trapezunt (1461), Corinth and Argos in Morea (1458, 1463), Caramania (from 1470. to 1480), Eubea (1473) and Cafea (1475). According to the statement of one contemporary, J. M. Anjolelo; „for a short period of time, the new inhabitants built themselves beautiful homes and churches “. These individuals who were brought here by force, were not allowed to leave the city, however, the authorities exempted them from some taxes and working services. In the attempt to make Constantinople a city of world metropolis, sultan Mehmet II the Conqueror (full name Fatih Sultan Mehmet), officially admitted the spiritual leaders of the Greek orthodox, Armenian and Jewish churches, and named his capital as their centre. After the conquest of Egypt, the Ottoman sultan Selim I (also called Yavuz – The Brave, The Adamant) had to cancel the function of the „*naghid*“, so he wouldn't fall into a conflict with the main rabbi in Constantinople. During the fifteenth and sixteenth centuries, the Turks were encouraging the immigration of Jewish people from Europe, considering them as an element that develops the trade and brings in wealth. During the reign of sultan Mehmet II, the Conqueror, so many Jewish people inhabited Constantinople, that during the year of 1447, after Muslims and Greeks, they were taking the third place of the total population of the city. In order to provide food products that were needed to this city and his *Saray*, Mehmet II inhabited thirty five abandoned villages surrounding Constantinople with thirty thousand peasants that were obtained from the wars against Serbs and Moreans, and contrary to the previously established Ottoman tradition, he gave them a slavery status, with the intention of preventing them to leave their settlements. Inalcik, Halil, Ottoman Empire, Utopia, Belgrade, 2003, p. 218-219.

the property as a testament which now becomes a permanent good, can be, in a religious and a narrow meaning, social, educational, business and charity ones (Hrvačić, 2001).

The *waqfiyyah* (*waqf-nama*), the document of establishment of the testament, was usually put together in the presence of a judge, who was entering it into his register, and it was later approved by the sultan. The word *waqfnama* has an origin from the Arabic verb *waqafa* and the Persian word *nama*, which means a licence or a “book”. (Hrvačić, 2001) From the juridical and legal aspect, the *waqfnama* has the character of an licence, which is known in the area of law as *ustus titulus* or the legal base, or in the final domain, the domain of a court judgement, because it contains the form of a testament which was introduced into the legal practice because of legal security. It is a fact that in the Muslim community, almost all testaments were established as *wuqoof*. In this manner, means of support for some public object or institution were provided, because revenues from the *wuqoof*, made by various sources, were regularly spent in charity purposes, by not using anything from the main (state) capital. According to a form of a legal fiction, only God had the proprietary right over the *waqf*, from the moment of its establishment, and even when governments and states were changed, the continuity of this public service was guaranteed. In the *waqfiyyah*, which was entered into the judges’ register, the founder was determining the purpose of his *waqf*, the conditions and the manner of its management, by naming the *mutawalli*, the main custodian. However, in the Ottoman Empire, the state was controlling and confirming all the established *waqf*s, as they had the character of a free property. (Akgündüz, 1988; Ekinci, 2012; Hatemi, 1969)

From the financial and administrative aspect, the *waqf* was an autonomous foundation. The donor was naming the *mutawalli*, and if the *waqf* was huge, he would also name the *nazir*, the main supervisor. The *mutawalli* was responsible for all issues related to the *waqf*, he was taking initiatives for collecting and increasing revenues, and the collected revenues were used for fulfilling the conditions of the donor, paying the employed staff and maintenance and restoration of the property. With the role of an inspector, the *nazir* was determining whether the regulations according to which the testament was left were respected, and once a year, the main plenipotentiaries and clerks were gathering to review whether they have fulfilled their duties in accordance with the *waqfiyyah*. This body could raise an appeal for a removal of the *mutawalli*. The state was entrusting the task of reviewing the accounts of every *waqf* to the judge or a specially designed inspector, and all these precaution measures had the intention of maintaining the real purpose of this institution. Through the institution of *waqf*, many cultural and trade complexes in Constantinople were established. Every important Ottoman city had its grand mosque and a *bezisten*, therefore, after the conquest of Constantinople, when *Hagia Sophia* was transformed into the main mosque of the capital, Mehmet the Conqueror order the establishment of a *bezisten* as the main part of his testament. (Koprulu, 1951)

In order to provide easy and safe travel through the main roads, the sultans themselves established a special type of shelters along the roads, which were supported by the *wuqoof*, and they also encouraged the court clerks to do the same, by leaving them huge properties in their testaments. Some of those shelters were huge complexes, just like the *emarets* in the cities, with the only difference that in these cases, the main objects were restaurants, *caravan-sarays* and sometimes, bridges.

Mosques with accompanying charity institutions were rarely built. For example, Murat the II built a bridge over the Ergene River, just next to Edirne, in 1443, a big stone bridge with 174 arches, 392 metres long. Just next to the bridge, he raised a khan where travellers could get food and a shelter during the night, then a mosque and a madrasah, whereas the expenses for the khan and maintenance of the bridge were covered by the revenue made by a *boza*-shop, a public bath and a number of shops. The sultan was covering these expenses partially with the means gathered at a *caravan-saray*, public bath and few shops that were built in the city of Edirne. He inhabited people in the surroundings of this shelter, mainly Turkmen nomads, with

the purpose of maintenance and guarding the bridge, and as a compensation for that, he excluded them from some tax payments. At the other bank of the river, he inhabited it with *yaya*'s, soldiers from among peasants. The number of inhabitants of this small settlement increased with time, and that is how the town of *Uzunkopru* was established, where 431 families lived in 1456. Another example is the *emaret* established by Hersek Ahmed-pasha (Hercegović, passed away in 1517), on the road that led from Constantinople to Damascus, at the first station near the bay of Izmit. Later on, the same *emaret* had grown into the town of Hersek. In the fourteenth and the fifteenth centuries, the masters of the landscapes were establishing similar testaments in the conquered territories, and these cores would later grow into ottoman cultural and administrative centres. The city of Sarajevo was developed around the *emaret* which was given by the border master Isa-beg, whereas, from the *emaret* established by Minet-beg, on the road between Sofia and Edirne, the town of Tatar-Pazarcik sprout out, one of the most important trade cities in Bulgaria. (Inalcik, 2003)

Buzbek, the messenger of the Holy Roman Empire, who travelled in 1555 to Constantinople with a horse-drawn carriage, described the *caravan-saray* in Nish, complaining that he couldn't do anything in privacy: "everything is wide open and everyone can see what everyone else is doing". However, he gave the highest grade to the special departments in the khan. "*This khan has numerous exceptional special departments for accommodation of guests. Everyone has the right to use them, whether they are Christians or Jews, rich or poor, they are equally available for everyone. I felt there as I was in a court of a prince*" (Inalcik, 2003).

Sultan MehmetII the Conqueror had ordered that all travellers who stay at the khan that was given by him, have to be treated well and they should be accommodated in the best possible way. In these *haans*, one would get three days of free accommodation and food, and then the travellers were obliged to continue their travel. These testaments, established on equal distances along many long roads, are evidence of the spread of the Ottoman civilization. During the Ottoman period, only in Bosnia and Herzegovina, there were eighteen *caravan-sarays*, 232 restaurants, thirty two *haans*, ten *bezistens* and forty two bridges, some of them like the architectural master pieces of the Mostar bridge, which was built in 1566, Kozija cuprija (Goat bridge) near Sarajevo dating from approximately 1550 and the bridge in the town of Trebinje. (Inalcik, 2003)

An important factor during the establishment of the *waqf*, was the institution of *temlik* – the Sultan's award of ownership right. By calling upon this institution, statesmen or the women of the Court could address the Sultan with a request for establishment of a testament and obtain from him, a land property which in certain cases could include a number of villages. That property, later on, would be left as a testament with a charity purpose. In this manner, they would not only provide salvation for themselves in the hereafter, but they would also provide long-term and safe means or the life of their families and future generations, by naming them for *mutawallis* of these testaments. The offspring of the second or third generation of notable personalities in the Ottoman Empire usually lived very comfortably and secretly as *waqf mutawallis*, by making a special type of landowner class. (Özcan, 2005)

In the period when the borders of the Ottoman Empire were expanding with the help of its military and administration, this solved crucial social, cultural and educational issues, and all other issues was left over to the private incentive, mainly to the institution of *wuqoof*. It can be generally said that the role of *wuqoof* during the Ottoman period was so important, that even development of towns and cities in the Ottoman Empire can't be considered separately from history and the role of the *wuqoof*. The *waqf* buildings with various purposes and important architecture, where all religious, educational, cultural and business life of Muslims was concentrated, were making the urban frame of all cities and towns, whereas the profane, residential architecture, in relation with the monumental *wuqoof* buildings, was very modest.

It is well known that establishment of cities generally, in the East and in the West, was starting along with the establishment of a temple. In the Ottoman period, establishment of the towns usually coincided with the establishing of a mosque, in some cases dervish houses. Although the establishment of the *waqf* and foundation of objects of that type was representing simple pious will of their founders (*waqifs*), cities were never founded without a plan and in a spontaneous manner, as one might thought. Establishment of cities was a result of the state politics, whereas the founders appeared as executors of those politics, based by public needs, in most cases strategic and communicational ones. This is understandable, because the Ottoman Empire, as an Islamic-theocratic country, had to be active in the direction of establishing and developing cities, which represented not only the centres of authority organs and cultural life, but also its craft economy and workshops for its military. (Handžić, 1977)

With the help of *wuqoof* founded by prominent individuals, led by the ruler himself, for example, the city of Leskovac immediately after the first Ottoman conquest became a real Ottoman town. Namely, at the time of Ottomans arrival it was only a village, but for the next few decades, it became a city settlement with exceptional Islamic-oriental features. In this process, we should highlight the period between 1536, when there were eight *waqfs* and 1570, when the number of *wuqoof* in Leskovac went up to 27. The founders were citizens, people whose names were remembered only thanks to their testaments. There were numerous money testaments, a total of 17, so in that manner, the founders played an important role in crediting the citizens. The most important *waqf* was surely the *waqf* of the mosque of sultan Bayazid, by which the process of testaments in Leskovac was initiated. The greatest benefactor in Leskovac was Mevlana Muhiyudin, the son of Iskender, but unfortunately, no one knows anything about him. This was also the richest *waqf* in Leskovac, which had a special role in making Leskovac have an oriental look. Just opposite this *waqf*, this had the highest amount of money in cash, stood the *waqf* of *zawiyah* Sham/baba, which possessed a total of 200 *akches*. (Amedoski, 2008)

The roles of *waqf* and the state were intertwined and it is hard to divide them. The narrow coupling and compatibility of the roles of state and *wuqoof* for the development of cities was mainly the result of how specific Serbia, Bosnia and Macedonia were at that time. That flow was present in the development of cities in these areas during the classical period, i.e. until the Treaty of Karlovac (1699), where cities were mainly inhabited by Muslims. The remaining Christian rural population was decreasing because many of them converted to Islam and there was no new population coming from anywhere, because of the fact that they were agricultural citizens and they were staying at the periphery and couldn't change their status. An exception of this rule was made by craftsmen, who mostly came from the surrounding villages. If they could fit into the *esnaf* class, they would obtain the same status. In the audit notebook from 1604, a number of Christian craftsmen who were not a part of any class, were registered in Sarajevo (93 households), Banja Luka (18) and two or three towns with few households (13). Since the beginning of XVIII century, under the influence of developments of foreign politics, the conditions for the Christian population had changed and they started inhabiting cities and towns (Handžić, 1980). By the end of XIX century, some reforms took place in the Ottoman Empire. A unique central directorate with a special ministry of *wuqoof* was established in Istanbul, with the intention of disabling the arbitrariness of *mutawallis*. Supervision over revenues was led by the ministry of *wuqoof*. This reform was introduced an audit of *waqf* properties, that contributed towards preservation of the most important information related to them.

Besides the above mentioned, *wuqoof* acted in the following areas, from the aspect of fulfilling duties of the state towards the population: a) in the area of education: Schools, madrasahs, libraries. b) In the area of religion: mosques, *tekiyas*, *masjids*, *muwaqithaans*. c) in the area of

health and social work: hospitals (*darushifa*), *caravan-sarays*, *emarets*, nursing homes, breastfeeding houses for toddlers, roads, bridges, fountains, cemeteries. d) In the area of sport: Wrestling loges and shooting ranges. e) In the civil and military area: military quarters, castles, armouries, gardens. (Kazıcı, 1985). They (*wuqoof*) appeared like a common result of the relation between the state, population and religion. That is why the testaments were shaped as initiatives of individuals, and not the state budget through services that were offered for the public good of the Ottoman Empire. *Wuqoof*, as special institutions of solidarity, which served as catalysts between the state and the population, were the most important feature of the Ottoman civilization and society. It represents a unique system with an especially efficient position for establishment and development of the state and cities in the sense of social, cultural, economic, political, and many other areas.

3. Conclusion

The modern history of western countries is not familiar with the notion of *waqf*, but there are similar concepts regarding this notion. Hence, there are numerous expressions, according to their meaning or use, which are similar to the *waqf*, which are applied in accordance with the cultural, political and economic development of these states. In this regard, in the United States of America, this sector is usually called: non-profit sector, in the United Kingdom it is called the voluntary sector, in France the sector of social economy, in Germany *verien* or (clubs, associations). Besides these terms, there are other terms, like: the third sector, the charity sector, civil society organizations, independent sector, sector of associations and the tax-free sector. These various terms are created because of the various approaches toward their regulations and various traditions and cultures that influenced its development.

The *waqf* represents an establishment that has no competition, because in its concept, Islam is able through the institution of *waqf* to offer numerous mechanisms for solving many social needs and challenges. The power of *waqf* stands into its multi functionality, the fact that it possesses its spiritual, economic, legal, cultural and social roots and dimensions. This explains its sustainability and power, as well as the reasons of fight against the institution of *waqf* by many states and former regimes that passed through our space and history.

It is well known that establishment of cities generally, in the East and in the West, started along with the establishment of the temple. In the Ottoman period, the establishment of the towns usually coincided with the establishment of the mosque, in some cases dervish houses. Although the establishment of the *waqf* and foundation of objects of that type was representing a simple pious will of their founders (*waqifs*), cities were never founded without a plan and in a spontaneous manner, as one might think. Establishment of cities was a result of the state politics, whereas the founders appeared as executors of those politics, based by public needs and in most cases strategic and communicational ones. This was understandable, because the Ottoman Empire, as an Islamic-theocratic country, had to be active in the direction of establishing and developing cities, which represented not only the centres of authority organs and cultural life, but also its craft economy and workshops for its military.

In the period when the borders of the Ottoman Empire expanded, the state was represented by the military power and its administration, but the social, cultural and educational issues were left mainly within the *wuqoof* competences. It can be said that the role of *wuqoof* during the Ottoman period was crucial, that even the development of towns and cities in the Ottoman Empire couldn't be considered separately from the history and development of the *wuqoof*. The building of *waqf* served many purposes such as: religious, educational, cultural and business life of Muslims was all concentrated here.

As recommendations of our work, we would name the following:

1. The *Waqf* was a very important social institution with clear legal regulations, and as such it had the ability to serve as an example for organization of society in the context of non-governmental associations.
2. The *Waqf* was present in all spheres of social life of the population in the countries that were formed after the fall of the Ottoman Empire, and many properties of *waqf* were cultural and historical monuments, economic and financial institutions, religious institutions and real estate.
3. Individuals or legal entities, which carried *waqf* ownership, used all the juridical and legal resources to return their *waqf* properties, because as a conclusion of our research, the most of *waqf* properties hasn't been returned to the owners yet.
4. Legal regulations in the states related to denationalization and return of *waqf* properties should be reconsidered and a procedure with minimum bureaucracy for return of the *wuqoof*, which is the case of states from the eastern bloc that became a part of the European Union, i.e. Republic of Bulgaria.
5. The religious community should strengthen the juridical legal context and it should continuously ask for standard application of the denationalization law, and it should even suggest some necessary changes of the denationalization law.

In conclusion, we can highlight that *wuqoof* has played a crucial historic role, and their return would reinforce the contest of the state of law, whereas on the other side, it would have served for a positive development of religious, educational and cultural processes of religious communities, which would be in service of the population and society.

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