

Philanthropy and Social Justice in *Waqf* Administration in Morocco: Lessons Learnt from the History

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ABSTRACT

The Qarawiyyin University in Morocco represents the oldest *waqf* with an integrated system of education. Employing a qualitative research method, this paper uses a historical institutionalism approach, which includes reviewing literature on history of *waqf* in Morocco and interviews with officers in charge of *waqf* in order to understand the challenges inherent in *waqf* administration there. Although *waqf* has been practised since the country was formed, the development of *waqf* properties here is relatively slow in terms of developing creative instruments of *waqf*. It remains traditional and religious in nature. Thus, this study recommends Morocco government to develop *waqf* practices in order to fully utilise its benefits. Moving along the spirit of *waqf* in making changes for the Muslim, Malaysia can learn from Morocco's history.

Keywords: History, Morocco, Muslims, practices, Qarawiyyin University, *waqf*

INTRODUCTION

This study was motivated by reports that University Qarawiyyin in Fes is the oldest endowment university in the world. The university is located in North West Africa,

al-Maghreb or *Mamlakah al Maghribiyyah* or in Morocco. The authors embarked on a journey to this university and realised information or knowledge on *waqf* in Morocco was not confined the university alone; instead, *habs*, *ahbas*, *habous*, Andalusia Mosque, Maryam al Fihri, the Marinids, the Bou Inaniyya, the stork or Laqlaq, the Madrasa ben Yousif, the Maristanat, and other interesting information was acquired along the journey. The bulk of the knowledge on *waqf* are not only for those who are proficient in Arabic but also Spanish, French as well as English.

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The long history of Morocco started with the Berbers, and later the Romans and subsequently the Arabs. The importance corpus of knowledge that Islam offers attracted many Muslims and non-Muslims to Fes, Morocco. As result, Al Maghreb has attracted and received many scientists and Muslim jurists such as Ibn Tumart, (1078-1139); IbnBajjah (Avempace); Ibn Rushd or better known in Latin as Averroes (1126-1198), Ibn Tufayl (Abubacer); Ibn Sina (Avicenna), Ibn Khaldoun and Ibn Batutah among others.

HISTORY OF *WAQF* ADMINISTRATION IN MOROCCO

The history of Morocco helps us to understand the rise and fall of the benevolent act of *waqf* in Morocco. During the early settlement of the Arabs, *waqf* contributions were tremendous. The impact was felt and known to the present day not only in Maghreb but other parts of the Muslim world (David, 2011). The rulers of Morocco have shown good examples in instilling good practices through *waqf*. In fact, the people of Morocco themselves have sacrificed their wealth for Islam and have acknowledged the importance of *waqf* or Islamic philanthropy throughout the history of Morocco. Tracing the history of endowment in Morocco, one will acknowledge two things; endowment has been encouraged by those in the high position of the state as well as the commoners (Raissouni, 2001). It arose out of their faith in Allah (swt) and seeking blessing for life after death.

Secondly, many have related the support

of the rulers for *waqf* through benevolent act not only for religious objectives but also for political and social solidarity, security and to improve the deficiencies of the public authorities (Penz, n.d.).—The evidences show that many religious institutions, hospitals, educational centres, public bath and spas, the source of water and even the chandelier in Qarawiyyin mosque came from the generosity of its people (Penz, n.d.). The legacy of *waqf* or religious endowments in Morocco is therefore proven with the existence of various types of *waqf* in various administration.

The types of *waqf* in Morocco are not only confined to traditional *waqf* centred around spiritual development. Even if the activities were religious in nature, the *waqf* was mostly self-sustained. For example, *waqf* of the Mosque Qarawiyyin by Fatimah al Fihri (245H) and *Jami Al Andalus* by Maryam al Fihri(247H) were not only meant to function as a mosque, but supported the function of the mosque as a centre of learning such as the Qur'anic schools, libraries, ablution facilities, wages for caretakers, muezzin and sermon maker (Colette, 2013; Raissouni, 2001).

The extension of the Mosque of Qarawiyyin was carried out using rentals from the *waqf* houses, incomes from (public bath and spa (*hammam*), hotels (*funduk*). It was reported that the incomes from the properties endowed to Mosque of Qarawiyyin totalled 80,000 dinars (*Awqaf Meknes*, 1/48). Thus, the Qarawiyyin Mosque became self-sufficient and free from its dependency on *Baitul Mal*.

During *Almohad (Muwahidun)* period (1147-1269), there were significant developments in terms of the quantity and the quality management of *waqf* properties and it is said that *habous* institution attained its peak during this period and the Marinid (Penz & Charles, 1956). All *waqf* properties in Fes were dedicated to Qarawiyyin Mosque such as the hotels (*funduk*), bakeries (*farran*), soap factories, leather factory (*ma'miljild*), houses for rent, stalls (*qaisariyah@hawanit*), schools (*madrasa*), *khazanah* (libraries or resource rooms), hospitals and water supplier (*sikhayah*) (Fez *Qabla Himayah*, 1/378). The benefits of *waqf* were distributed to *imam, muazzin, ulama', qadhi*, the orphans and the homeless. Some of the practices remain but their functions are managed through the respective ministries or departments. The benefits of *waqf* were also used for humanitarian works. More interestingly, *waqf* properties have been properly recorded known as "*Mustawda' Awqaf*", built on a piece of *waqf* land near Qarawiyyin Mosque. It was initiated by Faqih Muhammad Yashkur Jauraei (died 598H). There were three different officers in charge of the opening of the doors. Nevertheless, it was reported that during the period of Qadhi of Fes, Abu Imran, there were cases of theft in *Mustawda' Awqaf* (Fez *Qabla Himayah*, 1/378).

Waqf was further developed beyond religious needs and duties especially during the Marinid period (Arabized Berber was formed in 1244). The leaders realised the importance of *waqf* and seriously promoted it among the people as part of their political

agenda. *Waqf* spread beyond Fes and which included hospitals and animal shelters (Kogelmann, 1999; Luccioni, 1953). *Waqf* for education was not confined to Fes alone but included other states such as Taza, Marakech, Sale and Septah. Profit from *awqaf* increased by 10,000 silver dinars for the first half of the year. The profits were used to maintain mosques outside Fes (Shatzmiller, 1991). Madrasah Andalusiyah was set up at the West of Fes. Special *waqf* chairs were endowed for the use of the teachers (*Mu'allim*) especially for Qarawiyyin Mosque (Shatzmiller, 1991). Sultan Yusuf Yaacob filled up the library for Madrasah Halfawiyah in Fez with manuscripts returned by King of Sancho I from Castille, Portugal while Ibn Khaldun dedicated "KitabIbar" to the students of Qarawiyyin. Sultan Abi Inan dedicated al Quran which he personally had inscribed (Daily Sabah, 2016) and Sultan Abu Hassan Al Marini endowed the book written by Ibn Rusd Al Jadd (died 520H) entitled "*Al Bayan Wa At-Tahsil Lima Fi Mustakhrajah Min Taujih Wat Ta'lil*". In one of the Maristan known as *SidiFarj*, musical instruments were also endowed to help release the tension of the patients (Kogelmann, 1999).

DISCUSSION AND ANALYSIS

Slow-down of *Waqf* Activities in Morocco

The records show endowments during these two periods diminished. Poor management of *waqf*, lack of qualification for the *Nazir* to manage *waqf*, war and misuse and mismanagement in *waqfdhurri* are among

the reasons. The *waqf* spirit decreased during the period of Sa'adiyyin (1549-1659) but gained its momentum during Alawiyyin (1631). The leaders of this dynasty realised the importance of *waqf* properties and its contribution to the well-being and security of the country. They took step to personally oversee the management and administration of *waqf*. Thus, *waqf* was managed through royal orders and royal instructions and it prospered through a close monitoring system by the King. Sultan Maulay Ismail set up the Ministry of *Habous*. The monarch was also responsible to appoint suitable and trusted staff and assigned the *Qadhi* known as *QudatSyari'yyin* and *Nuzzar Waqf* to carry out the duties. A special record known as *hawalatIslama'iliyyah* was introduced to record and identify the object of *awqaf* properties (A'lah, 1992). The productive *waqf* was continued by the subsequent monarch including Sultan Sidi Muhammad Abdullah, Sultan Maula Abdurrahman and Sultan Sidi Muhammad Abdulrahman. Among their contributions were rulings that *waqf* properties either whole or in part are not to be exchanged, sold, charged or wasted (A'lah, 1992). Nevertheless, the system began to decay during the reign of El Hassan (1873-1894) (Penz, 1956). Many reasons were associated with this development; a lack of religious awareness and education, and of charitable bequest and the *habous*. Interference of the Europeans often rendered the administration of *habous* difficult (Penz, 1956). The worst abuses took place during the Maulay Hafid (1908-1912). From 1912, in conformity with the Treaty of Fez, the

principle of inviolability of the *habous* was asserted but with a reorganisation of the institution and it was allowed to evolve based on its traditional plan, guided by *Shari'ah* and customs.

Some of the common forms of *waqf* known in the history are:

- (a) *Waqf* to support Muslim in distress (Luccioni, 1953 (as cited in Kagelmann, 1999); Peretie, 1912);
- (b) *Waqf* to purchase the freedom of prisoners of war (At-Tazi, 1995, pp. 57-64);
- (c) A pious endowment provided for a weekly concert for the inmates as a kind of forerunner of modern music therapy (Luccioni, 1953, p. 463);
- (d) *Ahbas* for medical purposes (Kagelmann, 1999);
- (e) *Ahbas* for burial of poor people, the needy and to feed the poor; (Kagelmann, 1999);
- (f) Winter clothing for the poor (Kagelmann, 1999);
- (g) Income from *Ahbas al Maristan* is for survival of 500 inhabitants from the Village of Beggars in Arsat al-Qadi (Kagelmann, 1999);
- (h) *Waqf* for Shelter/Accommodation (*Aqqarat*);
- (i) Houses built for the elderly sponsored by Sultan Abu Hasan (Shatzmiller, 2001);
- (j) Houses for the poor people (Raissouni, 2001);
- (k) Venues for a special ceremony like weddings for those who cannot afford to rent such venues.

Interestingly, it was reported that a *waqf* house is among the big houses or mansions in Fes. This means *waqf* receives special attention (Raissouni, 2001);

- (l) *Siqayat* or *waqf* of water;
- (m) Use of *waqf* incomes to provide interest-free credits to settle debts. The capital was provided by the Sultan with a special staff to record the details of the debts. The first clerk appointed was Ibn Hajj An Namari (died 774H); and
- (n) *Waqf* specially for animals such as the horses, the cows, sheep, etc.

***Waqfdhurri* in Morocco**

There are three types of *waqf* that are well known in Morocco - *waqfam* (or *khairy*) and *waqf* family (or *waqfdhurri* or *muaqqab*) and *waqfmushtarak* (mixed *waqf*). While other countries took the steps to prohibit *waqfdhurri* or gave less attention to it, Morocco left the *waqf* in their own phase but monitored by the *Nazir* for whatever *waqfdhurri* came to their knowledge. Administration of *awqaf* was not uniform in Morocco (Cizacka, 2000). The General Directorate of Habous (*Vizirate*) and Directorate of Sherifian Affairs were formed under the authority of the Sultan, administering the public *waqf* and exercising stricter control of family *waqf* and monasteries (Penz & Charles, 1956). Efforts were made to record *waqf* properties to help in ascertain their value. It was reported that in almost 20 years (1740-1759), nearly 40% of all the registered

waqfs were established (138 *waqfs*), and after 1810, only one *waqf* per year was established. About 31% of the individuals who established these *awqaf* were women (Cizacka, 2000).

Colonial Influence

One of the legacies of French colonialism is the introduction of centralised *waqf* administration during the 16th century when a central office ran the Qarawiyyin mosque. The family *waqfs* on the other hand, enjoyed substantial autonomy. By the 18th century, the Sultans were trying to expand their control over the whole system. They established the office of *nazir an-nuzzar* and a centralised system of *waqf* registers. The rulers who were behind these developments were motivated to centralise the *awqaf* as a reaction to the alleged role the *waqfs* played in the uprisings (Cizacka, 2000; Raissouni, 2001). Increased centralisation saw the rulers intervening in the management of the *waqfs*. This occurred, on the one hand, by subjecting the appointment of a trustee to the approval of the ruler and, on the other, by direct interference in the management of the *waqf* properties. The European influence continued with the grant of concessions which were basically in the form of *ibdal/istibdal* (migration of the *waqf* assets). This led to the usurpation of the *waqf* properties.

Nevertheless, the organisation of the *waqfs* and the trustees being appointed by the Sultan remained untouched. The introduction of various rules and regulations had to a certain extent, limited the power of these trustees. In the French zone,

muraqabah offices were established in Fes, Meknès, Marrakech, Rabat and Mazagan. By 1912, a *General Directorate of Habous* was established which was later known as the *Ministry of Habous* in 1915 under the purview of the central organisation. The ministry was not only empowered to control the monthly accounts of the *waqfs*, but could also take decisions concerning long-term lease, or even *ibdal/istibdal* of *waqf* properties. The King and the related office may decide on the matters concerning *istibdal*. The organisation of the *habous* management is an example of the typical French colonial influence but in reality, all the decision-making powers that mattered which used to be vested with the locals were abolished (Cizakca, 2000).

The administration of *waqf* and its organisational structure based on the French model was maintained even after independence of Morocco but led by the Moroccans. Major changes continued until 1970s when the land leased by the French settlers were taken over by Moroccans and a *Direction des Affaires islamiques* was established. The management of the *waqf* is now completely subject to the ministry. A special ministry was formed in 1955, earlier known as *WizarahHubs*. Its jurisdiction is clearly stated under Article 1, *MudawwanahAwqaf* 2010. *Directorat Awqaf* is one of the central divisions under the Ministry (Aj'un, 2006). The *Directorat* has five different divisions, namely the *Waqf* Property Division; the *Waqf* /Real Estate Investment Division; the *Waqf* Assets Division; The Treasury and *Waqf* Dispute

Resolution Division. Every division is further divided into another four departments (*Habous*, 2006). The Directorate also has to monitor the *Nazir* who is appointed by the Minister of *Waqf* (Muhammad Idrisi, *Nazir* Fes, (5 February, 2016, Personal Interview). Every *Nazir* is given an office and is in-charge of several small departments under his supervision. *Nazir* job scope includes (Khalid Masluhi, Jan 28, 2016, Personal Interview):

- (a) To record all *waqf* using a system known as *rasmaqari*;
- (b) To manage all public *waqf* (*am*); and
- (c) To make profit from *waqf* properties (Muhammad Idrisi, (Feb 5, 2016), Personal Interview).

CONCLUSION

Although there are allegations that pious endowment has been used as part of the political agendas among some of the leaders, endowment was part of the culture of Moroccans. First, the religious awareness of the people including the leaders prompted voluntary contributions for religious endowment. Second, earlier leaders used religious endowment to fund their social welfare programme. The acts ranged from providing free water to free education and medical needs. Although the zeal of *waqf* is decreasing, the modern *waqf* system in Morocco has maximised the benefits of *waqf* and from time to time, works towards a better management of *waqf* in the country. Furthermore, Morocco has followed other countries to legally strengthen the *waqf*

administration with the introduction of *Mudawwanah Awqaf* in 2010.

The centralisation of *waqf* administration has its own strengths and weaknesses. It has, to a certain extent, provided a stricter check on the management of *waqf* with a standard practices and regulations. Nevertheless, the management may subject *waqf* administrators and trustees to many bureaucracies that will slow down the development of *waqf* properties. It is also noted that the flexibility of the Maliki school of thought has contributed to vast activities of *waqf* including the practice of *ibdal / istibdal*. The history of *waqf* in Morocco points to the importance of creating and reviving *waqf* based on the foundation of Shari'ah with positive impacts. In addition, Morocco has shown the importance of *waqf* in academic and scientific progress through research funds, infrastructure as well as logistics. *Waqf* contribution has been channelled towards creating job opportunities, improving job opportunities and boosting the income level of the *ummah*.

Lastly, the long tradition of recording *waqf* properties and their details have safeguarded some of the *waqf* properties till present. At least, the size of *waqf* land, the details of *waqf* properties and the trustees are known to the people, if not to the government.

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