



The old history of charity foundations

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Have you ever wondered how mosques, schools, soup kitchens, fountains, libraries and similar buildings were financed in Ottoman times? How did they pay staff or carry out repairs? Who was responsible for them? These institutions were found throughout the length and breadth of the Ottoman Empire and many of them are still with us today.

The concept of setting up a foundation, or foundation with conditions that had to be met, can be seen in very early Islamic lands. The idea is attributed to the Prophet Mohammed in advice he gave about the use of land for charitable purposes. The word foundation means to prohibit the movement, transport or exchange of something. By setting up a foundation, the individual prevents whatever the object may be from being transferred to anyone or anything else. Even he cannot change the terms of such a foundation if it is done legally. Conceptually, the foundation resembles common law trusts in western law. But when it came to the Turks, the foundation concept almost always involved immovable property and developed into a trust in perpetuity, at least in theory.

Under Islamic law, a person's beneficiaries are clear as to what proportion of an estate each will receive; however, a foundation could allow a person to bequeath his money to whomever he chooses. But while the foundation could be set up to provide income for a deceased person's family, it was much more likely to supply income to one of the many religious institutions that served Muslims. A deed would have been first drawn up by the person setting up the foundation and, then, his (or her) signature witnessed. The foundation founder could also set the conditions he wanted to apply within the deed itself. Then, the foundation would be registered and if everything were in order, permission would be granted by the sultan or chief administrator of a particular area. This could, then, not be overturned through a judicial judgment, although a sultan could, in theory, at least have confiscated any such foundation property, even though it would be religiously reprehensible.

A foundation would be autonomous and have its own administrators, depending on its size, to ensure the conditions laid down were met. The government would also send an inspector, once a year, who was responsible to the state for the accuracy of the records being kept and that the income and expenses were being used in accordance with the conditions set out in the deed.

Foundations in history

History shows us that when Muslim armies conquered non-Muslim lands, they allowed the conquered to follow their own customs, as long as it was compatible with Islam. We also know that the Ottoman Turks honored the foundations that were set up by other Muslim rulers before they conquered their territories.

The concept of setting up a foundation, or 'vakıf', is found in very early Islamic lands. The idea is attributed to the Prophet Mohammed in advice he gave about the use of land for charitable purposes and Sultan Fatih Mehmed is another example of a founder of a foundation from the Ottoman history

According to Turkish historian Halil İnalcık, Sultan Fatih Mehmed is one of the best examples of a founder of a foundation. After the conquest of Constantinople in 1453, he proclaimed St. Sophia as the "great" or primary mosque in the city. In order to provide funds for staff and upkeep, he had the Grand Bazaar built. Officially, there were 118 shops in the bazaar, with an additional 984 shops outside. Eventually, these outside stores would be connected to the main building with a roof over the streets. In a 1546 survey, there were 2,517 foundations that had been founded by non-royal persons, while a survey from the year 1600 shows that an additional 1,600 foundations had been set up in the interval. Not only was the sultan involved, but his family, including the women, top members of the government, leading families, religious figures and even merchants, set up foundations. Members of minorities were also permitted to establish foundations.

One twist in setting up foundations involved land ownership. Basically, all arable land belonged to the sultan and he could have some of it put into someone's name so that this person would enjoy an income. This, in turn, created considerable uncertainty as to whether or not this grant would be rescinded when the person left his particular position or died. To ensure that the property did not revert to the sultan, people began turning some, if not all, of this property into foundations. The result was that the sultan had less and less income as time went on because the foundation, as a charity, would be tax-exempt.

Foundations in the modern era

A directorate of Religious Foundations was set up as early as 1824 as a separate department looking after the administration of the foundations of the holy cities of Mecca and Medina. In 1837, this department was put under the authority of Shaikh al-Islam, chief religious official in the Ottoman Empire, who looked after the court system and the ulama, members of the religious class. It made sense, since the foundations provided much of the financial backing for the ulama and various institutions. The Imperial Mint was also joined to the Religious Foundations Directorate.

Tax reforms during the period, known as the Tanzimat (1839-1876), were aimed at reducing the number of taxes imposed and replacing them with a system that would produce greater revenues. Attempts were made to seize property endowments at this time, in spite of the objections of owners, and to remove tax exemption status that had been granted in return for special services. Under the Land Law of 1858, five categories of land ownership were accepted, and one of these was foundation property. After that, the Ministry for the Religious Foundations continued relatively unchanged, despite numerous changes in government and in government ministries, until after the establishment of the Grand National Assembly in 1920. Four years later, the Directorate of Foundations (Vakıflar Genel Müdürlüğü) was established and two years after that, a law passed detailing its responsibilities.

The Directorate became a minor post that reported directly to the Prime Minister's Office (Today its head reports to a Deputy Prime Minister.) just as Shaikh al-Islam turned into the Directorate of Religious Affairs and also reported to the same office. The Directorate of Foundations continued to be in charge of foundation property, but now the revenues went into the state's general revenue budget, with the exception of meeting minimal expenses related to maintaining the property.

In 1935, Parliament engaged in a major overhaul of the law on foundations that had been promulgated in 1926. As part of this overhaul, all foundation establishments were considered Turkish institutions, whether they were Muslim or non-Muslim, and made them accountable to the Turkish government. These were comprised of religious, cultural and charitable institutions. The foundations were then divided into two types of property – the first one includes all Muslim property and has continued to be in force until today, with only minor changes.

The modern foundations set up under this come from companies, businessmen or individual families, but because of the strict division between mosque and state, they are almost exclusively involved in educational, medical or cultural activities. The Koç family, for instance, has set up several foundations that include museums, hospitals, universities research centers and the like. The Sabancı and Doğan families also have set up foundations, to mention only three of the many well-to-do families involved in foundations.

The second category dealt with foundations that belonged to the non-Muslim minority. These foundations were deemed to be dependent, requiring that they be administered by committees of trustees as well as overseen by the Directorate. According to this second category, property transactions attempted by members of the non-Muslim minorities had to be approved, and the money involved deposited in the Vakıflar Bankası (Foundations Bank) with interest earned. A new Foundations Law went into effect in February of this year, but it is too soon to judge what the overall effects will be.