

Chapter One

“DEVOTE THE FRUITS TO PIOUS PURPOSES”

“And those that believe, and do deeds of righteousness—those are the inhabitants of Paradise; there they shall dwell forever.”
(*Qur’an* II:82)¹

“The Prophet said: ‘When a person dies, his achievement expires, except with regard to three things—ongoing charity (*ṣadaqa jāriya*) or knowledge from which people benefit or a son who prays for him.’ ”²



Endowments exist in myriad forms around the world, created when an individual, an organization, or a political entity sets aside resources and designates the revenues to support a specific purpose. The beneficiaries may be family members, religious institutions, cultural endeavors, health facilities and services, public works, or needy and impoverished people. As a vehicle for philanthropy, endowments belong to a category of human endeavor that existed before the founding of Islam in the early seventh century C.E. and one that remains integral to many human societies today.³

No contemporary written documentation or other evidence exists to record the precise inception of endowments in the Muslim world. No one has yet shown definitively the first steps of their development in Islamic law and society, though they clearly belong to the earliest periods of Islamic history. Judgments and claims about waqf origins and evolution thus begin to some extent *in medias res*. Informed speculation,

rather than continuous and unequivocal evidence, is the basis for identifying the roots of endowment-making in early Muslim society.⁴ According to Islamic tradition, the first waqf was made by the Prophet from the wealth left to him by one of his followers. Alternatively, the first waqf is ascribed to ʿUmar b. al-Khaṭṭāb, who asked the Prophet whether he should give away as charity (*ṣadaqa*) valuable lands he had received. The Prophet told him: “*in shiʿta ḥabbasta aṣlahā wa-taṣaddaḡta bihā*” (“If you want, retain the thing itself and devote its fruits to pious purposes.”) This ʿUmar did, specifying that the land should never be transferred by sale or inheritance.⁵

The earliest written references to waqf include legal texts and inscriptions from the late eighth and early ninth centuries C.E.⁶ By the time these records were made, the works of the jurists recorded not only evolving doctrines but also the disputes among themselves about the nature of waqf and the details of laws applicable to it, indicating that the institution had been in place for some time. More ordered and comprehensive legal works on waqf were produced in the mid-ninth century, by Hilāl al-Raʿy (d. 245/859) and al-Khaṣṣāf (d. 261/874), who were the first to devote whole treatises to the subject.⁷

However it began, waqf-making acquired popularity as the chief vehicle of formal philanthropy throughout the Muslim world. Despite the strict legal constraints surrounding their founding and operation, endowments evolved as enormously flexible and practical institutions. Part of their popularity also derived from the fact that the waqf was not merely a tool of philanthropy, but simultaneously achieved other goals for the founders. Hence waqf has continued to be used until the present in Muslim communities, and in many cases the laws governing waqf-making have today been integrated to national constitutions and legal systems implemented by individual states.⁸

Scholars have pointed to waqf as one instrument that traditionally organized and distributed relief and assistance to the needy and weak in Muslim communities. What gradually has become the responsibility of governments, public agencies, and non-governmental organizations in the modern era was, for the most part, previously undertaken in beneficent endowments constructed by individuals, often from among the wealthy and powerful elites.⁹ Much relief was probably also distributed informally within communities, as has often been the case in societies and cultures around the world.¹⁰ Unlike informal assistance, however, waqfs usually generated an inky trail which now lends them disproportionate visibility as historical objects. The historian has a more difficult task to document informal assistance, though it may also be institutionalized as customary distributions of food or money at holidays, or at festivals such as circumcisions, weddings, and funerals.¹¹

This chapter examines the components of waqf and surveys the spectrum of motivations attributed to endowment makers. For those with no prior experience or knowledge of Islamic endowments, it is important to understand their basic structure and the relationship among the component parts before embarking on this investigation of Ottoman beneficence. In addition, an examination of the motivations for and purposes served by waqf-making will make it possible to appreciate the popularity of this institution. Fundamental misapprehensions of the nature of waqf's component parts and the motivations for founding waqfs have led to criticism of the institutions based on mistaken assumptions. As a result, endowments and endowment-making have been condemned, at times without really understanding them. Only an understanding of their complex nature and the use of endowments over time enables us to recognize which flaws derive from the institution and which from the particular circumstances in which it was founded or operated.

Understanding the roots of Muslim waqf-making establishes some of the cultural context of the Ottoman practice. Although existing research on waqfs throughout the Muslim world since the rise of Islam is substantial, the chronicle still has vast lacunae. The present chapter is intended to situate Ottoman imperial waqf-making, so as to demonstrate how it belongs to a tradition of imperial Muslim philanthropy while at the same time constituting a particularly Ottoman exercise. The discussion also situates Jerusalem as a long-time focus of Muslim philanthropy and as a part of the Ottoman empire.

WHAT IS A WAQF?

A waqf is a pious endowment, established according to the stipulations of Islamic law. *Waqf* means, literally, "stopping," and this one word has come to refer to the entire institution of pious endowments in Islamic societies. It is not clear precisely when or why the Arabic roots *w-q-f* and *h-b-s* ("to hold, imprison") were associated with the institution, but "waqf" was in widespread use by the third/ninth century. The basic connotation of these roots—"to bring to a halt; to hinder"—refers to the suspension of transactions imposed on the properties transferred into the endowment for the beneficiaries. If the beneficiary was a structure like a mosque or school, then it, too, was untransferable, the thing itself "halted," its ownership unavailable for sale, surety, mortgage, or legacy.¹²

Men and women, wealthy and humble, established pious foundations throughout the Muslim world. Most of the written evidence

for specific endowments documents the more conspicuous actions of wealthy and powerful individuals. Yet waqf-making was restricted only by the requirement that the property endowed be owned outright by the founder and that the founder be of sound mind, adult, and free (*'āqil, bāligh, hurr*) and unencumbered by unfulfilled liabilities when establishing the endowment.¹³

The multiplicity of functions and relations that construct a waqf have caused the meaning of the word to become less precise and often misleading over time. It has become the shorthand denotation of what is actually a system of relations (or rather, many versions of a basic system) between properties and people, each element having a defined function within the whole. Technically, a waqf comprises the properties or things endowed (*mawqūf*) which produce revenues to support a specific beneficiary (*mawqūf 'alayhi*). The person establishing the waqf (*wāqif*) may only endow things that he or she possesses entirely and freely (*miilk*). Thus there can be no outstanding claims or liens against the property, and the ownership is of the principal (*aşl*) and not merely a usufructory right (*taşarruf, manfā'a*).

A vast range of immovable properties of varying dimensions may be endowed: whole buildings and single rooms, huge fields and small garden plots, orchards and individual trees, as well as commercial structures like mills, looms, presses, and bath houses. Movable items like *Qur'ans*, carpets, and furnishings for mosques and shrines, as well as weapons and horses for warfare can also be endowed, although some disputes exist among the Muslim schools of law (*madhhabs*) in this respect, as well as changes over time. In the sixteenth and seventeenth centuries, the debate about what could be endowed focused on the cash waqf (*waqf al-nuqūd*), wherein monies endowed to the waqf had to be put to work, earning interest, in order to yield the needed revenues. As the taking of interest (*ribā'*) was forbidden in Islamic law, the cash waqf seemed to constitute a legal impossibility, one that was harshly condemned and debated. Opponents of the practice were very vocal in the sixteenth century, but ultimately failed to halt its widespread use. On the pragmatic side, the chief religious official of the Ottoman empire, Şeyhülislam Ebu's-Su'ud Efendi (d. 1574) allowed cash waqfs because they constituted a popular practice (*ta'āmul* and *ta'āruf*), served the welfare of the people (*istihşān*) and had been allowed in some previous judicial rulings. Cash endowments came to provide an important source of credit in Ottoman society.¹⁴ Only in the Arabic-speaking lands of the empire, Muslim before the Ottoman conquest, did the cash waqf not develop extensively.

The beneficiaries of an endowment were institutions such as a mosque (*jāmiʿ*, *masjid*), college (*madrasa*) school (*maktab*), sufi residence (*khānqāh*, *zāwiya*, *ribāʿ*) public kitchen (*ʿimaret*, *aṣhane*, *ṭaʿām*), hospital (*bimarhane*) or fountain (*sabīl*). Structures such as bridges, roads, fortresses, and water works might also be maintained by endowments. Individuals could be named beneficiaries, whether relatives of the founder or people unrelated by blood ties. They could be personal dependents or clients, or the functionaries of endowed institutions. For example, salaries for scholar-teachers and students affiliated to a particular *madrasa* were generally funded in this way.¹⁵ Further, a waqf might be set up to assist the pious voluntary poor (in Islamic societies these are often the members of sufi mystical orders), the destitute, travelers, widows, orphans or other people deemed needy, weak, and deserving of assistance.

Beneficiaries were allowed on the condition that they constituted a valid pious purpose. Such purposes were defined in the *Qurʿan*, which said: "The freewill offerings (*ṣadaqāt*) are for the poor and needy, those who work to collect them, those whose hearts are brought together, the ransoming of slaves, debtors, in God's way (*fi sabīl Allāh*), and the traveller" (IX:60). *Ṣadaqa* could benefit various members of the wider community of Muslims, including those who themselves collected the alms tax, new converts, captives, or debtors. It could also serve specific individuals, often immediate family members. "Whatsoever good (*khayr*) you expend is for parents and kinsmen, orphans, the needy, and the traveller; and whatever good you may do, God has knowledge of it" (II:215). *Ṣadaqa* and *khayr* are both more general terms than *zakāt*, which refers specifically to obligatory alms. The use of *ṣadaqa* and *zakāt* in the *Qurʿan* is not, however, unambiguous. For example, verse IX:60 lists the categories of people eligible to receive alms, yet the comparison with II:215 and other verses shows an overlap between the recipients of alms and voluntary donations, one which existed in practice as well.

Among the earliest reported waqfs were those made *fi sabīl Allāh* (lit. in the path of God, or, for the cause of God). Many purposes might answer this characterization but one of the most important at the time was jihad. Contributions to the military needs of the early Muslim fighters included a range of movable properties such as slaves, horses, and weapons. While they were inherently suited to the purpose, as the principal of a waqf they were ultimately used up and diminished. Over time, too, the importance of these donations for the war effort abated as the first military expansion of the Muslims ended and the fruits of the conquest were used to finance its continuation. By the third century A.H. the *waqf fi sabīl Allāh* was the exception allowed

due to tradition, while the more general doctrine of Ḥanafī law had come to restrict endowed property to immovables.¹⁶

Jews and Christians, too, could establish endowments to support anything that was a pious purpose according to Islamic law, such as a fountain, a public kitchen, or a shelter for the poor; churches and synagogues did not meet this qualification. Under the Ottomans, however, some Christians religious establishments were also supported by waqfs. In many cases, these endowments comprised extensive properties belonging to monasteries, whose tax yields to the state constituted important revenues. Allowing the monastery property to be recorded as waqf by means of legal fictions protected it and was appreciated by the monks, who continued to remit their taxes.¹⁷

Another fundamental characteristic of a waqf under Ḥanafī law is that it must be made in perpetuity. In fact, the permanence or reversibility of endowments was a point of some disagreement among the schools of law, as was the validity of a temporary waqf. Abū Ḥanifa (d. 150/767), founder of the Ḥanafī *madhhab*, himself had said that waqfs were only permanent when made as part of the final testament of the founder. Yet according to his student, Abū Yūsuf (d. 182/798), a waqf was irreversible, and this was the practice in the Ottoman empire. To emphasize and notarize this condition, a formal request was usually made to the kadi to annul the waqf at the time of its foundation, whereupon the kadi declared the impossibility of abrogating what was already endowed, citing the opinion of Abū Yūsuf. This latter decision might be appended in writing to the endowment deed itself.¹⁸

For the waqf to be legal, all parts of an endowment had to be stipulated at the time of its founding, usually in an endowment deed (*waqfiyya*). The revenue-producing properties were alienated permanently as the principal capital for the endowment. The immediate and successive beneficiaries (institutions and/or people) were stipulated along with the condition that when they expired—the building collapsed or the line of people died out—the revenues would devolve upon the poor of Mecca and Medina or of some other place.¹⁹ This condition rested on the assumption that the poor were as enduring as any property (if not more so) and that as long as human beings exist, poor people will be found among them.

A manager (*mutawallī*) also had to be stipulated when the foundation was established, in order to oversee the proper functioning of the endowment and to ensure that the specific terms laid down by the founder were fulfilled. He or she was responsible for ensuring the continuing productivity of the properties for the maximum benefit of

the endowment, seeing to their upkeep and good repair and replacing dilapidated or diminished properties with more productive ones. All such changes, however, had to be expressly authorized by the local kadi, who was responsible for the general welfare of individual endowments in his jurisdiction.²⁰

A perpetual succession of managers had to be established as well, in keeping with the requirement for the eternal existence of the waqf. They were frequently from the family of the founder. Otherwise, and if the succession expired, the local kadi was responsible *ex officio* to name the most appropriate and able person for the task—at times, himself. The endowment deed might provide for additional staff, depending on the purpose of the endowment. From one endowment to another, the number of people varied with the quantity or size of the beneficiaries and with the extent of the endowed properties to be managed. Waqf employees filled key posts, such as teachers, doctors, accountants, and revenue collectors, as well as auxiliary functions, such as the custodians associated with any building. In larger and smaller endowments alike, the manager might hire additional temporary or permanent staff as needed, for example to carry out structural repairs.

While a written endowment deed is not an absolute requirement for the constitution of a waqf—only a formulaic oral declaration before witnesses is needed—the practice of writing the stipulations of the endowment in ink, occasionally in stone, evolved to a norm.²¹ However, deeds vary extensively in their length and detail, leaving broader or more narrow scope for decision-making to the manager and the kadi. In the Ottoman period, the terms of such deeds were often entered in their entirety into the written protocols of the kadi (*sijill*) upon the initial constitution of a waqf; at other times they were recorded or re-registered at a later date (possibly much later), at a moment when it was deemed necessary to confirm the endowment and its properties.²²

Over time, the literal meaning of waqf and the condition of its perpetuity have perhaps been responsible for overemphasizing the permanency of the revenue-yielding properties as part of any single endowment. The negative picture of waqfs, as well as criticisms of their harmful effects on agrarian practice and property development, seem to have evolved to some extent from a fixation on the supposedly “stopped” aspect of the endowed principal. Assets are described as “frozen” or the word “waqf” is translated with the European term “mortmain” (“dead hand”) wrongly implying inertia.²³ In practice, properties were not permanently excluded from transactions, but were

exchanged out of (*istibdāl*) and purchased for endowments as needed, according to legal procedures that provided for these possibilities. The endurance of the *purpose* of the waqf was supposed to be the aim of the manager, and s/he was obliged to manage it according to the principle of *maşlahā*, the public interest or welfare of the Muslim community.²⁴ The manager was restricted in this only to the extent that the deed might specifically forbid some action or because some transaction was forbidden in Muslim law. At times, it was in the best interest of the endowment to replace unprofitable properties or to specify some aspect left undefined in the deed. Thus a waqf, founded as a permanent institution under Ḥanafī law, was in fact mutable. Being a legal construct, changes to the components and conditions were permitted only in precise ways, justifiable only in the interests of the waqf itself as interpreted according to ideas of public good. This left substantial leeway for the managers.

THE ROOTS OF WAQF

The *Qur'an* does not refer specifically to waqf, but rather to alms (*zakāt*) and generally to good works (*ṣadaqa*, *khayr*). Payment of the alms tax is one of the five basic obligations of the believing Muslim. *Zakāt* is often discussed in the *Qur'an* along with prayer (*ṣalāt*), charitable gifts or voluntary donations (*ṣadaqāt*) and good deeds (*ṣāliḥāt*), those things that help believers gain entrance to Paradise.²⁵ Waqf is a type of good work, sometimes called *ṣadaqa marwqūfa*.²⁶

At the roots of waqf are Muslim religious principles and practices, as well as those of the societies and cultures from which and among which Islam and the first Arab Muslim state evolved. Viewed from a longer perspective, the endowments or foundations of classical Greece and Rome contributed to formulating the practices of the west Asian and Mediterranean regions, though these had been adapted and translated through the media of Byzantine and Zoroastrian society and culture.²⁷ Islam emerged on the cusp of the Byzantine Christian and Persian Zoroastrian oikoumenes, and there also encountered the social organization and tenets of Judaism in communities scattered throughout the larger political units.

In Judaism, the specific use of a term meaning justice or righteousness (*ṣedaqâ*) to name obligatory charitable contributions dates at least to the second century C.E.²⁸ However, no extensive scholarly discussion exists of the Jewish institutions of beneficence and relief in rabbinic times or in premodern Europe, despite the centrality of the

religious obligation to charity in Judaism. According to historian Mark R. Cohen, "In-depth probing of the actual lived experience of the poor and of the mechanics of charity seems to have been impeded by idealized assumptions about Jewish generosity and about the universal meritoriousness of the poor, as elaborated in biblical, talmudic, midrashic and medieval sources."²⁹ With little understanding of the practical applications of *ṣedaqâ* in the Jewish communities of Arabia, its connection to Muslim *ṣadaqa* or to waqf as it developed among the first Muslims is difficult, if not impossible, to trace. The linguistic similarity, however, suggests the possibility of some influence from Jewish to Muslim thought and practice. The early Muslim community included many Jews, and close contacts continued with the Jewish communities in Arabia.³⁰

Byzantine traditions probably played some role in configuring ideas and forms of Muslim charity, though again, the paths and modes of influence between Byzantine Christian and early Muslim culture are not always obvious or directly traceable. Byzantine beneficent foundations were plentiful and proximate for the first Muslims in Arabia, Syria, and Egypt. Byzantine Christian practices in these conquered areas, like Jewish ones, may well have been absorbed into the evolving Muslim Arab culture, converted along with people to whom they were familiar. Byzantine notions and forms of charity themselves developed from the impact of Christian ideas of charity on the existing Roman practice of consecrating property for religious purposes (*res sacrae*) and Roman forms of public assistance. This was especially evident in the imperial and Christian city of Constantinople from the time of Constantine I (d. 337). There, and eventually in many parts of the Byzantine empire, beneficent institutions intended for the needy public were set up with imperial funds to be run by the Church authorities.³¹

New formulations of charitable assistance emerged as a recognizable and particular aspect of Byzantine society between the fourth and sixth centuries. By the seventh century, Byzantine society had evolved a highly articulate spectrum of charitable institutions for the separate care of orphans, widows, travelers, lepers, the hungry, the aged, and the sick. These were in addition to or integrated with the numerous monasteries found in both towns and isolated wildernesses all over the empire. Support for these institutions came from donations by the Church, the Byzantine state, and private individuals of greater or lesser stature. Numerous institutions were established by the Byzantine emperors, as well as their mothers, sisters, wives, and daughters. Private donations might subsequently be enlarged by imperial support to ensure the survival of an institution.³²

Zoroastrian traditions of endowment-making in the pre-Islamic Sassanian empire also possessed features that had counterparts in Muslim waqf. These included the basic structure of an irrevocably endowed principal whose fruits maintained its own existence. Like waqfs, the Zoroastrian foundations could support a range of endeavors defined as “for the soul” (of the founder) or “for pious purposes”: religious ritual, public works, or the family of the founder.³³

While the evolution of Byzantine Christian charitable philosophy and practice has been more thoroughly investigated and rests on a broader base of concrete evidence than Jewish, Zoroastrian, or ancient Arabian, there is ultimately no persuasive reason to prefer it to the others among possible cultural antecedents. Muslim religion and society first evolved in a region obviously replete with charitable traditions and examples. It is not necessary to sort out the proportionate contribution of each religion or culture to what became the practice of endowment-making in Islam.³⁴ It would have been strange had this new faith emerged with no explicit practices of or ideology about “charity.”

What is salient is that the Muslims articulated the principle and obligation of beneficent giving into their religious and moral philosophy, generating concrete mechanisms that were both adapted from the spectrum of practices they observed and created in forms particular to the interpretation of Islamic law and culture of their time.³⁵ Whatever practices and ideas existed among those who became the first Muslims, whether borrowed or invented, they supported the tenets of the new faith and became anchored in its evolving legal codes. These, in turn, constrained and shaped the actions of Muslims. As the Muslim communities and state had needs of their own, which were a combination of the political, social, and spiritual, the institutions and practices they produced became a way of defining themselves, particularizing themselves among the other existing states and communities. That their practices were similar to or echoed ideas found in other contemporary cultures—irrespective of their origins—may have contributed in some measure to the appeal and spread of Islam.

Realization of charitable goals and obligations was inscribed and articulated in the idiom of the new religion. Obligatory alms-giving was a tax owed to God but intended as a practice among people. As the Muslim state consolidated itself, it began enforcing payment of the alms tax, which had previously been initiated by each individual. With increasing demands for funds, the state soon imposed other taxes as well. These increased, while the concomitant willingness of Muslims to pay *zakāt* in addition declined.³⁶ Ultimately, waqf seems to have

eclipsed *zakāt* in material and social importance. *Zakāt*, however, “continued as the main justification for a Muslim government’s various urban taxes or as a ritualized form of personal charity but no longer as the material foundation for most specifically Islamic concerns.”³⁷ The historian Marshall Hodgson tied the decline of *zakāt* to that of the caliphate. This strong, centralized political unit of the early Muslim era gave way to a period in which numerous *amirs* (princes) gained greater power over smaller units, acquiring land grants (*iqtaʿ*) from the state treasury with which to support themselves.

It is perhaps this diminishing return from *zakāt*, coupled with the ever-present exhortation to be beneficent, which led to the increased popularity of a waqf, a means to fulfill the demand to be charitable while reserving the possibility of benefit to the donor. As historians have pointed out, charity in Islam is an obligation which constitutes a divinely sanctioned claim by the poor against the rich. Providing for one’s family was also an obligation. Waqf offered a versatile and attractive means to fulfill both obligations.³⁸

Once established, the form and practice of waqf did not remain fixed. Just as the basic idea and structure of pious endowments coalesced in the early Islamic community from several influences, so did the practice of waqf-making and it continued to evolve in different ways, based on the experiences and needs of different Muslim communities.³⁹ The absence of any mention of waqf in the *Qurʾan* may have allowed for additional flexibility in the evolution of the law as well as the practice.

WHY FOUND A WAQF?

By their nature, waqfs are conceived first and foremost to be pious acts, inspired by religious belief, aspirations to attaining Paradise, and the obligation of giving charity. In their execution, however, waqfs are legal entities, shaped by economic and fiscal constraints. They existed in different cultural contexts, employed for political and social goals, as tools of financial ambition as well as the means to legitimacy and status. Waqf-making clearly increased in popularity over time, certainly among rulers and notability, and apparently among people of more modest means as well. The preference for waqfs as a form of beneficence over the obligatory alms tax was due partly to the fact that founding a waqf could accomplish several purposes simultaneously. For all people, waqfs were the means of performing an act pleasing to God and contributing to the community. They could serve

to protect personal wealth, provide for the founder's family, and distribute inheritance in shares different from those prescribed in Islamic law. For the members of an imperial household and other wealthy individuals, waqfs were also a convenient tool of patronage, used to broadcast power and to legitimize and strengthen sovereignty.

An examination of these varied motivations makes clear how versatile an institution a waqf was for its founders. Thus the following discussion considers the multiple uses of waqfs and how their ability to serve many motivations also engendered severe criticism.

From the richest to the poorest of people who chose to endow their property, the declared purpose in doing so was to bring the founder closer to God (*qurba*) and to obtain a place in Paradise.⁴⁰ "[Hurrem Sultan] having seen and beheld these endless graces and boundless favours bestowed on her, and out of gratefulness therefor and in compliance with the noble content of the holy verse: 'Do good, as Allah has done good unto you,' unlocked the cupboards of favours and gifts . . ." ⁴¹ As here, a religious motivation for making waqfs is the one most consistently articulated in the endowment deeds; the *Qur'an* promises rewards from Allah for generous gifts and beneficent acts. Beneficence brings spiritual benefit and is also a means of atoning for sin.⁴² "Take of their wealth a freewill offering (*ṣadaqa*), to purify them and to cleanse them thereby, and pray for them" (IX:103).

The teachings of the *Qur'an* encourage generous and benevolent actions: "True piety is this: to believe in God, and the Last Day, the angels, the Book, and the Prophets, to give of one's substance, however cherished, to kinsmen, and orphans, the needy, the traveller, beggars and to ransom the slave, to perform the prayer, to pay the alms" (II:177). "Surely those, the men and the women, who make freewill offerings and have lent to God a good loan, it shall be multiplied for them, and theirs shall be a generous wage" (LVII:18). Beyond announcing individual generosity, these endowments also form part of the calculations of mortals against the possibility of Paradise after death. Their actions do not derive from a pure and simple altruism. For those who believe in a state of being beyond death and a final day of reckoning, the charitable actions of a lifetime are an investment in eternity.

Motivations other than the spiritual aspiration for *qurba*, the goal of Paradise, and the humanistic aim of providing financial support for people and institutions certainly informed waqf-making. These attendant motivations, however, must be discovered largely through circumstantial or indirect evidence, as the endowment deeds announced only the piety and beneficence of the founder. Endowments served as

vehicles for political legitimation, social status, and patronage of all types, from the level of the personal to the imperial. They also contributed to developing population centers—urban and rural—by providing the necessary infrastructure in the form of market space, inns, and baths, as well as key social and cultural facilities like mosques, schools, and public kitchens.⁴³ Hodgson and others have emphasized the evolving relationship between waqf-founding and political legitimation, increasingly exploited from the tenth and eleventh centuries.⁴⁴ Concomitant to a fragmentation of political authority in the central Islamic lands was the rise of an international order of scholars (*‘ulamā*) educated in the growing number of *madrasas*. The foreign-born *amirs* who ruled various principalities became patrons of the scholars, endowing *madrasas* for them and in return gaining support in their own political contests. The distribution of salaried positions in waqf-supported institutions as a form of patronage was thus used to attract and maintain loyal supporters among the respected men of learning who served as the spiritual and intellectual guides of the polity.

Such patronage was also integral to the re-establishment of Sunni orthodoxy after the conquest of the Fatimid Shi‘ite state in Egypt (969–1171), since the proliferation of mosques and colleges was intended to promote Sunni scholars to prominence, ultimately at the expense of Shi‘ite scholars. The Zengid, Ayyubid, and then Mamluk *amirs* who succeeded the Fatimids, along with their households, endowed colleges and tombs, especially in Damascus, Aleppo, and Cairo, and reinforced existing endowments. In this way, they could control the appointments affiliated to these institutions and establish an economic hold on the local religious elites whose support, in turn, was an integral element of their legitimacy.⁴⁵ During their long reign, the Mamluk sultans expanded significantly the number of positions to be filled by scholars, students, *imams*, sufis, and other personnel, as well as their own power as distributors of those positions.⁴⁶ Widespread Ottoman endowment of mosques and colleges, as well as support for sufi institutions, was part of their own anti-Shi‘ite drive against the Safavids from the early sixteenth century.

In Rūm Selçuk Anatolia, an offshoot of the Great Selçuk empire, the symbiotic relationship between the scholars and *amirs* was perpetuated by territorial expansion in the twelfth and thirteenth centuries.⁴⁷ Here the sultans set up endowments not only for the scholars but to benefit merchants (and, by extension, the treasury) in the form of numerous large caravansarays which punctuated the major trading routes across Anatolia, providing lodging, food, and security for those on the roads.⁴⁸

One result of this patronage of the *‘ulamā* was to provide them with a measure of economic independence, as they received stipends—sometimes enormous ones—from the endowments.⁴⁹ While individual fortunes fluctuated, the scholars as a class in the Sunni world of the Middle East and North Africa seem to have maintained a large measure of economic independence and standing, up until the nineteenth-century reforms. At that time, widespread changes in the administration of endowments and the creation of government-run and sponsored schools undermined the intellectual authority, financial control, and steady income formerly enjoyed by the scholars.⁵⁰

For the Ottomans, waqf-making was a key tool in colonization and settlement in newly conquered areas. Maintaining the practices of the Selçuks and *beys* (the local rulers), the Ottoman sultans recognized existing endowments and established many new ones to support a familiar roster of beneficent institutions and public works. However, under imperial Ottoman patronage, in many cases the individual buildings also gradually became integrated to larger, more ordered complexes.⁵¹ Each building of the complex housed the services and functions obviously associated to it: prayer and ritual, instruction, lodging, food distribution, medical care, etc. Numerous examples of these exist, from the somewhat scattered agglomeration of the Muradiye (Murad II, 1421–1451) in Bursa, to the oft-cited grandeur of the Süleymaniye (Süleyman I, 1520–1566) in Istanbul, with its orderly, rectangular arrangement of buildings. Clearly, only people controlling enormous resources could establish and endow such complexes.

The capital to fund the original construction of the endowed components was largely derived from the spoils of war, regular and plentiful, at least through the mid-sixteenth century. Sultans incorporated substantial rural properties into their endowments, both proximate to and remote from the sites of the institutions themselves. Urban complexes, in addition to their rural holdings, were supported by commercial and service structures often newly constructed in the vicinity of the complex. Rents from these markets, bath houses, industrial and residential structures sustained the waqfs. Altogether, the physical expansion, newly created jobs and commercial possibilities fostered the growth of towns and neighborhoods in cities in Anatolia, the Balkans, and the Arab provinces, contributing to a sense of prosperity and expanding Ottoman power.

Outside the cities, the establishment of sufi residences paralleled the use of endowed urban complexes as a typical Ottoman instrument of colonization. A rural residence became the nucleus of settlement, as the lands endowed to it were brought under cultivation, improved so

as to support its expanding functions. It served not only as a site of ritual but also as a guest house and public kitchen. In many instances in the Balkans and Western Anatolia, the *zaviyes* were Muslim outposts in a predominantly Christian area and so functioned to further the process of Islamization and Ottomanization.⁵²

Bursa, Edirne, and Istanbul, the imperial capitals, show best the effects of sultanic waqf-making, how the endowing of large complexes furthered urbanization and the growth of cities. Istanbul is the exceptional case because of its size and long-term status as capital. From the time of the conquest in 1453, each sultan added endowed structures to the cityscape, often a complex bearing his name or that of a member of the imperial household. They, together with the viziers and other prominent people, also contributed to the settlement and expansion of Istanbul. Neighborhoods throughout the city still bear the names of these donors: Fatih, Süleymaniye, Sultanahmet, Haseki, Kocamustafapaşa, Mahmutpaşa and others.⁵³

Under the Ottomans, much of the rural property endowed for imperial waqfs belonged to the treasury (*miri*). This practice was acceptable so long as the sultan had added to that treasury with his victories and was essentially funding his endowments from his private share of the spoils. The Ottoman historian Muştafa 'Ali, writing later in the sixteenth century, explained:

As long as the glorious sultans, the Alexander-like kings, have not enriched themselves with the spoils of the Holy War and have not become owners of lands through the gains of campaigns of the Faith, it is not appropriate that they undertake to build soup kitchens (*amāyir*) for the poor and hospitals or to repair libraries and higher *medreses* or, in general, to construct establishments of charity (*xayrāt u meberrāt*), and it is seriously not right to spend and waste the means of the public treasury on unnecessary projects. For, the Divine Laws do not permit the building of charitable establishments with the means of the public treasury, neither do they allow the foundation of mosques and *medreses* that are not needed. Unless a sultan, after conducting a victorious campaign, decides to spend the booty he has made on pious deeds (*xayrāt u ḥasenāt*) rather than on his personal pleasures, and engages to prove this by the erection of [public] buildings.⁵⁴

Süleyman and his predecessors had contributed extensively to the treasury by virtue of their military successes. As a result, they employed

their winnings in monumental beneficent works, using treasury funds and imperial lands for waqfs. A later sultan like Aḥmed I who had no conquests was criticized for his expenditures on the Blue Mosque. Moreover, the practice of distributing *miri* lands itself came under fire and ultimately became the basis for confiscating some waqfs in the nineteenth century.

Critics of waqf have launched skeptical and moralizing barbs especially against the motivations of those who set up waqfs to benefit themselves and their families. They emphasized how easily waqf could be used to circumvent the rules of inheritance, dictated by Islamic law and incumbent upon the estate of a deceased person. Whether intending to exclude potential heirs, include those left out or shift the portions due each one, a person could fix waqf terms while still alive and feel some security that they could not be tampered with after his or her death.⁵⁵ In his recent thesis, Hennigan suggests that the early popularity of waqf evolved alongside restrictions placed on bequests which made the rigid prescriptions of inheritance law more unavoidable. A waqf enabled the founder to ensure that property was not parcellized at all, or else only according to his or her precise wishes.⁵⁶ Moreover, there is a clear Qur'anic sanction for beneficent giving aimed at the members of one's own family. It is not difficult to understand how this could evolve to become an important category of endowments, nor to see why it was criticized as self-interested and lacking true beneficent motivation.

Waqfs made for the benefit of founders and their families could either name them as beneficiaries, establish successive family members in (paying) positions such as that of manager of the waqf, or both. Under the Ottomans, properties endowed for the benefit of founders' families were made on lands, some of which had been given as imperial grants (*temlik*) or usurped from the pool of state properties distributed either as revenue sources (*tımar*) or auctioned as tax farms (*iltizam*). The net effect was income lost to the imperial treasury, a phenomenon noted and criticized by memorialists such as the seventeenth-century Koçu Bey. The latter equated the proliferation of waqfs with the decline of revenues to the state treasury and the attendant weakening of the army. Not only were the lands withdrawn from the imperial domain, but, it was claimed, they were untended and so unproductive generally.⁵⁷ This kind of critique was repeated regularly, but rarely substantiated.

A waqf created to benefit the founder and his or her family was also a protective shield against imperial confiscation. Waqfs were popular among the notables and functionaries, a means to safeguard the wealth they accrued while in service. A fall from imperial favor or

death under any circumstances could entail the confiscation of property. While these men made many endowments that benefited the public, such as schools and sufi residences, they also made waqfs whose beneficiaries were their own relations. With the principal alienated to God or the community, the property could not, in theory, be confiscated. When various rulers did attempt to confiscate endowed properties from the waqfs, the ensuing outcry caused widespread discontent. Bayezid II, for example, was compelled to reverse the confiscations of his father, Meḥmed II, in the face of threats from the leading religious figures and notables who had suffered as a result.⁵⁸

The distinction between so-called “family” or “private” (*ahlī, dhurrī*) and “charitable” or “public” waqfs (*khayrī*) is more misleading than instructive. Koçu Bey was one voice among the critics of “family” endowments, which were deemed corrupt on several grounds: they did not benefit the poor or the public; they worked to circumvent normal inheritance divisions; and they facilitated the usurpation of state property, often acquired as revenue grants or tax farms and not as freehold. Yet it is impossible to confirm or deny the altruistic motives of any founder, given the nature of the evidence. The division into two categories has allowed for a condemnation of the so-called family endowment as a self-interested undertaking, as compared to charitable endeavors, despite the fact that the “charitable” endowment of a wealthy person might establish the management of it as a well-paid position to be filled by family members.

Critics of family endowments forget that they are one means to fulfill the Qur’anic obligation to care for family members.⁵⁹ Moreover, the usurpation of state property, which was not trivial, was paralleled by the outright grant of state properties. Sultans gave properties, either as a form of largess or under duress, but they did cede them. Finally, even endowments that named family members as initial beneficiaries also stipulated that needy people would benefit when there was no more family to enjoy the endowment. In the premodern world of disaster, disease, and generally shorter life spans, a line of beneficiaries might expire within a generation or two. The subsequent and ultimate beneficiaries were generally the local indigents, the pious poor, or the poor of some holy place like Mecca, Medina, or Jerusalem. Thus all endowments were essentially “*khayrī*.”⁶⁰

As with most endeavors, the motivations for making any endowment appear to include layers of intentions and constellations of causes. A tenth-century story illustrates how impossible it is to separate “good” from “bad” motivations and questions the relevance of doing so:

. . . al-Munajjim [a tax collector] . . . used to be praised for establishing pious endowments in his district, for repairing the local irrigation system, and for giving alms to the appropriate people. Privately, al-Munajjim said that he did these things for God; but, he added, if he had done them for appearances, that would be good too, and why shouldn't the local people keep up appearances (*riyā'an*) by a matching hypocritical pretense that they believed in the high-minded motives of the benefactor? Nowadays, he complained, if a man is munificent (*jawād*) they say his is "making commerce with his munificence" (*mutājirun bi-jūdhī*) and consider him a miser.⁶¹

Al-Munajjim suggests that no one can know the true motives of a person's good works. Perhaps, too, neither donors nor their potential beneficiaries are capable of purely generous acts, the donors in their giving, the local people in appreciative acceptance of the beneficence extended to them. Yet the result to the beneficiaries is likely the same and so they might as well allow the donor his praise.

This disjuncture between the donor and recipient permeates beneficent action. In theory, the donor aids the recipient materially while the beneficiary enables the donor to benefit spiritually or socially, even to redress the balance of his life's bad actions by accepting the *ṣadaqa*. Thus between them there is a jointly beneficial exchange. In practice, the separate motivations of donors and recipients—except the most pious and selfless among them—determine that two largely distinct spheres of action are brought into proximity and made interdependent.

THE OTTOMANS

By the time the Turkic predecessors of the Ottomans in Anatolia initiated the second great encounter of Muslims and Byzantine Christians, both the Byzantine and Muslim practices of making beneficent endowments had evolved. The Turks who entered Anatolia after the Battle of Manzikert in 1071 met a different Byzantine empire than the one which was defeated and pushed back during the first century of Islam. It was weaker, fighting challenges from within and without with diminishing success. As they moved into and colonized Anatolia, the Selçuks and then the Ottomans took over Byzantine settled spaces, reshaping them. They co-opted not only the sources of support for beneficent and charitable undertakings but also the endowed Christian institutions themselves.⁶²

Over the centuries, Byzantine Christian charity had become more associated to the monasteries than the churches, and the ideology of beneficence and attitudes to the poor had become more selective and discriminatory.⁶³ During the long conquest of Anatolia, the wide-scale Turkish confiscation of Church and monastic properties worked to undermine the economic basis and financial resources of these Byzantine institutions. Greatly impoverished, the Church, centered on Constantinople, could no longer afford to sustain its extensive system of judicial administration, social services, and spiritual guidance. At the same time, the Rūm Selçuk state in Anatolia fostered widespread endowment initiatives.⁶⁴ Much property captured from the Byzantines was endowed by the Anatolian Selçuks to support mosques, caravansarays, colleges, *imarets* and other institutions. These reflected and bolstered the prosperity and strength of the subsequent Turkic principalities as they formed in Anatolia. Out of economic and social necessity, some Christians may have turned to those Muslim institutions offering public support that had replaced the defunct Christian agents.⁶⁵

The question of Byzantine influence in shaping Ottoman practices has long been debated, rarely dispassionately.⁶⁶ Given the limited quantity and particular quality of sources for the era of Byzantine contacts and interactions with Turks in Anatolia and the Balkans, discussions about influence and borrowing remain partly conjectural and imperfectly substantiated. The Turks came to Anatolia with their own cultural practices, administrative forms, military know-how, and economic systems. These were, by turns (and with some contradictions), Central Asian, nomadic, Persian, Muslim, and settled in origin. The process of amalgamation in which they now engaged had been repeated frequently as Muslims conquered new lands. Once again, as with the initial evolution of *waqf*-making in Arabia, existing practices were assimilated by the Turkish Muslims as they became culturally and politically predominant in Anatolia, incorporated so as to create something particularly Ottoman.

After the Mongol invasion and the general Selçuk collapse in the mid-thirteenth century, Anatolia was fragmented into small *beyliks* or principalities. *Waqfs* of the former Rūm Selçuk sultans were preserved, while the *beys* continued to make endowments, often smaller shrines and ceremonial sites for local sufis who provided them with the kind of support sultans sought from the scholars, but at a lower price. The size and type of these endowments reflected the more modest revenues of the local rulers, as well as their more circumscribed status and aspirations.⁶⁷ By the early fourteenth century, the Ottomans were one of the principalities, based in the northwest corner of Anatolia.

The immediate context for the founding of the Haşşeki Sultan İmaret, and for this investigation of it, was the Ottoman empire of the mid-sixteenth century. After 250 years of dynastic continuity, the Ottoman state had grown from one among a cluster of Anatolian principalities to the premier Muslim state, a world power straddling Asia, Africa, and Europe. While the pace of conquest would diminish during his reign, Süleyman I (“the Lawgiver” among the Ottomans, “the Magnificent” in Christian Europe) still led successful offensive campaigns. The territorial gains, annual levies, and booty continued to fund large endowments supporting public benefit and social welfare, in addition to the principal expenditures on campaigns and the court.

Süleyman’s forty-six year rule (1520–1566) was also the period in which the huge territorial gains of his father, Selim I (1512–1520), were consolidated. Selim had added much of eastern Anatolia, western Iran, and all of the Arabic-speaking provinces comprising the former Mamluk empire to the Ottoman domains. The territories acquired doubled the size of the empire, made it strategically predominant in the Eastern Mediterranean, bolstered the imperial economy by adding agricultural resources and profitable trade routes, shifted the population balance to become emphatically Muslim, and placed the Ottomans in control of the holiest sites of Islam: Mecca and Medina, Jerusalem and Hebron.

Waqf-making by Süleyman and his household—his mother, wife, daughter and son-in-law—continued in by-now-familiar forms, aiming at a conventional variety of imperial purposes. These contributed to the physical, economic, and social well-being of Ottoman subjects, expanding religious, educational, and social services, as well as displaying dynastic power. They aimed also at affirming and increasing imperial prestige, emphasizing the strength of the empire to those living both inside and outside its domains. For Muslims everywhere, the endowments of Süleyman’s era served to enhance his position as premier ruler of the Muslim world and guardian of the Holy Cities. Süleyman was also characterized and presented as the model of the just ruler, codifier of imperial law (*kanun*) in harmony with the *shari‘a*. It was this identity which was most obviously promoted after about 1550.⁶⁸

Like their predecessors, the Ottomans continued to make waqfs in favor of religious and social services, although their preferred forms and objects of support changed to reflect the character of their enterprise and the availability of funds. Where the Ottomans differed from the Mamluks and Selçuks was in the matter of succession to the throne, and this had important implications for waqf administration. Ottoman succession went to one prince only, and for a long while from the late

fifteenth to the early seventeenth century, all other princes were eliminated. There was thus no challenge to the reigning sultan from within the family. This meant that Ottoman territory was never divided as a result of the death of the sultan, nor was succession the result of a contest between commanders. Thus, the ruler was not competing with the families of previous or future rulers to control the resources of their endowments. The endowments were part of the general capital of the entire family, and it behooved the reigning Ottoman to look after the waqfs of his ancestors since their condition was a reflection on him as well. At the same time, however, each sultan was in part a competitor with his predecessors in the contest to earn a reputation as a successful ruler, to leave his mark on the empire. This more subtle, ongoing rivalry also inspired waqf-making.

While in practical terms it was only the sultan, his household, and a few powerful and solvent individuals who could afford to endow large complexes, it would also have been unsuitable for others to set up anything but more modest imitations. Imperial waqfs were intended to be an expression of imperial beneficence and imperial capacity. Among members of his own household, the sultan could control this closely, since their endowments were made from properties deeded to them for this purpose. Among the notability, one assumes there were some self-imposed limits as well as the practical, financial ones.

There was, too, a crucial difference between the endowments of the imperial family and those of their viziers and other high-ranking officials. The officials, as private individuals, generally assigned the management of their waqfs to members of their families or households. Only when the family and household descendents were extinct did the management pass to some state official, often the holder of the highest-ranking position in the professional hierarchy to which the founder had belonged. Sultans and members of the imperial family, on the other hand, conferred the management of their endowments on Ottoman officials directly. There was no material benefit to the imperial family from the waqfs. Unlike other waqf founders and the sultans of other empires before them, the Ottoman dynasty benefited largely in non-material ways from their endowments. *Qurba*, prestige, legitimacy, and patronage were their rewards. The viziers and other officials, by retaining management in family hands, were more typical of most other waqf founders, where the endowment only came into "public" hands once the family was extinguished.⁶⁹

In the sixteenth century the imperial Ottoman endowments most often named as their managers a member of the Ottoman military-

administrative hierarchy, sometimes one of the ranking palace staff. The general inspector (*naẓır*) of the imperial waqfs was initially the chief white eunuch of the palace (*babüsse'adet ağası*). After 1591, this responsibility was taken over by the chief black eunuch (*darüsse'adet ağası*), who headed the eunuchs of the imperial harem. It was the *naẓır* who appointed the managers of the imperial endowments, and this authority carried with it enormous prestige, power, and the possibility of financial benefit.⁷⁰

Imperial waqf-making was part of the institutional canon of Ottoman imperial identity. The consolidation of Ottoman imperial identity was also reflected in the canonization of aesthetic forms. Easily recognizable, these aesthetic conventions were the material counterpart to the standard titulature employed to evoke the power and character of the sultan.⁷¹ They both reflected the melding of religious, spiritual, and imperial political elements in that identity and successfully announced the sovereignty of the sultan in his realms. The Süleymaniye complex (*külliyeye*) is perhaps the emblem of this phenomenon. Its domed prominence on the Istanbul skyline proclaimed Süleyman's stature to anyone in the city or approaching it. The complex included all the major components of such constructions: a mosque for prayer, colleges for teaching and study, a hospital for the physically and mentally ill, a public kitchen to feed people, tombs for the founder and his wife, together with commercial structures and agricultural properties to fund its operations.⁷²

The 'imaret endowed by Hurrem Sultan—the focus of this study—was a product of imperial Ottoman culture, yet it was established in Jerusalem, a provincial town. By the mid-sixteenth century, Jerusalem was enjoying some benefits from the Ottoman rule that began in 1516. In the broadest perspective, the city profited from the imposition of orderly rule, with a new imperial capital far to the north in Istanbul and the provincial capital in Damascus. Jerusalem was now part of the vast Ottoman economy, whose local impact included a relatively thriving and secure trading network, with increased attention and resources devoted to the pilgrimage caravans bound for Mecca and Medina. Muslim pilgrims sometimes detoured to Jerusalem on the way to or from the Hijaz or made a separate trip to the city. Christian and Jewish pilgrims came as well, and the fees paid on their entry to the city and the Church of the Holy Sepulcher contributed something to the city's income.⁷³

At the same time, Süleyman invested considerable money and energy in restoring the defense and water supply systems of Jerusalem. These improvements were supplemented by the indirect effects of the salaries paid to local labor and the purchases from local suppliers.

However, while the city benefited from these investments, the Ottomans could not alter its character. Basically, Jerusalem was a holy city, a destination for pilgrims. With little industry or economic advantage as counterweight to its location on a mountain at the edge of the desert, the city remained dependent for survival on the fees it could charge visitors and the money they spent on food, lodging, services, and souvenirs, as well as the generosity of patrons of all types.

A foundation like the *‘imaret* was intended to provide food as assistance to a variety of people. Like other beneficent endowments of the time, it was intended to aid, not to cure, the weak and impoverished among those who ate there, as well as to recompense the employees and to give strangers their due welcome. Unlike many large imperial complexes, the public kitchen was the principle feature of Hurrem’s complex. In this it also differed from the other endowments already extant in Jerusalem. Over hundreds of years, Muslim rulers had contributed mosques, colleges and sufi residences to the cityscape of Jerusalem. The Dome of the Rock and al-Aqṣā were the focal prayer sites, with the schools and residences ringing them on three sides around the perimeter of the *Ḥaram al-Sharif*. Prayer, the study of Qur’an, tradition, and law, and the hosting of pilgrims, sufis, and scholars were the chief activities supported by those who made endowments. Thus while Hurrem’s public kitchen was fairly typical of Ottoman endeavors, it was rather unique in Jerusalem. There were numerous waqfs which supported the distribution of food to students or sufis or guests. But at the time it was founded, there appears to have been only one such kitchen in operation in Jerusalem, and no other similar institutions are known to have been established subsequently.

The above sketch situates the Haṣṣeki Sultan *‘imaret* in the historical stream of waqf-making. By the time it was established in Jerusalem, the practice of waqf-making had long been embedded in Muslim culture, continued by Ottomans in the tradition of their Selçuk, Mamluk and Byzantine predecessors. Waqf-making was easily intelligible to the subjects of the empire, and the large Ottoman endowments were self-evident in the meaning they broadcast to those who encountered them. Hurrem’s endowment was thus part of an established culture of imperial beneficence, integral to the identity of the Ottoman empire and its rulers. The spectrum of possible motivations, together with the choice of waqf as a means to achieve or promote these aims, are inextricably part of this culture. By combining the attainment of individual goals, elite status aims, and social and economic relief into a single mechanism, waqfs became extremely powerful and popular instruments. The effects were not unlike those of some large philanthropic foundations today.