



**“The Legacy of Endowments in Higher Education: The Case of
AlQarawiyyin University and Merton College, Oxford”**

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i. **INTRODUCTION:**

The Economist magazine writes that, several centuries ago, cities like Baghdad, Damascus and Cairo took turns to race ahead of the western world. Among their many feats, they were recognized as beacons of learning, where education was further utilized as an essential, multidimensional building block for sustainable development.

Concurrently, Islam's holistic view of human development recognizes and emphasizes the central role of education and knowledge. The first verse of the Qur'an to be revealed to the Prophet Muhammad (PBUH) indicates the importance of education in Islam; the verse started with the word "Iqra", it is a command that means 'read' in Arabic, and that implies the concepts of 'learning', 'exploring' and 'seeking enlightenment' (Abuarqub). Therefore, the duty of seeking knowledge is obligatory for every Muslim. This required individual duty illustrates the concept of 'fard al-ayn'. This contrasts with 'fard al-kifaya', whereby the individual is not required to perform it as long as a sufficient number of community members fulfill it (Oxford Islamic Studies Online).

Knowledge is often traditionally sought through educational institutions, with the experience of many individuals extending to higher education. Despite the region's rich tradition and culture of learning and education, as well as the growth in the demand and supply of higher educational institutions, universities in the region are not as visible in the global university rankings such as the annual QS World University Rankings, due to the erosion of academic and institutional quality. Meanwhile, state budgets are being tightened. This poses a problem to the Middle East and North Africa (MENA) region, where nearly two-thirds of the people are under the age of 30, according to the World

Bank. In order to be reformed, waqf (pious endowments) could be applied to higher education institutions in the region, in effort to provide financial assistance to the community, reduce burden on public funds, as well as enable academic autonomy in effort to improve institutional quality.

Waqf is an Islamic endowment of property to be held in trust and used for a charitable or religious purpose; and it can refer to a Muslim religious or charitable foundation created by an endowed trust fund (Merriam-Webster). The long-standing tradition of establishing Waqf based institutions in Muslim societies was inspired by a well-known prophetic Ḥadīth: Abu Hurairah reported that Prophet Muhammad (PBUH) said, "When a man dies, his deeds come to an end except for three things: Sadaqah Jariyah (ceaseless charity), a knowledge which is beneficial, or a virtuous descendant who prays for him (for the deceased)." Here, waqf is recognized as ‘Sadaqah Jariyah’, which will be further explained in this paper. Shah highlights the significant role of such institutions by writing that, “Throughout the Islamic world, and across many centuries, waqf has allowed vital services — including education and healthcare — to be financed, organized and maintained, to the benefit of hundreds of thousands of individuals, Muslims and non-Muslims alike”. Among them are the numerous higher education institutions that are waqf-based such as AlQarawiyyin University in Morocco. Founded in 859 AD, AlQarawiyyin University is considered to be “the oldest existing, continually operating, and the first degree-awarding, educational institution in the world”, according to the UNESCO and the Guinness World Records. Its pioneering role facilitated cultural and academic exchange, and attracted scholars such as Al-Idrisi, Ibn

Khaldun, and Pope Sylvester II. In contrast, in modern times AlQarawiyyin has been absent from international rankings, such as the 2019 QS University Rankings.

In the west, the waqf operations were referred to as endowment, trust fund, foundation, and estate planning (Frumkin & AndreClark, 141-163). In fact, Waqf became a transnational phenomenon after it was arguably first adopted by western higher education institutions, such as Merton College, University of Oxford in 1264 (Monica M. Gaudiosi, 1255). In spreading, this practice facilitated centuries of scholarship and emphasized the role of education as a driver of economic progress. Across the centuries, this institution has graduated scholars such as T.S. Elliot and Frederick Soddy. As of 2019, Oxford University is ranked among the top five universities in the world, according to QS University Rankings.

This paper will compare the origins and influences of the waqf-based AlQarawiyyin University in Morocco, and its emulation by the endowment-based Merton College, Oxford in England. Despite the similarity in origins and the theory of Islamic law and trust law, the divergence in institutional quality can be attributed to incorporation, as well as financial and academic autonomy. Further, implications from the western universities case can be used as a basis for potential reform to higher educational institutions in the region. This would provide an alternative source of financing for higher education institutions in modern Islamic economies, as well as ensure sustainable and equitable social mobility opportunities.

ii. ISLAMIC CLASSIFICATION:

Waqf is the islamic term for pious endowments. The literal translation of waqf is ‘to hold’. This refers to the voluntary act of setting aside certain privately owned physical

assets by the waqif (endower) and preserving it for charitable purpose by providing perpetual and sustained flow of benefits to a specified group of beneficiaries or the community, with the generated revenue being spent for that purpose (Abdullah et. al, 715). According to the Hanafi school of law, one of the four Sunni schools of law, a waqf was "the detention of the corpus from the ownership of any person and the gift of its income or usufruct either presently or in the future, to some charitable purpose' (Gaudiosi,1233).

Despite the absence of direct reference to waqf in the Quran, the practices are attributed to Sunnah (the practices of Muhammad PBUH), as well as consensus among Islamic scholars. Such sources have provided the foundation for an enhanced understanding of the Institution of Waqf.

In his book, "Introduction to Islamic Microfinance", Obaidullah mentions that the institution of waqf draws inspiration from the spirit of giving contained in Quranic verses, such as, "You shall never attain piety/righteousness until you give from what you love" (3:92). This verse illustrates that one must spend their most precious possessions from their wealth to gain close proximity with Allah. Obaidullah notes that after the revelation of the aforementioned verse, a large number of companions of the Prophet (PBUH) began making awqaf of their best and most valuable properties (32).

More insight on waqf practices can be derived from Sunnah, primarily from hadiths- recollections of words and deeds of Prophet Muhammad (PBUH) and his companions. It was narrated from Abu Hurairah that the Messenger of Allah said: "When a man dies all his good deeds come to an end except three: Ongoing charity (Sadaqah Jariyah), beneficial knowledge and a righteous son who prays for him." Thus, waqf is

considered a form of perpetual charity as it continually gives out benefits to the people, which allows for it to enable continuous reward to the donor.

Further, Amr bin Al-Harith narrated: “The Prophet (PBUH) did not leave anything behind him after his death except a white mule, his arms and a piece of land which he left to be given in charity.” This hadith shows that Prophet Muhammad (PBUH) established awqaf himself, in this case by giving his land away to charity. He also advised his companions to establish them, such as the case of Uthman ibn Affan’s endowed well, known as the ‘Well of Rummat’. According to AlArabiya, it has been flowing with water for the past 1,400 years, providing perpetual benefit and service to the surrounding community, including its mosque, large farm housing palm trees, and a number of plants and flowers.

Across the centuries, awqaf expanded the scope of benevolence to cover all areas of social welfare even sectors, which many contemporary economists and political sociologists consider as part of the domain and responsibility of governments such as health, education and defense (Kahf).

Despite its presence before the advent of the Islamic religion, Shah highlights that, “Islam was the first religion to develop a comprehensive legal framework that promotes guides and fosters the development of the institution of endowments and charitable trusts.”

Three basic principles governed the creation and operation of the waqf, the trust was required to be irrevocable, perpetual, and inalienable (Abdullah et. al, 715). In addition, the property constituting the trust must itself be tangible and immobile and must

yield income (Guaidasso, 1236). The main agents involved were the waqif (endower), mutawalli (trustee), qadi (judge) and beneficiaries.

iii. ECONOMIC CLASSIFICATION:

The provision of endowment-based higher education institutions sheds light on the under provision of education as a public goods, and under consumption of higher education as a merit good.

In capitalist economies, the interaction of competitive market forces determine which transactions occur between consumers and producers, as it enables market participants to weigh the benefits and costs upon purchase or sale of goods and services. However, the full benefits and costs are not weighted into this decision making process, such as externalities. As such, the marginal social costs or benefits are not reflected fully. Externalities can be defined as the effect market transactions have on third parties, and can result from the under provision of public goods. They produce market failures, defined as the failure of markets to provide a socially efficient resource allocation.

Education could be classified as a public good. As mentioned, the under provision of public goods is a source of market failure. Public goods are those goods and services that are non-rival, i.e. its use by one person does not reduce its availability to be used by another; and non-excludable, i.e. individuals cannot be excluded from their use. They tend to be under-provided, as individuals are not charged for their use so they have an incentive to free ride when the good is provided privately.

Higher education could be classified as a merit good. Merit goods are those goods and services that the government feels that people will under-consume, and which ought to be subsidised or provided free at the point of use so that consumption does not depend

primarily on the ability to pay for the good or service. Society values merit goods and judges that people should have them regardless of their ability to pay. However, they are under consumed due to imperfect information regarding the long-term private and external benefits derived from education. Some of the positive externalities include improved human capital and productivity.

In considering the market for higher education, market failure is present in the form of positive externalities, where social benefit exceeds private benefit, when consumed and these 3rd party spillover benefits can have a significant effect on social welfare. This results with the under provision of education, in general, and under-consumption of higher education institutions, in specific, at the market equilibrium (Q_M), which is lesser than the social optimum quantity (Q^*), thus causing welfare loss. This is illustrated in Fig. 1, where the externality is demonstrated by the vertical distance between the market demand curve (i.e. the private marginal benefits curve) and the social marginal benefits curve, as marginal social benefits exceed private benefits.

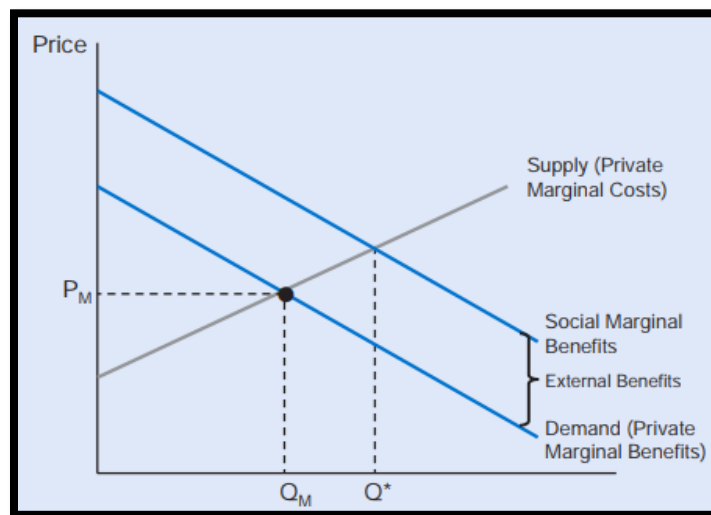


Fig.1 The Market showing Positive Externalities, with the x-axis labeled as quantity

(Harris and Roach, 42)

Additionally, the provision of independent endowment funds is a private solution to the problem of the under provision of public good, as it empowers local communities and individuals to efficiently provide and sustain public goods. This promotes feelings of altruism and curbs greed, as well as reduces burden on public funds by shifting it to private sector. According to Cizka, “the waqf system helps to empower the poor without increasing government expenditure. This helps to reduce budget deficits and the need for government borrowing, curb the crowding-out effect, reduce interest rates for servicing government debts, remove major impediments to private investment and growth, and solve the problem of undersupply of public goods.” Further, the waqf provides a minimum level of financial stability for a number of important social development areas, and provides a stabilizing effect on the economy. This contributes to role in 3rd sector, as they are provided voluntarily for the sake of getting closer to Allah, and replacement to failure of capitalism with rich-poor gap& income redistribution.

iv. DEVELOPMENT IN THE EAST: THE CASE OF ALQARAWIYYIN UNIVERSITY

The evolution of some aspects of Islamic civilizations can be attributed to the development of waqfs. According to Yedyllldlz, the waqf system flourished under the Ottoman Empire, whereby it provided cradle-to-grave welfare conditions:

“thanks to the prodigious development of the waqf institution, a person could be born in a house belonging to a waqf, sleep in a cradle of that waqf and fill up on its food, receive instruction through waqf-owned books, become a teacher in a waqf school, draw a waqf-financed salary, and, at his death, be placed in a waqf-

provided coffin for burial in a waqf cemetery. In short, it was possible to meet all one's needs through goods and services immobilized as waqf.”

The waqf system had developed numerous higher education institutions such as Al Quaraouiyine in Morocco, which is considered to be the oldest existing, continually operating, and the first degree-awarding, educational institution in the world, according to the Guinness World Records and the UNESCO. Here, it is considered to have been a university since its founding and therefore that it is the oldest university in the world.

Al Quaraouiyine was founded with an associated madrasa, in 859 by Fatima al-Fihri, who vowed to construction of a mosque and associated school for the benefit of her community using the amount she inherited from her father. In planning for AlQarawiyyin’s future sustenance, “She allocated a piece of land on the northern part of the mosque to be a waqaf, in order to sponsor water supply furnishing the mosque with carpets and lamps” (Abd al-Hadi al-Tazi).

The article, “Al-Qarawiyyin Mosque and University” recognized the university’s cultural and academic position development. It mentions, “The foundation of the mosque (al-Quarawiyyin) was to provide, in addition to a space for worship, a learning center for the Qayrawiyyin community. Like any mosque, Al-Qarawiyyin soon developed into a place for religious instruction and political discussion, gradually extending its education to all subjects, particularly the natural sciences.”

Throughout the centuries, AlQarawwiyyin acted as a hub for academic and cultural exchanges, with its golden era spanning across the 12th, 13th, 14th and 15th centuries. Thus, students traveled there from all over the world to study Islamic studies, astronomy, languages, and sciences, and included notable historical figures like Pope Sylvester II

who is widely credited with introducing Arabic numerals to the West following his scholarship at this university (Crowe et. al, 93). Additionally, due to the increasing number of applicants, the university had to introduce a vigorous selection system based on a number of conditions, including a completion of learning the whole Quran from primary Madrassas and a good knowledge of Arabic and of general sciences (Ramdane).

Further, the ancient library at Al-Qarawiyyin holds over 4,000 historical books and ancient texts written by notable and diverse scholars from across the centuries. According to the article entitled “The Fascinating History of the World's Oldest Library; Al-Qarawiyyin Library and University, Fez”, this includes a ninth-century copy of the Qur’an, escribed on camel skin, a manuscript of Ibn Khaldun’s Muqaddimah and a manuscript by Averroes on Islamic jurisprudence, and the original copy of Ibn Khaldun's book Al-Ibar.

Despite being established as a waqf institution, Al Qarawiyyin devolved into a state university during the 20th century. Its systematic destruction began with the colonial rule, as Morocco became a French protectorate in 1912, where the French administration implemented a number of structural reforms between 1914 and 1947, followed by post-colonial nationalization in 1947 and in 1963, it finally transformed into a university following a royal decree under the supervision of the ministry of education. The old madrasa was shut down and the new campus established at former French Army barracks; and in 1965 it was officially renamed “University of al-Karaouine” rather than simply “al-Karaouine.” Meanwhile, AlQarawiyyin witnessed an overall decline in enrollment as the Moroccan elite began to send its children instead to the new-found Western-style colleges and institutes elsewhere in the country (Lulat, 154-157).

This declining trend was further discussed by Hassan who argued that, “Over many centuries, the institution of Awqaf has been systematically destroyed by both the colonial rule, and later on, by post-colonial nationalization of Awqaf management. One reason behind the vengeance against the Awqaf institution was that religious education enjoyed major contributions, which was a cause of rebellion during colonial and post-colonial eras. This systematic destruction of Awqaf management has led to its present problems, like: a) Low credibility of management because of government involvement, b) Lack of research about the modernization of Awqaf as an Islamic institution, c) Lack of consensus among different schools of thought of Islam about Awqaf laws and their implications” (Hassan 270).

v. **DEVELOPMENT IN THE WEST: THE CASE OF MERTON COLLEGE, OXFORD**

The concept of endowment spread to other western-based universities, such as the Colleges at Oxford, which are eleemosynary corporations- a corporation focused on charity work (Acharya and Dimson).

According to Guaidasso, “Oxford University would seem to represent the quintessential English academic institution. Yet, in its early phases of development, Oxford may have owed much to the Islamic legal institution of waqf, charitable trust.” She continued to discuss the role of Islamic influence in the development of the English trust. She affirmed that, “This theory of Islamic influence, however, has received little attention from Western legal scholars, who instead have pursued other theories, based on Roman and Germanic law” (Guaidasso, 1232).

Walter de Merton, a thirteenth-century English clergyman and government servant, established Merton College, one of the oldest colleges at Oxford. He arguably learned about the trust when contacting with Crusaders and other visitors to the Middle East as a necessary part of his duties as Chancellor. He wanted to establish a university education for his nephews, so in 1262 de Merton obtained a license to vest certain tangible and immobile properties, such as land and buildings, for the support of university students. In 1274, the statutes allowed the academic community to govern itself becoming an incorporated college (Guaidasso, 1250).

Main donors come from the contributing alumni. The Oxford University Endowment Management (OUEM) then manages any endowed amount through investment activities. According to their website, “The Oxford Endowment Fund aims to preserve and grow the value of perpetuity capital, while providing a sustainable income stream for our investors’ charitable purposes”. The returns are then provided for the support of academic activities, including the provision of scholarship and research. On their website, Merton College outlines the performance of the endowment and its returns, “The College’s endowment grew by £14.8 million in the year 2016-17. Merton continued to enjoy good investment returns over the year with a return of 8.5% for 2016-17”.

In 2003, the UK government recognized the significant role of endowment in financing higher education after they mentioned that, “the way forward is through endowment. This will make the sector less dependent on any single source of funding” (Higher Education White Paper, 80).

When comparing both the eastern and western development of higher institutions, one scholar noted,

“Under both concepts, property is reserved, and its usufruct appropriated, for the benefit of specific individuals, or for a general charitable purpose; the corpus becomes inalienable; estates for life in favor of successive beneficiaries can be created . . . without regard to the law of inheritance or the rights of the heirs; and continuity is secured by the successive appointment of trustees or mutawallis.”

Further, the same actors are found in both institutions: the waqif (founder), mutawalli (trustee - overseer and administrator), qadi (judge – supervisor) and beneficiaries, both present and future (Guaidasso, 1246). Additionally, in both frameworks, the waqif (founder) set a relatively unspecified and flexible amount of income to be paid to beneficiaries (Guaidasso, 1252).

vi. IMPLICATIONS:

Higher education institutions can resort back to relying on endowments to sustain their operations as financially autonomous entities. Endowments provide a permanent and internal source of funding, as a safety net from the volatility of provision of government funds and student tuitions. Further, “In the event of budget reductions due to economic downturns or some other financial exigency, endowments provide institutions with a safety net to weather these financially traumatic periods” (Swensen). The financial and endowment investment management also plays a big role in its performance, “A well-managed endowment sends a message of planned long-term stability, fiscal responsibility and financial viability” (Newman, 4). With reference to Oxford University’s investment fund, newly established universities in the region can utilize Islamic financial methods, such as sukuk (Islamic bonds), with its management

outsourced to experts who operate within appropriate religious and legal framework, however this is beyond the scope of this paper. .

Effective endowments enable higher education institutions to achieve academic autonomy and improve the quality of education. This is facilitated through its financial autonomy, thereby providing independence from “economic, governmental and political forces” (Newman, 4). Further, Swensen found that, “endowment size correlates strongly with institutional quality” (17), after citing the study of major private research universities conducted by the Yale Investment Office.

In order to be effective, the government’s role in institutional operations must be limited to oversight, as well as the provision of appropriate governance and legal framework. To ensure this, endowment-based educational institutions need to be incorporated to operate autonomously in carrying out the objectives set by the Waqf’s creator. This could avoid potential corruption, mismanagement or even inefficient use of funds on the hand of incompetent and immoral government officials. Incorporation could also reduce information asymmetry between the waqif (founder) and the mutawalli (trustee). Islamic law required the mutawalli to strictly adhere to the founder's stipulations, implying an unincorporated waqf system, which lacked the flexibility and dynamism to adapt to changing economic conditions (Kuran, 843). In contrast, incorporation provided institutions with juristic personality, enabling the trustees to become an owner of the property, as well as flexibly adjust the statutes to adapt to changing circumstances, so long as the charitable purpose is fulfilled.

vii. CONCLUSION:

The Middle East region has witnessed the development of multiple educational structures; however several issues remain unresolved, mainly the lacking institutional quality. This arrives at a sharp contrast to the region's pioneering position in the establishment of degree-granting institutions, i.e. universities. Based on the discussions in this paper, such mismanagement and decline of academic quality can be attributed to the increasingly marginalized role of waqf.

To harness its potential in higher education, waqf for higher education institutions needs to be reformed and utilised as a highly effective platform for sustainable economic and social development. Such reform could potentially involve reinvigorating the waqf system so it can assume its original role in granting higher education institutions complete autonomy and self-governance. This would ensure the placement of a system of checks and balances, thereby preventing the institution from eventually devolving into a state-controlled and bureaucratized public institution, which reflects the views of the state.

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