

WAQF AND THE CIVIC ECONOMY

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The Importance of History

The Qurʾān commands us to take lesson or advice from the (hi)stories of people who have gone before us: “*There is certainly advice (‘ibrah) in their stories for people who have reason.*”¹ The great historian and socio-economist, Ibn Khaldūn, entitled his magnum opus, *Kitāb al-‘Ibar (The Book of Lessons)*.² In academia, we all know that knowing the text is not enough, for we must also know the social and historical context in which the text is embedded. Hence, it is simply not enough to know the formal, technical fiqh and legal rules governing *waqf*,³ but we have also to know both the concrete historical contexts in which those rules arose and were implemented as well as the present contemporary contexts in which those rules—and the axiological precepts underpinning them—are to be creatively revived and operationalized again.

A study of the history of *waqf* will show that there was a “constant dialogue between the letter of *waqf* law and socio-economic requirements.”⁴ And as

1. *Yūsuf*: 111.

2. Ibn Khaldun, *The Muqaddimah: An Introduction to History*, 3 vols. trans., Franz Rosenthal (Princeton, 1967); an online version, <http://marxistnkrumaistforum.files.wordpress.com/2013/11/the-muqaddimah.pdf>.

3. *Waqf* is the formal institution of charitable endowment in Islam.

4. Miriam Hoexter, *Endowments, Rulers and Community: Waqf al-Haramayn in*

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Dr. Aḥmad al-Qāsimī, a former *mudīr al-awqāf* (Director of Endowments) in Damascus, puts it, “the *waqf* was never the dead, unchangeable property described by the Orientalists as ‘*mainmorte*’.⁵ Rather, *waqf* was a vital, central institution in Islamic society which adapted to the needs of the community in each epoch.”⁶

The extent to which the current ongoing revival of *waqf* is to be a creative, anticipative, proactive and systemic one—and thereby preempt it from being hijacked and coopted into the reductionist Islamic finance and banking (IBF)⁷ framework—will largely depend on the extent of our critical understanding of *waqf* socio-legal history, and the way that history is embedded in the larger socio-economic history of Muslim societies. Many historical case-studies have shown that *waqf* was the operative economic dimension of civil society in Islam; i.e., *waqf* was how civil society was actually practiced in Islam.⁸ But what is meant by ‘civil society’?

What is ‘Civil Society’?

The word ‘civil’ and its various cognates, ‘city’, ‘citizen’, ‘civilization’, ‘civic’, etc., which are all derived from the Latin ‘*civitas*’, originally connote a settled community of a significance size facilitative of complex, organized political and socio-economic life. This is an essentially secular connotation without religious or transcendent undertones, since the basic underlying idea is that human beings are by nature rational, social and sensible enough to eventually come together and agree on some common good for mutual prosperity in the temporal life of this world. Thus the term ‘civil society’ simply refers to a group of people coming together on their own accord and shared sense of mutual responsibility and common values without or even despite the coercive power of the centralizing state or the seductive power of the profit-driven market.

In contrast, the corresponding term in Arabic, *al-mujtamaʿ al-madani*, (Malay, *masyarakat madani*) connotes, in addition, a religious, transcendent meaning, for the adjective *madani* comes from the noun *madīnah*, which literally means “the place where the religion is practiced.” For Muslims, this

Ottoman Algiers (Leiden: Brill, 1998), p. 141. An online version in pdf format is accessible at <http://marxistnkrumaistforum.files.wordpress.com/2013/11/the-muqaddimah.pdf>.

5. A French term, rooted in medieval church and fuedal history, which basically means “the incapacity of selling possessions or estates,” see, <http://en.wikipedia.org/wiki/Mortmain> and “Mortmain,” Catholic Encyclopedia (New York: Robert Appleton Company, 1913).
6. Cited in Hoexter, *Endowments, Rulers and Community*, p. 141n.127.
7. A very good critique of IBF is Mahmoud el-Gamal, *Islamic Finance: Law, Economics and Practice* (NY: Cambridge University Press, 2006).
8. See for instance, Miriam Hoexter et al, eds., *The Public Sphere in Muslim Societies* (SUNY, 2002), especially, pp. 65 ff.

meaning was most fully realised in the city of the Prophet—Allāh bless him and grant him peace—and subsequent generations would always look back to that time and that place and that society for eliciting intellectual and practical insights into the nature of the virtuous city (*al-madīnah al-fāḍilah*).⁹

Thus civil society must also mean for Muslims as referring to a society whose members, largely on their own accord, organize its private and public life according to Islamic religious norms which set the parameters of virtue and vice. In short, civil society in Islam is both a society of personal conscience and communal solidarity, in which its intellectual, legal and social leadership serves their concrete community rather than the abstract state.¹⁰ If, according to the working definition given by the Center for Civil Society at the London School of Economics, “civil society refers to the arena of uncoerced collective action around shared interests, purposes and values,”¹¹ involving institutional forms distinct from the impersonal, coercive and centralising state, then the institution of *waqf* has been and shall continue to be the cornerstone for establishing vibrant communities largely socio-economically autonomous, even aloof, from the centralised and centralising political apparatus of the impersonal, or even “impossible,”¹² state.

In other words, *waqf* allows creative space for communities to micro-manage their own socio-economic affairs in relative autonomy according to the divinely sanctioned ethical norms they believe in as a matter of individual, personal conscience, instead of surrendering their communal responsibility to the disembodied coercive state, which should instead, by virtue of its central authority, focus on establishing and nurturing the macro-framework

9. Syed Muhammad Naqib al-Attas, “Islam: The Concept of Religion and the Foundation of Ethics and Morality,” in his *Prolegomena to the Metaphysics of Islam: An Exposition of the Fundamental Elements of the Worldview of Islam* (Kuala Lumpur: ISTAC, 2001), p. 43n3; cf. Muhsin Mahdi, *Alfarabi and the Foundations of Islamic Political Philosophy* (Chicago: University of Chicago Press, 2001). Cf. The useful discussion in Muhammad Khalid Masud, “Civil Society in Islam,” <http://www.maruf.org/?p=57>. And for the development of law in such a society, see Yasin Dutton, *The Origins of Islamic Law: The Qurʾān, the Muwattaʾ and Madinan ʿAmal* (Curzon, 1999).

10. See, e.g., Yasin Dutton, *The Origins of Islamic Law: The Qurʾān, the Muwattaʾ and Madinan ʿAmal* (Curzon, 1999); Ovamir Anjum, *Politics, Law, and Community in Islamic Thought: The Taymiyyan Moment* (Cambridge: Cambridge University Press, 2012); cf. Wael Hallaq, *The Impossible State: Islam, Politics, and Modernity’s Moral Predicament* (Columbia University Press, 2012).

11. See its *Report on Activities, 2005-2006* at http://eprints.lse.ac.uk/29398/1/CCSRreport05_06.pdf.

12. Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity’s Moral Predicament* (New York: Columbia University Press, 2012).

for this communal responsibility to be realised to the fullest extent possible. Civil society as operationalised in Islamic civilizational history has allowed for the fruitful integration of the mosque and the market, of the private and the public, of the spiritual and the material, and of the individual and the communal.¹³ As a matter of fact, it can be said that civil society in Islam is a living, existential realization of the ethico-legal precept of *farḍ al-kifāyah*, or the duty of sufficing the community.¹⁴

Waqf and the Civic Economy

There has been much talk for some time both in popular and academic discourse about civil society and what it means in theory and in contemporary practice. Much detailed, useful research has also been done on various manifestations of civil society in the historical (and even pre-historical¹⁵) experience of diverse civilizations and cultures.¹⁶ In the modern context, discussions about civil society have also led to considerations of alternative socio-economic frameworks to the presently dominant neoliberal capitalistic set-up in which manipulated market forces and one-sided commercial exchange geared toward overly individualistic private gain are given undue preference over communal, non-market¹⁷ mechanisms of socio-economic solidarity.¹⁸

Waqf studies have consistently demonstrated that the Islamic economic system is inherently and self-consciously civil societal in nature, geared to socio-economic equity for the common good, whereby private interest (*maṣlahah nafsiyyah*) is seamlessly integrated into the larger public interest (*maṣlahah*

13. On the idea of the civil and the civic in the Islamic context, see the excellent analysis by Mohammed A. Bamyeh, "Civil Society and the Islamic Experience," in *ISIM Review*, no. 15 (Spring 2005), pp. 40-41; accessible online at: https://openaccess.leidenuniv.nl/bitstream/handle/1887/16962/ISIM_15_Civil_Society_and_the_Islamic_Experience.pdf?sequence=1.

14. Adi Setia, "Farḍ Kifāyah, Mu'amalah, and the Commonwealth: Reconnecting Economics and the Economy to Communities," in *Islamic Sciences* (Summer 2013), pp. 83-96.

15. Eg., Marshall Sahlins, *Stone Age Economics* (Aldine, 1974); also John Gowdy, ed., *Limited Wants, Unlimited Means: A Reader on Hunter-Gatherer Economics and the Environment* (Island Press, 1997).

16. Eg., the book series published by Tufts University Press, *Civil Society: Historical and Contemporary Perspectives*, <http://www.upne.com/series/CSS.html>.

17. Non-market is not anti-market; it is simply *outside* or autonomous of the market.

18. See Bruce R. Sievers, *Civil Society, Philanthropy, and the Fate of the Commons* (Tufts University Press, 2010).

‘āmmah) leading to what may be called an *economy of the common good*.¹⁹ Given that the dominant neoliberal capitalist system²⁰ now aggressively promoted throughout the world behind the slogan of globalization is systemically anti-civil societal in nature, current *waqf* discourse amongst Muslim intellectuals and activists dovetails very well with the growing discourse in the West on alternative economic paradigms that put people and communities and their ecosystems back into the center of socio-economic thinking and planning.²¹

I believe that *waqf* thinkers and activists should familiarize themselves with the thinking and with the thinkers and activists behind the rise of this new “common good” economic agenda²² in the West and find common ground with them, especially given the fact that the *waqf* system in history has also been cross-denominational and cross-cultural; *waqfs* have been set up by and for non-Muslims.²³

Given what we know about *waqf* and its operationalization in vibrant, cosmopolitan Islamic societies prior to the age of global European hegemony,²⁴ I believe the people now actively involved in the ongoing revivification and revitalization of *waqf* have to think carefully and systemically about the nature of the macro-economic system implied and entailed by the institution of *waqf* and in which it is to be embedded.

We can ask ourselves whether we want to take either a narrow or

19. See Adi Setia and Mahdi Lock, trans., *Right Livelihood and the Common Good: Three Classics from the Islamic Tradition* (Kuala Lumpur: IBFIM, 2013).

20. Islam is for capital without being capitalist, just as it is for the social without being socialist. This should be stated lest readers read this article as a diatribe against private capital and personal enterprise.

21. For the case of the economics of agriculture, see the important book by Thomas A. Lyson, *Civic Agriculture: Reconnecting Farm, Food, and Community* (Tufts University Press, 2004).

22. Such as Herman Daly and John B. Cobb Jr., *For The Common Good: Redirecting the Economy toward Community, the Environment, and a Sustainable Future* (Beacon Press, 1994); cf., “Can We Create an Economy for the Common Good,” in *The Guardian*, <http://www.theguardian.com/sustainable-business/values-led-business-morals-economy-common-good>. See also *Economy for the Common Good*, <https://www.ecogood.org/en>.

23. Paul Stibbard et al, “Understanding Waqf in the World of the Trust,” in *Trust and Trustees*, vol. 18 no. 8 (2012), pp. 785-810 (<http://beneficgroup.com/blog/wp-content/uploads/2012/09/Understanding-the-Waqf-in-the-World-of-the-Trust.pdf>); see also the good overview by Samiul Hasan, “Wakfs (Waqfs),” in *International Encyclopedia of Civil Society*, eds. Helmut K. Anheier et al (Springer, 2010), pp. 1630-1633, especially p. 1632.

24. Janet Abu-Lughod, *Before European Hegemony* (Oxford, 1991).

comprehensive view about *waqf*, namely: (i) does *waqf* serve merely as a superficial, formal legalistic alternative to the modern western secular institution of the charitable trust?; (ii) can *waqf* provide a systemic/structural alternative to neoliberal privatization²⁵?; or (iii) does *waqf* entail a macroeconomic framework called the gift or *civic economy*²⁶ which runs counter to the global dominance of neoliberal capitalism²⁷ lead by free floating, rootless transnational corporations largely disembedded from the livelihoods of local communities?

If we take the narrow view, then *waqf* is only of technical, legalistic interest, only a “hollow pragmatism,” a formal, operational variance, for the most part, to the secular charitable trust, which itself is largely an ad hoc appendage to an over-arching neoliberal macroeconomic framework having little or nothing to do with the ethos of autonomous, community-based philanthropy in which social welfare and communal solidarity are served rather than undermined by the (actually not-so-free) market.²⁸

If we take the comprehensive or holistic view then we will have to situate *waqf* within the larger context of integrative Islamic economic ethics and

25. For the case of Malaysia, see Jeff Tan, *Privatization in Malaysia: Regulation, Rent Seeking and Policy Failure* (Routledge, 2008); see also A. H. Schwartz, *The Politics of Greed* (Rowman and Littlefield, 2006); also, Nik Heynan et al, eds., *Neoliberal Environments: False Promises and Unnatural Consequences* (Routledge, 2007).

26. Marcello Palazzi et al, “Beyond Market and State: The ‘Civic’ Economy,” <http://www.progressiofoundation.org/documents/NewPCES1.pdf>. See also the book, *A Compendium for a Civic Economy: What the Big Society Should Learn from 25 Trailblazers* (London: 2011); http://library.uniteddiversity.coop/Money_and_Economics/Compendium_for_the_Civic_Economy.pdf.

27. In the context of a nation like Malaysia, economic neoliberal policies often take the form of what is called ‘crony capitalism’; see “Our Crony Capitalism Index,” in *The Economist*, March 15th 2014; <http://www.economist.com/news/international/21599041-countries-where-politically-connected-businessmen-are-most-likely-prosper-planet>.

28. In economic neoliberalism, charity is an afterthought, to be compelled by the state through taxes, or so-called CSR (corporate social responsibility) whereas in the Islamic Gift Economy, charity (or rather, being charitable) is salient and intrinsic in socio-economic exchange. This undermining of community happens when markets are manipulated to subvert community solidarity and cultural identity. For some good discussions, see Mark Martinez, *The Myths of the Free Market: The Role of the State in a Capitalist Economy* (Stirling, VA: Kumarian Press, 2009); and Kenneth Friedman, *Myth of the Free Market* (New York:Algora, 2003). Muslims will have to revisit the concept and practice of the market, as well as globalization in Islamic history, but that’s another story.

mu'āmalah (science of transactions).²⁹ In other words, we have to adopt a holistic vision of *waqf* as an integral part of a comprehensive alternative socio-economic package; we cannot take *waqf* without taking along the total package in which it is inextricably embedded, just as we cannot separate the frog from the pond. If we do that, then we reduce *waqf* to a mere technical, legalistic form without realising its profound moral and socio-economic substance, and hence the change from the secular charitable trust to Islamic *waqf* will largely just be a change in name and not in content, in which case we shall be repeating the mistake of Islamic Banking and Finance (IBF) in its systemic preference for the legalistic contractual forms over the substance of socio-economic equity.³⁰ We are not saying that the form is not important, for indeed it is; but we are saying that the legalistic form must always be in the service of and expressive of the underlying socio-economic ethico-moral objectives. In other words, formal *Fiqh* serves the substantive *Ādāb* and *Maqāsid* of the *Shari'ah*.

In talking about the socioeconomic substance of *waqf*, I think we may do well to revisit briefly the meaning of the term 'economy'. The word, of Greek provenance, originally means household management (*tadbīr al-manzil*), or the management of the family, as distinct from ethics (personal management=*akhlaq/tadbīr al-sakhṣ/ tadbīr al-naḥs*) and politics (management of the city=*siyāsah/tadbīr al-madīnah*).

In household management, the over-riding concern of the head of the household is the prudent management or stewardship of the resources and income and expenditure of the household so as to provide for the needs of all members, humans and non-humans, of the household. In a typical household, relatively more concern is devoted to the care and provision of the needs of the disabled and the weak (babies, children, the elderly, the handicapped), while the less dependent and independent members (grown-ups and the able bodied) are pretty much left alone to fend for themselves and even contribute to the overall economy and general well-being of the household.

Now, the city and the country as a whole can be seen as an extended

29. See Adi Setia, "Mu'āmalah and the Revival of the Islamic Gift Economy," in *Islam and Science* (Summer 2011); idem, "The Islamic Gift Economy: A Brief Conceptual Outline," Waqf Academy, <http://waqfacademy.org/wp-content/uploads/2013/03/Dr.-Adi-Setia-AS.-Date.-IGE.-A-brief-conceptual-outline.-Malaysia.-INSPEM.pdf>; and idem, "Waqf and the Revival of the Islamic Gift Economy" Waqf Academy, http://waqfacademy.org/wp-content/uploads/2013/03/Dr.-Adi-Setia-AS.-12_12_2010.-WAQF-The-Revival-of-the-IGE.-Singapore.-Dr.-Adi-Setia.pdf.

30. On IBF's preference for legalistic contractual forms over socioeconomic substance see the careful discussion in Mahmoud A. El-Gamal, *Islamic Finance: Law, Economics, and Practice* (Cambridge: Cambridge University Press, 2009).

household in which the head is called the government, and the same principle of relatively more concern for the weak (i.e., the poor and the disadvantaged of the population) applies here as well too. Through *waqf* we have a largely decentralised, community-based economic system, called the ‘market-welfare’³¹ system, whose prime concern was ultimately the systemic provisioning out of private commercial surplus for public services and for the needs of the poor and disadvantaged, thus realising the true purpose of ‘economics’ as a science, and of the true meaning of the ‘economy’ as an extended household, which ultimately entails stewardship of the earth as a whole as the over-arching *macro-household*.³²

Conclusion

In my view, ulama, fuqaha, muftis, academicians, researchers, entrepreneurs, thinkers and activists involved in the current global revival of *waqf* should be self-consciously aware of this original meaning and purpose of economics and the economy, *namely an economics and an economy of the common good*. This awareness would lead to a systemic re-definition of economics away from the standard neoliberal capitalistic one of scarce natural resources chasing after unlimited human wants,³³ which, needless to say, is a contradiction in terms; for how can what is scarce chase after and catch up with what is unlimited? This conventional, dogmatic and untenable definition in effect renders economics not only a “dismal” but also an *impossible science*. Rather, instead of scarcity we shall have abundance,³⁴ and instead of unlimited wants, we shall have

31. Relli Shechter, “Market Welfare in the Early-Modern Ottoman Economy: A Historiographic Overview with Many Questions,” in *Journal of the Economic and Social History of the Orient*, 48: 2 (2005), 253-276. He says (on page 254): “By welfare through the market (or market-welfare), I mean an economic system that partially stifled competition (and efficiency/growth) for the sake of economic stability and a certain level of equity for those established within its boundaries.”

32. Further discussion in Yassine Essid, *A Critique of the Origins of Islamic Economic Thought* (Leiden: Brill, 1995); Adi Setia, “Ja‘far ibn ‘Alī al-Dimashqī on Community, Money, and Prudent Management in Trading and Spending: Four Excerpts from His *Kitāb al-Ishārat ilā Maḥāsīn al-Tijārah*,” in *Islam and Science* (Summer 2011), 11-32.

33. This basic definition, which is focused on the concept of scarcity, and expressed in various formulations by subsequent economists has been influential since Lionel Robbins proposed it in 1932; see Lionel Robbins, *An Essay on the Nature and Significance of Economic Science* (London: Macmillan, 1932), p. 15. For a good critique, see Charles Eisenstein, “Permaculture and the Myth of Scarcity” (<http://charleseisenstein.net/permaculture-and-the-myth-of-scarcity/>).

34. For a good elaboration, see Wolfgang Hoeschele, *The Economics of Abundance: A Political Economy of Freedom, Equity and Sustainability* (Gower, 2010).

the satisfaction of living within our means, thus the alternative definition of economics proposed here:

Economics is the study of the provisioning and sharing, by mutual giving and receiving,³⁵ of natural and cultural abundance for realising material and spiritual well-being.

This definition is conceptually rooted and derived from classical Islamic philosophical, ethical and legal thinking about the economic life—charity, trade, commerce, contractual transactions, earning and livelihoods—all within a framework of the imperative of symbiosis between individual good and common good, or *the cultivation of right livelihood for the common good*. This classical thinking is well summarized by Imām al-Ghazālī in his *Kitāb Ādāb al-Kasb wal-Ma‘āsh* (recently translated as *The Book of the Proprieties of Earning and Living*).³⁶ It is interesting to note in this regard that the classical Islamic understanding of economics and the economy outlined above dovetails very well with the growing concern in the West for re-embedding the market into a transcendent ethical framework, as evident in the work of E. F. Schumacher, *Small is Beautiful*,³⁷ and lately and most notably, Charles Eisenstein, *Sacred Economy*.³⁸

35. Even market exchange is, from the Islamic ethico-legal point of view or analysis, is mutual giving and receiving of beneficial goods and services of relevance and value (the very essence of a ‘gift’, but in this case with consideration).

36. Trans., Adi Setia (Kuala Lumpur: IBFIM, 2013).

37. Harper, 1989: http://sciencepolicy.colorado.edu/students/envs_5110/small_is_beautiful.pdf.

38. *Sacred Economy: Money, Gift and Society in the Age of Transition* Evolver, 2011: <http://sacred-economics.com/wp-content/uploads/2012/01/sacred-economics-book-text.pdf>.