

PHILANTHROPY IN TURKEY:

CITIZENS, FOUNDATIONS AND THE PURSUIT OF SOCIAL JUSTICE

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Economic Dimensions of Foundations in the Ottoman Era

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INTRODUCTION

Throughout history, philanthropy has taken on many different forms and functions, reflecting the economic and political fabric as well as the value systems of societies, all of which reveal differing motivations and types of philanthropy. From a historical perspective, one may say that philanthropy played a role in economic development, through embodying a form of reduction in the income gap between rich and the poor. In this sense, philanthropy can be taken to mean policies and non-profit institutions designed to eradicate poverty, to encourage voluntary transfer of wealth from the rich to the poor and to enhance vertical social/economic mobility. In the Islamic world, and more specifically in the Ottoman realms, the foundation was the most important institution to serve these ends. This is because the bulk of the expenses for health and education, the most important ingredients of human capital, was financed by the foundations. Indeed, throughout Islamic history foundations organized and financed schools, universities, hospitals and public kitchens as well as innumerable other services that contribute to economic development.

The contribution of foundations to education and health must be re-considered within the framework of the latest research. Research covering 192 modern countries has indicated that human and social capital explain no less than 64% of growth performance. By contrast, physical capital - machinery and infrastructure- explain only 16% of growth. More specifically, global

estimates show that a 1% increase in the share of the labor force with secondary education, is associated with a 6 to 15% increase in the share of income received by the poorest 40%. Thus, education contributes not only to economic growth, but also to increasing the share of the poorest within the national income (UNDP, 2002:7). Assuming that the role of human and social capital in explaining growth was also significant in history, we reach the conclusion that investment in health and education must have been of crucial importance in the historical economic growth of societies as well. The importance of the foundation system lies precisely here because throughout history it was the foundation system which provided education and health in islamic countries.

The developments of the 19th and 20th centuries due to centralization weakened the foundation system and were therefore also detrimental to the provision of these services in the Islamic world. Today though, one can argue that at the very least, the foundation system is needed to supplement state provided education and health sectors. The most obvious evidence to support this argument can be found in certain countries where some of the best universities in the world have been established by philanthropists and are organized and financed as foundation-like institutions. This is also the case in Turkey, where recently excellent quality foundation universities have been founded and contribute significantly to the cause of education, and hence to economic development.

FROM A HISTORICAL PERSPECTIVE, ONE MAY SAY THAT PHILANTHROPY PLAYED A ROLE IN ECONOMIC DEVELOPMENT, THROUGH EMBODYING A FORM OF REDUCTION IN THE INCOME GAP BETWEEN THE RICH AND THE POOR.

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*¹ In addition to the Roman/
Byzantine, even older civilizations
such as ancient Mesopotamia
and Greece as well as the Sasanid
Empire have also been considered
as plausible sources of influence
(Çizakça, 2000: 5).*

I. ORIGINS

Philanthropy in modern Turkey, has been shaped by at least three major traditions. Chronologically, we encounter first the Roman/Byzantine influence (Duncan-Jones, 1982). But a thorough comparison between the Roman/Byzantine and Ottoman/Turkish foundations has not yet been conducted.¹ The second tradition is the Ottoman application, which in turn, has been influenced primarily by the basic principles of Islam and Islamic law. After the “enlightenment” and the French revolution, the third powerful influence came from the West.

We cannot consider these traditions as totally independent from each other, on the contrary, one can observe striking continuities and influences. For instance, while the Roman/Byzantine traditions have influenced Islam, Islam in its turn, has affected the modern West (Çizakça, 2000: 8-15). When the West gained supremacy in the world during the 18th-20th centuries, Western policies and institutions started to influence Ottoman philanthropy.

But the West did not have a uniform philanthropic tradition either. While Anglo-Saxon and particularly the American philanthropy were quite liberal, the French tended to eliminate all “intermediate institutions”, among them the foundations. In the period from the 18th to the early 20th century French policies towards foundations tended towards hostility. Of these different Western traditions, it was the French one which had the greatest impact upon the Ottoman philanthropy.

The French influence was reflected upon the Ottoman Empire as an increasing centralization of the foundation system. The dominant feature of the 19th-20th centuries in Ottoman philanthropy was the gradual but definitive replacement of the voluntary foundation sector by

state provided services, a trend which took place in many countries at the time. One impact of the universal growth of the ‘welfare state’ in the case of Turkey is that Turkish citizens have placed the responsibility for social welfare on the state system. What room this leaves for private initiative is not entirely clear, but some clues do emerge from the study conducted by Ali Çarkoğlu.

This study examines philanthropy as applied by the Ottomans from the early 14th to the 20th centuries and aims to explain how the basic traits of modern Turkish philanthropy have been shaped by this six centuries’ of this practice.

II. THE FOUNDATION SYSTEM

Throughout the Ottoman realms, from the Balkans to the Yemen, the foundation, was without any doubt, the most important philanthropic institution. Barkan and Ayverdi inform us that in the year 1546 there were 2,515 foundations in Istanbul alone (1970). Between 1718 and 1800 a total of 687 foundations were established in Aleppo (modern Syria). There is definitive evidence that foundations flourished not only in the Ottoman Empire but throughout the Islamic world from the Atlantic to the Pacific, more specifically, from Morocco and Algiers to India, even to faraway Malaysia and Indonesia (Kogelman, 1999; Hoexter, 1998; Çizakça, 2000: 24, 60-69, 167).

In addition to the improvement of human capital, discussed above, foundations also fulfilled other needs also. Indeed, it was thanks to the foundations that violations of property rights by a powerful state were avoided; magnificent architectural heritage of Islamic civilization was financed and maintained through the centuries; urban districts could cope with the not too infrequent crushing tax burden imposed by a desperate state; excessive fragmentation

of land could be avoided; old age and disability pensions were provided; in an age when insurance as an institution was unknown, rudimentary insurance for the members of a guild or an urban district was provided; infrastructure projects such as bridges, roads, ports, lighthouses, libraries, water conduits, aqueducts, public fountains and pavements were built and maintained; in short practically all the services one can expect to have in a civilized society, save defense, were financed, organized, built and maintained by this system. The foundations, actually, even aided the defense effort by building and maintaining urban walls and fortresses. Finally, it was through the foundations and the services they provided that Islam could spread first in Anatolia and then in the Balkans. Foundation ships even made the pilgrimage possible by providing a regular transport of the Egyptian grain from Suez to Mecca's port Jeddah (Çizakça, 2000; Faroqhi, 1995).

The fact that in our times most of these services are provided exclusively by the state makes it difficult for us to comprehend the enormous variety of the services provided by the foundation system. But two things must be taken into consideration here. First, during the classical age of the Ottoman Empire, the state and the foundation sector cooperated with each other. This cooperation took the form of tax exemptions as well as direct financial support provided by the state. There is for instance definitive evidence that the Ottoman cash foundations were exempt from taxation. Moreover, it is well known that the Ottoman state channeled substantial revenues to the foundation sector. This was done by earmarking revenues of certain tax-farms, mukataas, for the foundations, particularly the so-called sultanic foundations, i.e., those established by the sultans and their family members,

fulfilling public policy goals. But it should be noted that the state funds thus channeled were entrusted to the foundation managers. That is to say, the state was not directly involved in the management of foundations until the 19th century, when under Abdulhamid II, Ottoman philanthropy was transformed and direct giving by the sultan began to dominate (Özbek, 2002). Second, if such a huge variety of social services were financed, organized and maintained by the foundation sector this was in part due to the decentralized decision making capability of the foundations. We will have more to say on this below.

Just what was a foundation and how did it function? Every foundation has three elements: a donation (usually made by a wealthy individual), a regular and sustained long term revenue generated by this donation and finally a specific purpose, which could be in any one of the above mentioned areas, from health and education to municipal services. Thus, every foundation involves a substantial voluntary transfer of wealth from an individual to a public purpose. In history, when a wealthy individual observed a pressing need in his immediate surroundings, he established a foundation to deal with that problem, which allowed for a form of decentralized decision making. Such decisions were taken by individuals closer to the actual problems and could be immediately implemented with a simple authorization by the local judge. The decentralized decision making capability of the foundations may have enabled them to improve local conditions much faster than the bureaucratic central authority.

This flexibility in decision making may have been undermined though by the fact that the conditions laid down by the founder were considered to be absolute and very difficult to change, a concept enshrined in Islamic law. The founders

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were able to determine the rules, which stayed in place even after they passed away, with the result that trustees in later centuries, who had to cope with very different problems, were powerless to change the initial rules laid down by the original founders.²

Wealthy Ottomans established foundations primarily with a religious motivation. This motivation probably originates in a statement (hadis) by Prophet Muhammad and is known as sawab ba'd al-wafat. Accordingly, it is possible for a Muslim to gain virtue even after death if he accomplishes three things in this life: knowledge from which people benefit; a pious offspring who prays after him and recurring charity. It has been argued that the foundation combines all these three conditions (Çizakça, 2000: 6). Consequently, establishing a foundation was considered a means to obtain salvation in the hereafter and it was this religious motive, which prompted Muslims to establish so many different foundations in response to a bewildering variety of social needs observed locally.

Another important motive for the establishment of a foundation was to protect property rights. During the classical era the Ottoman elite, did not enjoy full property rights and faced the danger of confiscation. Confiscation by the state was outlawed only with the Tanzimat reforms during the 1830s. But until then, a member of the ruling elite could only protect his property by transforming it into a foundation, which was considered to belong to God. Therefore, provided the endowed asset was indisputably private property,³ it could not be confiscated. Finally, to gain social prestige was also an important motive.

There are several categorizations of foundations. One of these pertains to the type of the donation, i.e., whether the

corpus of the foundation is in the form of real estate or cash. The former is quite simple and involves the donation of a rent generating real estate. The annual rent generated by the endowed property finances the specific purpose of the real estate foundation. Such a foundation with a real estate endowment generating substantial annual revenue could go on functioning for centuries.

It was possible to establish a foundation with purely cash capital as well. Such foundations were known as cash foundations or awqaf al-nukud, which were very popular in the Ottoman realms. In this case, the cash donated was invested and the revenue generated was channeled to the specific purpose of the foundation. Part of the annual revenue was added to the original capital so as to protect it against inflation. It has been observed that about 20% of the cash foundations of Bursa survived for more than a century (Çizakça, 1996: 132). It would be interesting to analyze the relative resilience of cash foundations with respect to real estate foundations but such a research has not been attempted yet.

Another categorization pertains to the purpose of foundation, while some aimed at supporting a family through generations others provided a public service. The latter type was often financially supported by the state, which channeled tax revenues. Thus, the boundaries between private and public philanthropy were not always clear cut.

Still another categorization pertains to the management, that is to say, whether the management function is fulfilled by the original founder and his descendents (mülhak) or by the state (mazbut). The latter pertains to those foundations whose founders and trustees have perished and the foundation has been taken over and managed by the state. Most of the Ottoman

² The late Ömer L. Barkan has expressed his doubts on this rigidity some 40 years ago. As he has suggested, unless the actual foundation accounts are carefully examined over the long term, any argument on the rigidity (and information asymmetry) must be considered as a mere hypothesis (1964: 238).

³ Reference is made here to some real estate foundations. If the corpus was arable land, the legitimacy of such a foundation would be in doubt. This is because the Ottoman miri system, considered all arable land as state property.

foundations surviving in the republican Turkey are of the latter type. Among these the non-Muslim foundations constitute still another category: In 1974 many properties of these foundations have been taken over by the General Directorate of Foundations leading to ongoing litigation between these foundations and the General Directorate of Foundations (GDF) (Reyna and Zonana, 2003).

A. Cash Foundations

Probably the most important one of these categories pertains to the cash foundations. Establishment and popular diffusion of the cash foundations was not without problems within the Ottoman Empire. A powerful conservative opposition against these foundations did materialize on several grounds. Suffice it to say that the debate lasted for more than a century and approved by the fetva of Şeyhülislam Ebussuud and confirmed by the orders of the various Ottoman sultans, cash foundations flourished despite the opposition (Barkan-Ayverdi, 1970). The survival of the cash foundations in the Ottoman Empire led to their adoption and emulation elsewhere in the Islamic world. Led by the Indian Muslims, many other Islamic countries today such as Pakistan, Iran, Egypt and Lebanon have declared them legal. Even in far away Malaysia, it is possible to establish foundations with cash funds and bank accounts (Çizakça, 2000).

A cash foundation functioned as follows: the foundation was established when a well-to-do person endowed cash for a certain purpose and had this registered by a local judge. The endowed cash would then be lent as credit to a number of borrowers, who had to pledge their homes as collateral. Focusing on any one of these borrowers for clarity, we note that the ownership of the borrower's house was thus transferred to the cash foundation temporarily.

When the borrower paid back his debt, the ownership reverted back to him. The standard procedure was that the borrower asked the foundation for a permission to go on living in his house until he paid back his debt. The foundation routinely permitted this on the condition that the borrower paid the foundation a rent determined by the market. This rent constituted the foundation's profit and usually fluctuated between 9-12%. The exact nature of this rent from the perspective of Islamic jurisprudence is still debated (Çizakça, 1993: 27-28).

It has been argued that these foundations provided a pre-modern banking system in the Ottoman Empire (Deguilhem, 2004: 89). Yet, the Ottoman cash foundations could not evolve into the powerful deposit banks as their European counter parts, the Monti di Pieta, were able to do. This failure is due to the stringent prohibition of interest in Islam (Çizakça, 2000). As we have just seen, the Ottoman cash foundations were able to circumvent the interest prohibition on the asset side, i.e., when they provided credit to borrowers. But they were not able to do so on the liability side, i.e., when they obtained their capital. Put differently, the capital of a cash foundation was usually provided by a single person. By contrast, the Monti di Pieta were able to avoid the prohibition on both sides and could collect funds from thousands of depositors thus enlarging their capital as well as their services. Thus, this "pre-modern banking system", which the Ottoman cash foundations provided, had no chance to evolve into the modern deposit banking due to religious constraints.

Another "failure" of the Ottoman cash foundations concerns their investment portfolio. It has been argued that due to the risk averseness of their founders, these foundations provided only consumption credit against rock solid

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collateral (Çizakça, 2000; Özcan, 2003). However, recently Suraiya Faroqhi has announced that she has found reference in the Venetian archives to the Bosnian cash foundations, which provided substantial commercial credit to the Bosnian merchants involved in trade with Venice (Fabris, 1994). Thus, the Ottoman cash foundations appear to have been involved in financing the entrepreneurs centuries ago, heralding the much more sophisticated such relations that appeared after the 1967 law in modern Turkey.

Whether invested in the form of consumption or entrepreneurial credit, the returns from such investments of the foundation capital were spent for the original purpose of the foundation. We have already noted above that foundations had been established for a bewildering variety of purposes. Actually, based upon the so-called foundation tahrir defterleri (old foundation record books), it should be possible to observe the changes in social values over the long term. Indeed, we can take a city and by studying the changing purposes of the foundations founded in that city we can ascertain how the preferences of the residents of that city changed over the long term.⁴ An initial attempt along these lines has already been made and revealed some striking results (Çizakça, 1994). It has been shown that whereas 40% of the total expenditure of the Bursa cash foundations was allocated to education in 1585, this percentage was reduced to only 7% some three centuries later in 1823. The sharpest decline occurred in the period 1585-1667. It seems the funds were channeled to food support for the poor. Indeed, whereas only a marginal percentage of the total foundation expenditure in Bursa was earmarked for food support for the poor in 1667, this ratio increased to 20% in 1823 (Çizakça, 1994: 64-68). While these comparisons are interesting on their own, we must be

aware that they reflect a change in social values only in Bursa. Before we reach to more general conclusions, such dynamic long-term analysis must be made also for other Ottoman cities. But even this early quantitative data confirms the importance of the cash foundations to economic development since education and food for the poor are essential elements for growth and stability.

B. Real Estate Foundations

The real estate foundations functioned in a simpler manner. They were either endowed in urban areas, where their capital would be in the form of shops, bath-houses or other rent yielding urban property, or in rural areas in which case their capital would be in the form of cultivable land. In the latter case, the land in question would be managed through share-cropping.

Frequent fires or devastating earthquakes constituted a serious danger for urban real estate foundations. When that happened, and the rent generating real estate capital of the foundation was destroyed, the foundation simply failed to function. That is, deprived of its revenue, it could not continue to support the charity for which it had been endowed. The solution found was the icareteyn. The word icareteyn simply means double rent. In this system, in case of a disaster, the tenant pays a large lump sum payment, mu'accele, sufficient to restore the building and at the same time continues to pay the foundation its regular annual rent. In return, he is permitted to rent the building on long term basis, icâre-i tavîle (Kreiser, 1986: 220).

As for the rural foundations, the most serious problem they faced was one of legitimacy. As it is well known, *conditio sine qua non* for any foundation is that its original capital must be privately owned. In the Ottoman Empire, where 90% of all arable lands were placed under

⁴ We do not mean here a change in the original purpose of a foundation. Such changes were possible but difficult to implement in practice and original purpose of a foundation usually remained fixed even in the long run. Therefore, we refer here to the changing ratio of aggregate expenditure on a specific purpose to total expenditure of all foundations in a city. Thus we take into consideration the purposes for which new foundations were established. For the complicated legal procedure to change the original purpose of a foundation see; Akgündüz, 1988: 291-296.

state control, this obviously constituted a difficult problem. Because, strictly speaking, land that is owned by the state could not be endowed by private individuals as foundation. This brings us directly to the question of how the Ottoman sultans, could revoke rural foundations. These rulers could do so by basing their actions on the principle of inalienability of the state's ownership of land. Since, with the ownership firmly in the state's hands, the landlord who possessed the land did not actually own it, he had no right to endow it in the first place. Such endowments were permitted only exceptionally and subject to the Sultan's approval. In such cases it was not the ownership of the land, which remained firmly in the state's hands, but rather, the tax revenue generated by it that was endowed. That is to say, instead of collecting the taxes payable by the peasantry, himself, the Sultan permitted this revenue to be endowed. Since this is not the usual method of establishing a foundation, such foundations were known as *unsound*, *gayr-i sahih*, or *irsadî* (Akgündüz, 1988: 424).

As a result of these legal complexities, which allowed different interpretations, throughout Islamic history we have waves of centralizations followed by restorations of the foundations. For instance, Caliph Al-Mu'izz's efforts of centralization/confiscation of *unsound* foundations were thwarted by Salahaddin Ayyubid. It is also well known that more than half a millennium later the Ottoman Sultan Mehmet II's similar efforts in centralization were also thwarted by his successor Bayezid II. In short, until the nineteenth century, centralization policies were often followed by decentralization. What makes the nineteenth and twentieth century centralizations unique is the fact that they proved to be lasting. Since most of the modern states of the Islamic world did not reverse these policies

during the twentieth century, foundation systems in the Islamic world generally remain centralized and state controlled. Centralization proved to be the first step towards the dismantling of the traditional foundation system as can best be observed in Turkey.

It is appropriate at this point to explain why the centralization process of the nineteenth and twentieth centuries proved to be lasting. To start with, the nature of state had changed in the Islamic world. If we focus on the Ottoman Empire, recent research has revealed that the Ottoman state had gone through a process of transformation: whereas the pre-eighteenth century Ottoman state was "accommodative" of the conflicting rival-intermediate groups and institutions and tried to play a "redistributive" function, massive inter-state competition had transformed the nineteenth century Ottoman state into a totally different dimension. The state had now acquired its own *raison d'être* and ended up being far less tolerant and accommodative of the rival- intermediate groups and institutions. This modern Ottoman state was now above all these groups and institutions and did not hesitate to eliminate them if it suited its purpose.

The nineteenth century onslaught on the foundations differs from the earlier ones in that whereas foundations were originally among the rival- intermediate groups, which were occasionally accommodated by the state, hence the cycles of centralization-decentralization observed above, in the nineteenth century, together with other groups and institutions they were totally subjugated to the will of the central state (Islamoglu, 1998). Consequently, the nineteenth century centralization was not followed by another cycle of decentralization. Moreover, the enormous estates controlled by the foundations must have

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THE OTTOMAN STATE WAS UNDER PRESSURE FROM TWO DIFFERENT DIRECTIONS: ON THE ONE HAND, CRUSHED BY THE FIERCE INTER-STATE COMPETITION AND ITS EVER GROWING FINANCIAL DEMANDS, IT WAS DESPERATE FOR REVENUE, AND ON THE OTHER, THE WEST WAS APPLYING RELENTLESS PRESSURE TO IMPOSE ITS OWN VALUES THAT DEVELOPED BEFORE AND DURING THE FRENCH REVOLUTION. OTTOMAN SULTANS COULD NOT RESIST THE PRESSURE AND BEGAN A POLICY OF CENTRALIZATION.

provoked the state that desperately needed new funds to finance its increasingly expensive wars.

The transformation described above was not unique to the Ottoman Empire. Ever since the 16th century, European states have also been trying to control their charitable foundations. For an Ottoman Empire obliged to westernize rapidly for its survival, it would have been very difficult not to be affected by Western trends.

This was, after all, the era of Western imperialism and the Great Powers were determined to impose their own systems on the vast regions that they wished to control. It is well known that the West had already attacked its own system of religious charity. Thus, the West was not applying double standards: it was merely trying to project its own values on the Islamic world (Çizakça, 2000: 76-78).

More importantly, Western colonialists wanted to acquire land in the countries that they controlled. Since foundation land could not be sold or acquired, this institution surfaced as the greatest impediment to colonial ambitions.

Western pressure, strongly felt during the treaties of Paris, London and Berlin, was expressed bluntly already in 1860 in response to the Ottoman government's request for a loan after the Crimean War. Among the conditions imposed by the British government the following are directly related to the argument made here:

- a. Foreign citizens should be granted the right to possess state owned lands under the same conditions as Ottoman subjects.
- b. The foundation system should be abolished

This demand was renewed as a combined Anglo-French position in 1867 (Öztürk, 1995 b: 192, fn. 18).

To sum up, the Ottoman state was under pressure from two different directions: on the one hand, crushed by the fierce inter-state competition and its ever growing financial demands, it was desperate for revenue, and on the other, the West was applying relentless pressure to impose its own values that developed before and during the French revolution. Ottoman sultans could not resist the pressure and began a policy of centralization.

The crucial step was the establishment of the Evkaf-ı Hümâyun Nezareti, Central Foundation Administration (CFA) in 1826 by Mahmud II. This was followed, in 1840, by the abolition of the financial autonomy of certain types of unsound foundations through the declaration that the collection of such foundation revenues would from now on be realized by the Ministry of Finance and after the deduction of collection expenses the ministry would pay the collected revenues to these foundations. This step taken during the Tanzimat era left these irsadî foundations, established on state lands, completely at the financial mercy of the Ministry of Finance (Öztürk, 1995a: 109). The Ministry of Finance began to collect such foundation revenues and after the deduction of expenses the repayment of the thus collected revenue to the foundations was delayed as well as curtailed. This was a de facto confiscation of such foundation revenues and the outstanding debt of the state to the foundation administration was constantly on the rise. Complaints by the CFA to the Ministry of Finance produced no results.

While on the one hand its revenues were thus partially usurped, on the other, the CFA was also made responsible for some of the loss-making state economic enterprises. It was forced to invest in and manage these enterprises, which were totally unrelated to the foundation system. Furthermore, the CFA was

forced to purchase the shares of some of these enterprises and then resell these with a drastic discount to the municipalities. Thus, foundation funds originally endowed by private persons were channelled to state enterprises and to municipal authorities.

During the reign of Abdülhamid II (1876-1909), Ottoman philanthropy entered into a new phase. This era was characterized by an obsession of the new Sultan to legitimize his reign and the relentless pressure of the Western powers to eliminate the foundation system (Abdülhamid II ascended the throne on August 31, 1876, after his brother Murat V was dethroned).

Combining the desire to legitimize his reign and the Western pressure to dismantle the foundation system, the new Sultan ignored the traditional foundations and preferred direct philanthropy at massive scale. This was a shrewd move designed to satisfy simultaneously both the Western demands and his own need to legitimize. He was able to finance such massive direct philanthropy by centralizing the resources of the state directly under his own control. In short, the age of the decentralized philanthropy exercised through the foundation system came to an end and was replaced by direct giving during Abdülhamid's reign (Özbek, 2002). This era may be interpreted as a transition from the classical decentralized private philanthropy to the state designed form.

This transition had a profound effect particularly on the religious establishment. For, it meant that the Islamic clergy previously financed by the waqfs and enjoying a considerable autonomy vis a vis the central authority, was now paid their salaries and controlled by the new sultan. The centralization of the waqfs and the establishment of the Bâb-ı Meşihat

Dairesi under the Şeyhülislam were particularly important in this process. The importance attached by Abdülhamid II on the central control of the Islamic religious establishment is clearly reflected in the amount he spent on these institutions: this amount constituted 58.96% of his total philanthropic expenditure to be followed by schools (8.21%), infrastructure investment such as roads and bridges, etc. (7.29%), poor relief (4.89%) and disaster relief (2.62%) (Özbek, 2002: 185).

The impact of these policies of centralization can be seen clearly in the number of foundations: while during the eighteenth century there were about 20.000 foundations in the Ottoman Empire (Yediyıldız, 1984: 5-42), the Republic inherited a mere 5859.⁵ Since during the period from the last quarter of the eighteenth century until the First World War Istanbul real wages increased by about two-thirds (Pamuk-Özmucur, 2002: 313) we can argue that this era was probably characterized by modest economic growth. If so, it is clear that this drastic reduction in the number of foundations was not caused by a general economic collapse. We will therefore argue that the decline was caused by a shift in the institutional environment which may have indeed been brought about by state policies described above.

Under the Republic, the policy of centralization continued and revenues and assets of all the education related foundations were transferred to the Ministry of Education. Furthermore, through the icareteyn system, former tenants were made co-owners of the foundation property and were strongly induced by the republican state to purchase the foundation's assets. When tenants failed to buy the foundation assets notwithstanding these inducements, auctions were organised and the assets were simply sold off to the highest bidder. Actually such sales must

COMBINING THE DESIRE TO LEGITIMIZE HIS REIGN AND THE WESTERN PRESSURE TO DISMANTLE THE FOUNDATION SYSTEM, THE NEW SULTAN IGNORED THE TRADITIONAL FOUNDATIONS AND PREFERRED DIRECT PHILANTHROPY AT MASSIVE SCALE.

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⁵ Of these, 5376 were mazbut, 322 were mülhak and 161 were minority foundations (Aydın, 2005).

THE IMPLICATIONS OF THESE DEVELOPMENTS FOR THE REPUBLICAN PHILANTHROPY SHOULD BE CLEAR: THE GROWING PRESSURE APPLIED FIRST BY THE OTTOMAN AND THEN THE REPUBLICAN STATE ON THE FOUNDATION SYSTEM, AND THE TRANSFORMATION FROM THE DECENTRALIZED CLASSICAL PHILANTHROPY TO STATE PROVIDED SERVICES MEANT THAT THE RESPONSIBILITY OF SOCIAL WELFARE WAS ASSUMED BY THE STATE.

6 Cash foundations were tax exempt. Indeed, neither the earlier studies (Barkan, 1970 and Çizakça 2000) nor the latest comprehensive research on the cash foundations of Üsküdar (İstanbul), do not mention any taxation imposed on cash foundations (Özcan, 2003: 310-312). Deguilhem, however, has argued that real estate foundations were subject to taxation (2004: 90). If this is right, why the cash foundations were tax exempt but the real estate foundations were not, is a mystery. Clearly foundation taxation is an area that needs further research.

7 This is the de-facto situation in contemporary Turkey. In 1999, out of a total of 14.339 foundations, only 195 were tax-exempt. Of these 14.339 foundations 5.376 were mazbut and 322 were mülhak. The remainder are new foundations (Aydın, et.all, 1999: 33, 60).

have taken place under the Ottomans as well. The following evidence has been provided by İpşirli; When in 1889 Ottoman officials protested about the confiscation of foundation properties in Bulgaria, Bulgarian authorities responded that the same policy was being applied in Ottoman Turkey as well (İpşirli, 1989: 684). The Bulgarian claim was justified. Indeed, the CFA was even made directly responsible for its own dismantlement. A dramatic shift in foundation property rights occurred in 1954 when all the Ottoman cash foundations were abolished and with their confiscated capital, the Foundation Bank (Vakıflar Bankası) was financed.

The implications of these developments for the republican philanthropy should be clear: the growing pressure applied first by the Ottoman and then the republican state on the foundation system, and the transformation from the decentralized classical philanthropy to state provided services meant that the responsibility of social welfare was assumed by the state. Several Islamic countries, primarily Egypt, pre-revolutionary Iran and Pakistan followed similar policies and undermined their own foundation systems after the First World War (Çizakça, 2000). In order to comprehend the true consequences of such policies, the contribution of the foundation system to the economy must be thoroughly understood.

III. OPPORTUNITY COSTS, TAX EXEMPTIONS AND OTHER ADVANTAGES OF THE FOUNDATION SYSTEM

Calculating the cost of all the services provided by foundations is rather difficult. This is because the opportunity costs need to be taken into consideration. There are two distinct types of opportunity costs here; direct allocation of tax revenues by the state to the foundations in lieu of the services they provide and the tax-exemption granted

to the foundations on their activities. Concerning the former, such allocation costs could be substantial. In western Anatolia during the period 1530-1540, about 17% of the total tax revenue was allocated to the foundations. This percentage varied between 5% to 16% in the other provinces (Barkan-Ayverdi, 1970: xvii). In the latter case, the resources that are endowed are granted tax exemption on the revenue that they generate.⁶ Thus for every resource that is endowed, the state encounters two different types of opportunity costs. In view of these costs, the hostility of the state that surfaced more and more in the later centuries is understandable. After all, the huge opportunity costs in the form of missed tax revenues combined with massive assets that the foundations possessed, must have provoked the state beyond any measure.

If, however, the opportunity cost problem is eliminated by subjecting the foundations to taxation,⁷ the system contributes significantly towards that ultimate goal of so many modern economists: with the foundations providing bulk of the financial needs of the service sector, there would be a massive reduction in government expenditure, which leads to a smaller budget deficit, which in turn lowers the need for government borrowing thus curbing the “crowding-out effect” and leads to a reduction in the rate of interest, consequently containing a basic impediment to private investment and growth.

Moreover, the foundation could fulfill these above-mentioned functions by voluntary donations made by the well to do. Thus, privately accumulated capital is voluntarily endowed to finance all sorts of social services to the society. At this point another extremely important function of the foundation becomes apparent: not only does it help reduce government expenditure and

consequently the rate of interest and pave the way for growth, it also achieves another goal of economic development; a better distribution of income in the economy. Moreover, this improvement in the distribution of income would be achieved essentially through voluntary donations and the need for taxation is reduced.

The orientalist literature has accused foundations as being static or even “dead-hand”. Recent findings, however, do not support these accusations as they have revealed that foundation properties could be exchanged in response to the laws of supply and demand through various legal mechanisms. The result was the creation of an institution capable of interacting and responding to individual, family, community and state needs (Deguilhem, 2004: 88; Hoexter, 1998: 107-109, 141). In view of these recent findings, the orientalist’s “dead-hand” argument accusing the foundation system of being totally incapable to adapt to changing circumstances should be considered with a grain of salt.

Most sources agree that the Ottoman foundation system expanded greatly. 19th and 20th century studies generally estimate that foundation properties comprised approximately three-quarters of buildings and arable land (Deguilhem, 2004: 90). While these figures may well have been exaggerated and stated with the purpose of provoking the state against the foundations, an expansion of the system does not surprise us. This is because, the system fulfilled several important functions for the founders. To start with, the property rights were not firmly established in the Ottoman Empire. This was particularly so for the elite. Although we still lack a comprehensive study of confiscations by the Ottoman state, it is well known that the elite did not enjoy property rights in modern sense. In such an environment

without complete property rights, it was the foundations, which protected the wealth of the elite: by endowing his property, a member of the elite could protect his property against confiscation. Establishing a foundation was also considered a highly prestigious act in the society, an act, which immediately raised the social status of the founder.

Moreover, by establishing a foundation, it was also possible to avoid the excessive fragmentation of property associated with Islamic law. A founder could declare anyone as the beneficiary and thus transmit his wealth to the preferred offspring, he could even practice a de facto primogeniture. Or, he could entrust the management of his wealth to his daughter. Moreover, he could endow his entire property providing he did so while in fine health. By contrast, if he waited till he was terminally ill, he could bequeath only one-third of his property. Thus, making an endowment was superior to making a will at death-bed, while the former would not be subject to any restriction, the latter would be subject to restrictions with regard to bequests. Finally, by establishing a family foundation, the founder could see to it that his family would be sufficiently taken care of for generations to come.

Actually, these examples should not mislead us to the conclusion that a foundation could be established only by a single person. Suraiya Faroqhi has informed us that a foundation could also be established by a guild. There were apparently 44 such foundations in the 18th century Bursa established by different guilds (1995: 98). Faroqhi’s discovery has important implications for the history of comparative law. This is because a number of people organized within a guild are establishing a foundation. This is reminiscent of a corporation establishing a foundation, a perfectly normal procedure under

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IT CAN BE ARGUED THAT FOUNDATIONS WERE THE FIRST ELEMENTS OF CIVIL SOCIETY IN THE ISLAMIC WORLD; THEREFORE, UNDERMINING THEM COULD ONLY HURT RATHER THAN HELP THE CAUSE OF DEMOCRACY WHERE A VIBRANT AND FREE CIVIL SOCIETY IS SO CRITICAL.

the Western law but not under the Islamic law, which does not recognize the corporate form. Does Faroqhi's observation imply then that Islamic law actually recognized the corporate form?⁸ If not, how did the 50 or so guild members actually were able to establish a foundation? One explanation might be the utilization of the instrument called wakala, i.e., representation. This is to say that the guild members would instruct their Kethüda, guild leader, to establish a foundation in his capacity as the leader of the guild. The Kethüda would then establish the foundation as any other real person but have it registered under the name of the guild. In passing it might be noted that Faroqhi, herself, is of the opinion that the founders were not individual guild members, but the organization as a whole (1995: 106).

Be that as it may, although we lack the legal details, the idea of a multitude of persons establishing a foundation was thus well known during the Ottoman era. This idea proved to be very useful in the late 20th century, when stringent capital requirements to establish foundations were imposed. At the time this report was prepared, to establish a foundation in Turkey the founder needs to deposit a minimum paid up capital from the equivalent of 200.000 to 533.000 US dollars, depending upon the type of the foundation established. The solution has been found in capital pooling: a multitude of persons pool their capital and collect the cash needed among themselves, a know-how that can probably be traced back to the Ottoman era guilds. Creativity in addressing this problem notwithstanding, it should be noted that the current Turkish paid up capital requirement, with the exception of France, is substantially higher, often more than double, than most western European countries, where GNP per capita is more than ten times higher than in Turkey (TÜSEV, 2004: 2).

⁸ Ömer I. Barkan has argued that foundations enjoyed judicial personality. But Barkan's lengthy description of the autonomy and privileges that the great Ottoman foundations enjoyed falls short of the corporate privileges enjoyed by western corporations (Barkan-Ayverdi, 1970: xviii).

IV. CONCLUSIONS

In conclusion, the heritage of the Ottoman foundation system continues to effect philanthropic practices in Turkey today, though with certain modifications in institutional design. It can be argued that foundations were the first elements of civil society in the Islamic world; therefore, undermining them could only hurt rather than help the cause of democracy where a vibrant and free civil society is so critical. How the republican era attempted to reform the foundation system towards one that could serve the needs of the day and the associated consequences of this transition on the health of the sector is explained in Davut Aydın's chapter.

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