

STUDIA ORIENTALIA
EDIDIT SOCIETAS ORIENTALIS FENNICA
XIX:10

THE TURKISH WAQF

AAPELI SAARISALO

HELSINKI 1953

The Turkish waqf.

AAPELI SAARISALO

There are two popular works in Finnish about Turkish conditions published by the Finnish Oriental Society in their series of popular science.¹

Owing to the difference of time, the picture given by Tallqvist about conditions in Turkey is much gloomier than that by Räsänen. Tallqvist writes (p. 17—18): »The Turkish system of government has smothered all initiative, the whole enterprising spirit. It stood in principle on arbitrary despotism, corruption, and extortion. Farming, on which all the material power of Turkey is based, is burdened by crushingly weighty taxes; a tax on land, a war-tax, and tithes. In view of these circumstances, it is no wonder that the farmer loses his desire to work and prefers cutting down his fruit-trees rather than go on toiling with them for the benefit of his tormentors.»

These conditions make it easy to understand that the institution of *waqf*² gained considerably in extension, because it provided constancy and stability in the prevailing unstable conditions. According to the law terminology the meaning of *waqf* is to keep something separated, to safeguard from the proprietorship of a third person, (*tamlık*). Usually a *waqf* includes 1) landed property of the state, given up to the possession of the Islamic congregation in one way or the other, which is neither to be sold nor to be mortgaged and 2) a pious donation that according to *sharia* law is appointed for

¹ KNUT TALLQVIST, *Puolikuun lasku — Etu-Aasian nousu (The Setting Crescent — The Rising Near East) 1919* and MARTTI RÄSÄNEN *Puolikuun nousu (The Rising Crescent) 1937*.

² Cf. AAPELI SAARISALO, *A Waqf-Document from Sinai, Helsinki, 1933*.

different purposes. If an area of landed property is donated as a *waqf*, it must be expressed clearly in the deed of gift, for the donation to be valid, that the donation is to be permanent, that it must come into force immediately, and is irrevocable. This is the opinion voiced in the *Enzüklopedie des Islams* (Vol. IV), which states that a non-Moslem may dedicate a *waqf* only if its purpose is in agreement with Moslem interests, i.e. not in favour of a church or a monastery.

A Waqf-Documents from Sinai, which was published by the writer in this series *Studia Orientalia* in 1933, gives a different picture. The letter of law and its application are often two different things. The *waqf*-system gained considerable importance first in the time of the Mamelukes, circa 1300. Evidently it has become open also for the Church at a rather early stage, as the said *waqf* of Sinai was made already in 1580.

It is evident that the Turks deserve credit for their religious tolerance, as non-Moslem religious institutions were granted the right to establish *waqf*-estates permanently. These regulations have also been observed, since the Sinai monastery has been permitted to carry on its activities and to own landed property during the entire Turkish era. An example to the contrary is curiously enough to be found in Finland, where the recent colonization laws place the land property of the church as the first object to be requisitioned for colonization. In Turkey, on the contrary, protective rules have been issued for the *waqf*-estates of the church, which have been under a special administration.¹

Although there of course have been victims of Moslem fanaticism, the Turks, contrary to general belief, have displayed tolerant and

¹ A. GRANOTT, *The Land System in Palestine*, London 1952, writes about this (p. 139) »Being a Moslem religious institution itself solely with property which has been dedicated for objects connected with the Moslem community. The conception of *waqf*, however, was not confined to the sphere of this community only. Already in the days of the Turks it was extended to other religious communities, so that it was permitted to establish foundations from property belonging to Jews or Christians. These foundations were placed under the supervision of the religious leaders of each community. They could be assigned to the category of *waqf mustesna*, i.e. exceptional *waqf*, which was not

humane traits in their relationship towards landholders. As far as the feudal system of the East can be spoken of in the same sense as in the West, the Oriental system appears to be, in many respects, much superior to the Western. The Turkish feudal system knows no day labour in favour of the feudal lord. No degrading tenant relationship or serfdom was developed as was the case in civilized Europe. This is all the more remarkable as the people living under the feudal system were apparently, for the most part, of different faiths.¹

Towards the end of the Turkish rule considerable landed property was concentrated in Christian hands especially in Palestine, in the holy places of Christianity. The authority of the church increased in the environment of the church estates. This influence had both positive and negative aspects. The fact, however, remains, that the Turks permitted the Church to own estates, which made it possible to support the outer frame of the Christian faith.²

The general feature of the criticism offered by the West has been that the *waqf* system has had a corruptive effect on the economic life in the Turkish empire. This is, however, greatly due to the Moslem conception, unknown to the Western world, that the earth is the Lord's (Koran II, 284) and that man enjoys its produce in due time. It is a noble and highly developed conception.

The land ownership of the Church is extremely old being established already before the Moslem *waqf* system. It was an old Byzantine custom to reserve land property for the Church »for ever and ever.» Islam adopted this Christian custom in spite of the fact that it was opposed in the beginning due to its apparent disagreement with the Moslem right of inheritance.³

in any way attached to the administration of the Moslem *waqf*, and over which this body has no control.»

¹ Cf. A. GURLAND, *Grundzüge der Muhammedanischen Agrarverfassung and Agrarpolitik*, Dorpat, 1907.

² Cf. C. H. BECKER, *Islamstudien, Erster Band, Leipzig, 1924.*

³ According to the *sharia* law and to traditional practice non-Moslem subjects in a Moslem country are permitted to found religious endowments on the same conditions and the same limitations as apply to Moslems. In virtue of the tolerance extended by the *sharia* law to non-Moslems, and also for reasons

The fundamental idea of the *waqf*, the common and irrevocable ownership, has been revived in our time. In Finland, where the collective ownership has had a poor reputation of old, common forests and pasture lands are founded in accordance with the new colonization laws. Many funds and foundations are based on the principle of common ownership for mutual profit. The modern political ideas, either accomplished or planned, are based largely on the principle of common ownership.

In the business world, especially in the United States, funds have been established by leading business men to safeguard the future of their descendants. These funds are being independently administered by experts given full authority by the founders. An analogical form of administration is employed with regard to land ownership in the Turkish *waqfs*.

It is to the credit of the Turks that they have maintained and developed the *waqf* system, the principal idea of which, »common ownership for mutual benefit«, will evidently serve humanity well under the existing conditions in economic and cultural fields.

of State policy and Governmental considerations, the Turkish Sultans from the earliest periods adopted a liberal attitude to the religious institutions in the conquered areas. Not only so, but they themselves gave assistance to the Christians and Jews who came to settle in the territories of the Ottoman Empire. The privileges which were granted to the Christians and the Jews were based on the proclamation made by Sultan Mohammed at the capture of Constantinople in 1453. The rights of the Christian Church were confirmed afresh by the *Hatt Hamayoun* Manifesto of Sultan Abdul Mejid in 1856. The provisions of *sharia* law, as also the Ottoman laws and regulations amending or modifying them, governed all the *waqf* foundations, whether Moslem or non-Moslem. The basic principles of the *waqf*, viz. the irrevocability of the property in perpetuity are features common to all kinds of endowments.

The Christian churches were enabled to concentrate in their hands huge estates, which were administered by them mostly in the form of *waqfs*. This was the position *throughout the length and breadth of the Ottoman Empire*, in all places of specially religious interest for the Christian communities, in Turkey proper and in Greece, and above all in the country sacred to every Christian — the Holy Land. A. GRANOTT, *The Land System in Palestine*, p. 156 Cf. C. D. MATTHEWS, *Palestine — Mohammedan Holy Land*, New Haven, 1949.