

Capitalism in Khiva: Cash *Waqf* or Cash Loan?

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Abstract

This article examines the sharp increase of cash *waqf* endowments in the Khivan Khanate and the circumstances of their usage during the final decades of the nineteenth century. This research supports the conclusion that the rise of monetization in the economy prompted the rapid emergence of cash *waqf* endowments and led the administrators of such pious institutions to become personally involved in moneylending activities. Through an investigation of Khivan *qāzī* records, this article shows how cash *waqf* capital was utilized through *bay'-'i-jā'iz*, a type of moneylending agreement that became popular across much of the 19th-century Islamic world. It argues that the emergence of cash *waqf* and *bay'-'i-jā'iz* agreements during this period is indicative of the influences of global industrial capitalism on the Khivan economy.

Keywords

cash loan – *waqf* – Central Asia – Khanate – Khiva

Introduction

On 18 March 1920 (Jumādā II 27, 1338 AH), a certain 'Abd al-Karīm, from the Khivan neighborhood of Mayvastan, gifted 200 *ṭilā*¹ to the local Tūrt Shahbāz Bābā mosque so that its lamps would remain burning in perpetuity and never be in want of oil.² In the *waqfnāma* (endowment certificate), 'Abd al-Karīm curiously stipulated that the imam of the mosque should be a trustee of the

¹ Local gold currency.

² O'zRMA, f. 1-125, op. 1, d. 486, l. 35.

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waqf and that he should lend these funds to people known for their good faith. Using a financial tool called *muẓāraba shar'ī* (partnership) or *ijāra* (rent), the imam was required to use the revenue on these loans to buy oil for the mosque's lamps after taking 1/10 as his share. After 12 days, on 30 March 1920 (Rajab 10 1338 AH), Muhammad Ya'qūb, the imam of the mosque, lent 'Abd al-Karīm's 200 *ṭilā* to a borrower who pledged two pieces of land with an annual revenue of 20 *ṭilā* each year against this loan.³ However, the moneylending agreement which Muhammad Ya'qūb used to lend this cash *waqf* was neither *muẓāraba* nor *ijāra*. It was declared as *bay'-'i-jā'iz*. The term '*bay'-'i-jā'iz*' denotes an agreement that was used for borrowing money on interest by pledging a property, more commonly known as *bay' al-wafā* in Islamic literature.⁴ Muhammad Ya'qūb was not alone. He was but one of the hundreds if not thousands of *mutawallis* (trustees) in Khiva who were actively involved in moneylending by reinvesting cash *waqf* through *bay'-'i-jā'iz*. This case, and the thousands like it, present a paradox to a modern audience accustomed to viewing interest as antithetical to Islamic piety. The notion that a *waqf*, an Islamic institution rooted in a social expression of personal piety, could be used to generate interest challenges popular understandings of the role of money in a traditional Islamic society.

As we shall see, moneylending through *bay'-'i-jā'iz* was a widely accepted and even popular custom in 19th-century Khiva. Scholars have observed that this practice was prevalent beyond the borders of Central Asia, but they have yet to explore it within this region. Recent literature shows that the importance of *bay'-'i-jā'iz* increased during the 19th century, and that this unfolded as the scope of industrial capitalism expanded throughout the Islamic world largely in support of efforts to expand cash crop production. Over the course of the 19th century *bay'-'i-jā'iz* became an important financial tool connecting local crop producers across the Middle East and Indian Ocean territories with the financial centers of industrial capitalism.⁵ In this article, I attempt to add to our understanding of this financial practice by investigating the reinvestment process of cash *waqf* in the later Khivan Khanate (1850–1920). In doing so, I argue that cash *waqfs* and *bay'-'i-jā'iz*, became an integral part of the Khivan

³ O'zRMA, f. 1-125, op. 1, d. 486, l. 38.

⁴ M. El-Gamal, *Islamic Finance: Law, Economics and Practice* (Cambridge: Cambridge University Press, 2006): 70–74.

⁵ G. Baer, *A History of Landownership in Modern Egypt 1800–1950* (London: Oxford University Press, 1962): 34–35; F. Bishara, *A Sea of Debt: Law and Economic Life in the Western Indian Ocean, 1780–1950* (Cambridge: Cambridge University Press, 2017): 81–106; T. McDow, *Buying Time: Debt and Mobility in the Western Indian Ocean* (Athens, Ohio: Ohio University Press, 2018): 12–14, 59.

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CHAPTER IX

Waqfs

SECTION 1 FOUNDATION AND FUNCTION

A *waqf* (Turkish: *vakf*) is a trust where the founder (Arabic: *wāqif*; Turkish: *vakıf*) makes an endowment of property to be dedicated in perpetuity to the charitable cause named in the deed of trust (Arabic: *waqfiya*; Turkish: *vakfiye*). For a *waqf* to be valid in law, the founder had to be the owner of the property to be converted. He or she had then to go before the *kādī*, as representative of the sultan, and declare his or her intention to convert it to *waqf*. Once the *kādī* had ruled that the *waqf* was valid, the property passed from his or her ownership. The problem in Hanafī law was how to make a *waqf* in perpetuity. An opinion attributed to Abū Hanīfa gives the founder the right to retract his or her donation; another opinion, attributed to Abū Hanīfa's two disciples Abū Yūsuf and al-Shaybānī, deny this right. It was therefore essential that the *kādī* make clear in his ruling that the founder was following the opinion of the 'two disciples' and that the *waqf* was to be non-retractable, hence the procedure adopted in Ottoman courts as shown in passage 1.

Typically, *waqfs* supported religious institutions, providing finance for the construction and maintenance of mosques and dervish convents (*zāviyes*) and paying the salaries of their staffs. Passages 2 and 3 demonstrate that *waqfs* also supported Islamic education, from primary schools to the higher *medreses* attached to sultanī and vizieral mosques. In the countryside in particular, part of the *waqf*-income of *zāviyes* was often dedicated to lodging travellers; passages 3, 4b, 4c, 5b and 7b give testimony to that effect. In the cities, the soup-kitchens (*imārets*) attached to large mosques provided sustenance for the poor and the transient, as indicated in passage 2.

While the townscapes of Ottoman cities were dominated by mosques, bath-houses and other public buildings endowed as *waqf* by sultans, viziers and the wealthy, the hundreds of smaller *waqfs* established by persons of modest means were equally important in maintaining the social fabric of Ottoman society. A second type of *waqf* was the family trust. In Islamic law a testator may bequeath only one-third of his or her property to nominated heirs. The remaining two-thirds goes in fixed proportions to members of his or her family. This has the effect of dividing up property on the owner's death. As evident from passages 4a, 4b, 4c, 6, 8, as well as SECTION 2, passage 1 below, many people chose to convert their private property to *waqf*, nominating their chosen relatives

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