

HOW MUCH LAND DOES A CITY NEED?

WAQF AND PUBLIC SPACE IN BEIRUT AFTER THE PROMULGATION OF THE OTTOMAN BUILDING CODE OF 1882

Joseph RUSTOM
Lebanese Academy of Fine Arts

“Our only trouble is that we haven’t land enough.

If I had plenty of land, I shouldn’t fear the Devil himself.”¹

Inalienable charitable endowments, in Arabic called waqf, have shaped the urban space and economy of traditional Arab cities for centuries. Mosques, churches, madrasas, hospitals, caravanserais, and water supply systems were all founded as waqf. Furthermore, these religious and charitable institutions were accompanied by the construction of economic infrastructure like shops and houses, and hence they owned entire souks and residential quarters, whose revenues financed these institutions, both on the physical and human levels.

In the middle of the nineteenth century, a series of modernization reforms promulgated by the Ottoman central authorities, the Tanzimat, brought a radical shift to the management of waqf, as it was considered to be hampering urban development and immobilizing land property inside the city. During this period, Beirut was witnessing unprecedented economic growth, which led to its transformation into one of the major port cities of the Eastern Mediterranean.² This growth was accompanied by the implementation of Western political, social, and urban standards largely fostered by the Tanzimat, that opposed the waqf’s interests.

I argue that, since inalienability is the main characteristic of all waqf - i.e. the fact that waqf, to become valid, must be taken out of the sphere of commercial transaction, that of purchase and sale - waqf in Late Ottoman Beirut was the *place that remains* par excellence, remaining here referring to *perpetual*, not *residual*.

THE LAWS

The Ottoman Land Code of 1858 brought a first change to waqf and, more generally, to the notion of property, by emancipating it from any juridical or administrative obstacles that limited its free circulation. It entailed two radical shifts in both the definition of land and of state

power: Land was not a *territory* producing foodstuffs and tax revenues any longer, but became a commodity, a *thing* to be bought and sold.

The Building Code of 1882 brought a second crucial change through a series of key measures. Its annotated translation in Arabic, *qānūn al-‘abniya*, accompanied by the Resolution on the Expropriation of Property for Reasons of Public Benefit of 1879, *qarār al-‘istimlāk li ‘ajl ‘l-manāfi’ ‘l-‘umumiyya*, is the first set of urban regulations specific to Beirut. Published by the engineer of the municipality, Amine Abdelnour in 1896, it is an exceptional account of the economic, legislative, and social situation in the city at the turn of the nineteenth century, as well as of the changes that the law introduced (see Abdelnour, 1896).

Through a simple text structure³ and a remarkable talent for persuasion, Abdelnour subtly introduces the changes in the process of space production and in spatial practices as decided by the central authority from the one side, and establishes the authority of the newly created institution he represents from the other side, namely the municipality. Surveys, drawings, space schedules, and construction permits were established as new sources of information and regulation of the built environment in the city, while a team of qualified technicians, headed by the municipal engineer [*muhandis dā‘irat ‘l-baladiyya*], was hired to plan, manage, control, and archive all urban interventions.

WAQF

According to Abdelnour, Beirut had to adapt to the “modern taste” [*al-dhawq al-‘asrī*] by means of the Beaux-Arts urban concepts of circulation, hygiene, and embellishment. For instance, dead-ends and arched bridges over the roads should be forbidden as “the inhabitants of cities with narrow and covered streets were correspondingly pale and unable to articulate clearly.” The law in fact ended the prerogatives of groups [*jamā‘āt*] to control communal space, as dead-ends were community spaces par excellence in traditional Arab cities. Indeed, beyond the spaces themselves, all forms of authority related to them were targeted, and all intermediate forms of space and authority between the individual and the state, and the private and the public, were abolished. The individual was given a new role in the creation of urban space, outside any allegiance to groups or any other form of social hierarchy. All matters relating to urban space no longer fell under the jurisdiction of the religious tribunals [*al-mahākīm al-shar‘iyya*], but directly under that of the municipality. These standards opposed an age-old *modus operandi* of the city, in which waqf played a major role.

By making a clear separation between public and private, and individual and state authority, the Building Code left very little space for the waqf as an urban authority and a privileged landowner. Having kept the religious tribunals

out of all urban decisions, it obliterated de facto religious authority in urban space. The law purposefully made no mention of waqf land inside the city. As for waqf buildings, Abdelnour splits them into two categories: religious and charitable buildings [*al-‘abniya al-khayriyya*], considered as public buildings, and buildings endowed to support them [*al-‘abniya al-waqfiyya*], considered as private. This categorization clearly aimed at dissolving the particular status of waqf and the dissociation it upheld between a property and its usufruct. I argue that the absence of special recommendations concerning waqf property left it in an awkward position, which could have been profitable and harmful to both parties at the same time, since it marginalized the waqf but also gave it a certain room to maneuver, as I demonstrate later.

PUBLIC SPACE

The marginalization of waqf in Abdelnour’s translation should be put next to the definition that the author gives of public space. Within this category, he subsumes the roads, the courtyards of places of worship [*bāhāt al-ma‘ābid*], seaports [*al-‘asākīl*], coasts, squares, and promenades. Before the city’s sudden development in the middle of the nineteenth century, public space existed naturally: squares were used as meeting places to spend free time, celebrate marriages, funerals, religious and seasonal holidays, and to receive important visitors to the city.

Open spaces in the direct vicinity of religious buildings were used as a natural extension to house large crowds on special days. Coasts, riversides, and lakesides were used for temporary storage before and after shipments, for repairing boats, watering the cattle, or washing clothes. Curiously enough, Abdelnour does not classify these public spaces into one of the five categories of real estate property as defined by the Ottoman Land Code,⁴ and designates them rather as “*arādi ghayr mamlāka*”, i.e. land plots that are not owned. It therefore seems that these public spaces had no clear legal status, but were simply undisputed *remaining* spaces, in the sense of *residual* here, used by everybody.

With the demographic growth of the city and the construction boom, and more specifically the construction of customs, large warehouses, and important religious buildings, public spaces progressively lost their traditional use. Nevertheless the contemporary lifestyle inspired by that of “civilized countries” [*al-buldān al-mutamaddina*] required open spaces for the celebration of religious and seasonal holidays, playgrounds for the children of the poor, refuges in case of fire or an earthquake, and also enough open space to purify the air, embellish the city, and “entertain the stranger” [*tasliyat al-gharīb*]. But with the rapid increase of the price of land, public spaces were threatened by the greed of powerful landowners and the employees of the administration, who tried to transform them into private land.

Although the law granted the municipality with the role of protecting these remaining spaces, it seems that their existence, at least in the form and function that they had before the Tanzimat, was as threatened as that of waqf.

CONCLUSION

With the Building Code of 1882, the urban space of Beirut was for the first time conceived as a whole entity.⁵ *Remaining space* in both senses of the word, *perpetual* and *residual*, could not be afforded anymore and had to disappear. Affected by the new market economy and the rise of new urban dynamics, waqf authorities had to reconsider the way in which they managed their property and their role within the city. In this new market economy, in which land became a commodity, the need for land was only limited by the lust of the individual. As proven by the hero of Leo Tolstoy's novel "*How much Land does a Man Need?*", written in 1886, this lust has no limits and could have disastrous consequences. Allowed to have all the land he could walk around in one day for one thousand rubles, Pahom walks until he falls dead, reminding us that "*six feet from [our] head to [our] heels was all [we] needed*".

This vision of property clearly opposed the separation between usufruct and land that waqf promoted, and in which land belonged to God and its usufruct to men. Interestingly enough, this vision is to be found among Enlightenment thinkers, starting with Jean-Jacques Rousseau's (1754: 192) famous stance that "*the fruits of the earth belong to us all, and the earth itself to nobody*."

For waqf authorities, the law became the *place that remains*, a place for negotiation while shifting from one system of space production to another that provided them, as well as all other protagonists, with the vocabularies, idioms, and concepts for communication and deliberation. This *remaining place* eventually allowed the waqf institutions, and the various religious communities that they represented, to sustain their interests in the city and remain the biggest landowners in Lebanon until today. The main reason behind the survival of waqf is also the fact that the city's families of notables, who provided both the new urban institutions, like the municipality, and the waqf with their protagonists, were keen on sustaining old and new structures of power within the city, to serve their needs in an optimal way. A more pessimistic view is to consider the religious community as the remaining place left for the Lebanese to negotiate the physical remains of their land, if laws and regulations are not revised and revived to again take this role.

FOOTNOTES

1. Tolstoy, Leo. 2001. *How Much Land Does a Man Need?* Brooklyn, N.Y.: Crocodile Books.

2. Beirut's transformation started under the short but very significant Egyptian rule of Ibrahim Pasha, son of Muhammad Ali Pasha, from 1831 to 1840. In

the following decades, the change was accelerated through a series of key measures and events: The construction of a casern and a quarantine area in 1835; the creation of the Beirut-Damascus road in 1857; the rise of the press, starting with a first local newspaper in 1858; the arrival of an important, mainly Christian, migratory wave in the aftermath of the sectarian strife in Mount Lebanon and Damascus in 1860; the creation of the first municipal council in 1863; the nomination of the city as the capital of a *wilāya* (governorate) that ranged from Palestine to Lattakia in 1888; and finally the construction of a new port in 1895. Along with the abovementioned key events, the city witnessed a growing presence of foreign representation in support of national commercial interests and in the proliferation of missionary schools. This progressively led to the formation of an intellectual middle class in Beirut that instigated a real cultural renaissance, the *Nahda*, largely modeled on the Egyptian renaissance model that flourished in the wake of the reformist drive of Muhammad Ali Pasha at the beginning of the nineteenth century.

3. Each article's translation is followed by the interpretation of the author written in smaller characters.

4. The mahmiyya, *matrūka*, *mushā'*, *mawāt* and waqf. See Young (1905-07).

5. The perception of the city as one entity was even more emphasized by the demolition of the city walls that led to the creation of new spatial perceptions: Like a building, the city now had façades, the main one being the maritime façade perceived by the visitors (merchants, industrials, diplomats, writers, etc.) arriving by boat.

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AUTHOR

Joseph RUSTOM holds a Master of Architecture from the Lebanese Academy of Fine Arts from 2000, a Master of Advanced Studies in the Preservation of Archaeological Sites and Monuments from the Marc Bloch University in Strasbourg, 2001, a Master of Advanced Studies in Urban Archaeology from the François Rabelais University in Tours, 2004, and a Doctoral Degree in Urban Planning from the BTU Cottbus-Senftenberg from 2016, with a thesis on the impact of religious endowments on urban projects in Late Ottoman and French Mandate Beirut. He is a Fellow at the Saint Joseph University, Beirut, in the framework of the research project "Atlas of the Religious Spaces of Lebanon," and a Fellow of the Forum Transregionale Studien, Berlin, in the framework of the research project "Global Prayers: Redemption and Liberation in the City." He is also a lecturer in cultural heritage studies at the School of Architecture of the Lebanese Academy of Fine Arts since 2003. Between 2000 and 2008, he was a conservation architect, at Youssef Haidar Architects and Dagher, Hanna, and Partners Architects successively, where he managed several conservation and rehabilitation projects, among them the Omari Mosque, the American University Archaeological Museum in Beirut, and the Soap Museum in Saida.