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A HISTORICAL OVERVIEW OF WAQF

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ABSTRACT

This research delves into the historical evolution of Waqf, an Islamic philanthropic institution with centuries-old roots. Tracing its origins to early Islamic societies, the study examines how Waqf has adapted to diverse cultural landscapes and contributed to social welfare. Through an interdisciplinary approach, it explores legal frameworks, socio-economic impacts, and the role of Waqf in shaping communities. This historical overview aims to deepen understanding of Waqf's enduring significance and implications for contemporary socio-economic structures. The main objective of this research is to undertake an overall relevance of the historical Waqf in the Islamic Economic system. It will elaborate on Waqf juristically, classically and modernly. The study explored various aspects such as Waqf's meaning, different definitions by several religious schools of thought, historical origins, and legitimacy of the Waqf based on Quranic Verses and Hadith of the Prophet (PBUH). Throughout Islamic civilization, Waqf played a vital role in Muslim society, given that the needs of the Muslim Ummah were complex and growing. The objective of Waqf is to promote social welfare and to contribute to economic development. The potential of the institution of Waqf is excellent; it can assist the government in countless state responsibilities.

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INTRODUCTION

Wealth and property are the pride and splendor of humans, in so, those who are willing to donate could be considered as those seeking Allah's (s.w.t) blessing and mercy. Therefore, the practice of establishing and donating to *Waqf* is an important medium to draw oneself closer to Allah (s.w.t). By willingly giving away things that are most loved, one is deemed to get Allah's (s.w.t) blessings. Apart from being a source of development for the economy of Muslims, this practice is strongly encouraged in Islamic doctrine given the benefits it guarantees in the hereafter and this world. The following verse is an evidence of the bounties one may receive through *Waqf*:

"The example of those who spend their wealth in the way of Allah is like a seed [of grain] which grows seven spikes; in each spike is a hundred grains. And Allah multiplies [His reward] for whom He wills. And Allah is all-Encompassing and Knowing. Those who spend their wealth in the way of Allah and then do not follow up what they have spent with reminders [of it] or [other] injury will have their reward with their Lord, and there will be no fear concerning them, nor will they grieve," (Al-Baqarah 2:261-262)

The general idea of *Waqf* is ancient given that all communities had a concept where properties were donated and devoted to public and community use. However if we examine closely the concept of *Waqf* we would agree with Muslim jurists who argue that *Waqf* is characteristic to the Islamic law and culture.

Islamic law was the first law ever that clearly defined and regulated *Waqf* as a civil societal institution. It started since the time of the Prophet Muhammad (PBUH) himself. *Waqf* before Islam was always a religious exercise when a rich person assigns a property to the temple and monks would use it for the temple expenses and may also extend its use to help poor or even providing books to a library.

Waqf today can play an important role given the needs of the Muslim Ummah are complex and growing. The potential of the institution of *Waqf* is great; it can assist the government in countless state-responsibilities. Nevertheless,

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and unfortunately the great potential of the institution of Waqf has not been, yet, fully realized by Muslims including their governments around world. There are still a great number of Muslims who think that Waqf requires immovable property to be donated. The governments in many countries still have colonial mindset as they generally consider Waqf to be a problematic institution that has been inherited by them from the old times. It has been neglected and not only wasted the potential of this time-proven institution of great benevolence, but also excluded society from the vast benefits of this blissful institution.

Considering the classical definition of Waqf in the Islamic Law, the holding and preservation of property as common, whose usufruct and revenues are exclusively used for the defined aims and objectives, and prohibiting the use and/or disposition outside the defined purposes.

In order for Waqf to play an important role in the development of the society, we consider this article to be an introduction to Waqf, which can promote and encourage the human values of giving and cooperation.

In this research, the history, nature and investment possibilities of Waqf in general will be discussed along with the role of the Mutawalli (trustee) in managing Waqf properties and the changes and evolution that has occurred through Islamic history. Moreover, we will include a Conclusion summarizing the research.

To contribute to the literatures on comparative *Waqf* studies: Time is changing and Muslims seems to be learning from what is happening around them. They are paying greater attention to their heritage. *Waqf* has also been revived in Academia to a great extent. However, a lot of further research needs to be done on Waqf as it is important for the development of Muslim Ummah. To study *Waqf* development techniques used in the past centuries of Muslim Ummah

Muslim Ummah has even so much advanced that it introduced many unique instruments of *Waqf*. Also the state Religious council was playing a very important role in developing *Waqf* properties around the world.

This research shall attempt to address the following question: What is the current status of *Waqf* management and development of Muslim Ummah and what role was it playing in development of society?

LITERATURE REVIEW

Throughout the Islamic history since its commencement, the institution of Waqf had been developed during the time of Prophet Muhammad (pbuh) until today. The Mosque of Quba' in Madinah al Munawwarah is the first Islamic Waqf in 622 A.D which was built upon the arrival of the Prophet Muhammad (PBUH) (Abdurrahman, 2008). This was followed by many other Waqf activities during the time of the Prophet (PBUH) and was further developed during the reign of the Khulafa' al-Rashidin and subsequent period of Islamic ruling. This Waqf is normally referred as the religious Waqf while there are other kinds of Waqf such as philanthropic Waqf which also include the Waqf for educational purposes and posterity of family Waqf (Abdurrahman, 2008).

Zakat was replaced as private Awqaf for funding Islam as a society since the 10th century (Hodgson, 1974). Since beginning, education had been financed through the Waqf institution. The University of al-Azhar in Cairo alone is financed by hundreds of Awqaf (Crecelius, 1986). According to Kahf (2000), there were 60 Awqaf schools supported by Awqaf properties in Palestine, Turkey and Syria (of which 40 had been established by Ayubite governors).

Waqf is continually linked with poverty alleviation i.e. in enhancing the welfare in general & serving the poor in particular. Waqf provides the material foundation for supporting religious, social, cultural and economic activities (Alias, 2011). For public utilities, education and healthcare, various kinds of Awqaf were established (Ahmed, 2004). According to Islahi (1996) the scope, effect, magnitude and viability of Waqf is much greater than any other voluntary institution in Islam such as sadaqah, hibah, Wasiyyah, Qard and cooperative association. Economically speaking, the Waqf system had historically offered a number of essential services such as health, education, municipality services, etc., at no cost at all to the government (Cizakca, 2000).

Historically, the central roles of the Waqf lands were also prominent during the last Muslim Caliphate in Turkey. During the Ottoman Sultanate, the institution of Waqf had achieved its peak in terms of numbers, assets and the services it was rendering to the citizens ranging from municipal services to education, health, culture and religion. Waqf lands were used extensively, among others, for infrastructure development, agriculture, education and public amenities. During this time, cash Waqf has also served as a provider of finance, granting loans to needy people (Cizakca, 2000). Besides religious purposes, Waqf land has also been used for infrastructure development, the education sector, healthcare and public amenities, among others. For example University of Cordova in Spain and University Islam Indonesia in Jogjakarta, Indonesia (Abdurrahman, 2008) are among the prominent education institutions that were founded and maintained using Waqf lands. While Al Noori Hospital in Damascus is one of the famous hospitals built on Waqf land in terms of healthcare sector which has been in operation for seven centuries and, in fact, some sections of the hospital are still operational today (Islamic Relief UK). Furthermore, most mosques in Islamic countries are built and operated using Waqf lands (Sadeq, 2002). The importance of the Waqf system to Muslim societies was greatly undermined by colonization of Muslim nations.

DISCUSSIONS

Definition and Concept of Waqf

In South East Asia, the term Waqf, which is sometimes written as wakaf or wakap are used by jurists. In Northern Africa, habs or tasbil is still used by the jurists for the same concept. However Waqf and habs have different meaning by the Shari'ah scholars; both are charitable but have slightly different implications. The literal meaning of both Waqf and habs is to hold, confine, detain, or restrain whereas, the legal meaning is "to protect something, by preventing it from becoming the property of a third person". Various classical definitions of the Waqf are given but the articulation of Abu Yusuf from Hanafi School seems to be preferred by Imam Mouhammad, and being agreed by jurists in Shafi'i, Hanbali and Imami schools. The general

summary of the definitions of these jurists shows that “a *Waqf* is irrevocable gift of a corporeal property (*‘ain*) for the benefit of donor’s family or someone else or something, in perpetuity, as a charity promised and executed normally during the life-time of the donor, which is not capable of transfer, gift, and transmission thereafter”. The main characteristics of classical *Waqf* are irrevocability, perpetuity, and inalienability (Mohammad et al., 2006).

The term *Waqf*, which is sometimes written as *wakaf* or *wakap* in South East Asia is an Arabic word derived from the root verb *waqafa*. In Arabic language, the word *Waqf* literally means ‘confinement or prohibition’. It is used with different words and different titles for same word in different regions like the word *habs* or *tasbil* is used in Northern Africa by the jurists for the same concept. Literal meaning of words, *Waqf* and *habs* is to hold, detain, confine, or restrain as explained by Azliza, Rose and Zurina and technically they defined “*Waqf*” as the dedication of property either in express terms or by implication for any charitable or religious object or to secure any benefits to human beings, while legally, they translate; as “to protect something, by preventing it from becoming the property of a third person”

The term *Waqf* can be translated as ‘religious endowment’ in English but this translation may not suffice the true sense of devotion and elegance with which *Waqf* is associated in Islam. Hasan Uddin proclaimed that no equivalent word or expression in English is comprehensive enough to convey the Islamic concept and meaning of *Waqf* in the true sense of the term.

A further explanation by Raissouni (2001), deliberates that from a linguistic point of view, *Waqf* means forbidding movement, transport or exchange of something. As per Bewley (2001); in legal usage, the work *Waqf* means the non-negotiability of property ownership, which is of employable value, and the direction of its benefits to a certain charitable purpose, once and for all. Ahmed (2004) in his book mentioned that *Waqf* is “a voluntary act of charity” and is under the same category as *sadaqah* and *infaq*. He further defines the word *Waqf* into its linguistic and technical meaning. Linguistically, “*Waqf*” means to stand still, hold still and not let go”. The technical meaning of *Waqf* is to hold from consumption or sale and not to let go.

On the definition of *Waqf*, Kahf (1998) has a slightly different view where he gave the definition of the *Waqf* from Shariah and economic perspective. The former perspective states that the term *Waqf* can be defined as holding “a *Maal* (an asset) and preventing its consumption for the purpose of repeatedly extracting its usufruct for the benefit of an objective, representing righteousness”. From the latter standpoint, he defined it as; *Waqf* is an act of diverting funds and also other resources, from consumption and investing them in productive assets that promise either usufruct or revenues for future consumption by individuals or group of individuals.

According to Ahmed (2004) *Waqf* connotes an endowment in the forms of physical assets and landed property established by the affluent in the community to provide relief services and solace to the vulnerable members of the society.

On the origin of *Waqf*, there are many versions cited by scholars and historians. However the first and official legal creation of the *Waqf* institution as cited by Mahmood, was that created by Umar Ibn al- Khattab, the second caliph of Islam (634-44) in the 7th century AH. However, other scholars trace the origin of *Waqf* by saying that the Prophet (pbuh) himself through constructing the mosque in Madinah created the first *Waqf*. Other scholars also believe that the Mosque of *Quba* was the first instance of a religious *Waqf* constituted by the Prophet Muhammad (pbuh). Others regard the endowment of lands of *Mukhayriq* as the first *Waqf ‘aam* in Islam which were bequeathed to the Prophet (pbuh).

According to some jurist, the origin of *Waqf* can be traced back to the time when Prophet Muhammad (pbuh) said: “who digs the well of Rumah, the paradise is for him” and Caliph Othman (r.a) said: “then I dug it”. This was pointed out especially by Sayed Sabiq.

Waqf from Classical Jurist’s Viewpoint

Imam Abu Hanifa defined *Waqf* as ‘the tying-up of the substance of a property in the ownership of the *Waqif* and the devotion of its usufruct amounting to an *ariya* or accommodate loan for some charitable purpose”

Supplement to that, an important definition by two disciples of Abu Hanifa (i.e. Imam Abu Yusuf and Imam Muhammad) was accepted substantially by the latter Hanafi jurists who defined *Waqf* as the tying-up of the substance of a thing under the rule of the property of Allah SWT so that the proprietary right of the *waqif* becomes extinguished and is transferred to Allah SWT for any purpose by which its profit may be applied to the benefit of His creatures.

The proprietary rights of the *waqif* (settlor of *Waqf*) as per Imam Abu Hanifa will continue even after the creation of *Waqf*. However, both the disciples of Imam Abu Hanifa and also other jurists, are of the opinion that *waqif* ceases to have any proprietary right in that once a *Waqf* is created and further to that, the ownership of *ASL* (corpus) stands transferred to Allah SWT. In auxiliary to that it can neither be sold or given nor inherited. This definition seems to be preferred by Imam Mouhammad, and being agreed by jurists in Shafi’i, and Hanbali schools.

These jurists further translated the term as; *Waqf* is irrevocable gift of a corporeal property (*‘ain*) for the benefit of donor’s family or someone else or something, in perpetuity, as a charity promised and executed normally during the life-time of the donor, which is not capable of transfer, gift, and transmission thereafter.

Legitimacy of Waqf

Although in the Holy Qur’an, there is no specific provision concerning *Waqf* but it is declared in injunctions in the matter of charity. These provisions encourage a Muslim to give his money and property in charity for reward in the worldly life and hereafter. There are different Quranic verses, which encourage Muslims to give in charity, which carry the essence of *Waqf*. For example, Quran Says:

لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ

By no means shall ye attain righteousness unless ye give (freely) of that which ye love; and whatever ye give, of a truth God knoweth it well. (Surah Al-Imran, 3:92).

The history of Islam is full of compliance to the above verse, as this Qur'anic verse was revealed, Abu Talha (one of the companions of the Prophet (pbuh), endowed his most lovely garden called *Bi'ruha'*, full of date-palm trees which was in front of the mosque of the Prophet (pbuh). Abu Talha told the Holy Prophet (pbuh): '*Allah's Messenger! Allah SWT, the Blessed, the superior says: By no means shall you attain Al-Birr (Righteousness), unless you spend (in Allah's Cause) of that which you love. And no doubt, Bi'ruha' garden is the most beloved of all my property to me. So I want to give it in charity in Allah's Cause. I expect its reward from Allah. O Allah's Messenger (pbuh) spends it where Allah makes you think it feasible.*' On that the Holy Prophet (pbuh) said, '*Bikh (good) it is useful property. I have heard what you have said, 'O Abu Talha, and I think it would be proper if you give it to your kith and kin*'. Abu Talha said, '*I will do so, O Allah's Messenger*'. Then Abu Talha distributed that garden amongst his relatives and his cousins. Another Qur'anic verse which indicates the validity of *waqf* is as follows:

وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ وَأَقْرَضُوا اللَّهَ قَرْضًا حَسَنًا^٢ وَمَا تُقَدِّمُوا لِأَنْفُسِكُمْ مِنْ خَيْرٍ تَجِدُوهُ عِنْدَ اللَّهِ هُوَ خَيْرًا وَأَعْظَمَ أَجْرًا

And do al-salat and give zakat, and [thus] lend unto God a goodly loan: for whatever good deed you may offer up in your own behalf, you shall truly find it with God - yea, better, and richer in reward. (Surah Al-Muzzammil: 20)

Additionally, there is another Qur'anic verse:

لَيْسَ الْبِرُّ أَنْ تُولُوا وُجُوهَكُمْ قِبَلَ الْمَشْرِقِ وَالْمَغْرِبِ وَلَكِنَّ الْبِرَّ مَنْ آمَنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَالْمَلَائِكَةِ وَالْكِتَابِ وَالنَّبِيِّينَ وَآتَى الْمَالَ عَلَى حُبِّهِ ذَوِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينَ وَابْنَ السَّبِيلِ وَالسَّائِلِينَ وَفِي الرِّقَابِ وَأَقَامَ الصَّلَاةَ وَآتَى الزَّكَاةَ وَالْمُوفُونَ بِعَهْدِهِمْ إِذَا عَاهَدُوا وَالصَّابِرِينَ فِي الْبَأْسَاءِ وَالضَّرَّاءِ وَجَيْنَ الْبَأْسِ^٣ أُولَٰئِكَ الَّذِينَ صَدَقُوا^٤ وَأُولَٰئِكَ هُمُ الْمُتَّقُونَ

It is not righteousness that ye turn your faces toward East or West, but it is righteousness to believe in Allah, and the Last Day, and the Angels, and the Book, and the Messengers, to spend of your substance out of loves fir Him, for your Kin, for orphans, for the needy, for the wayfarer, for those who ask, and for the ransom of slaves, to be steadfast in prayer, and practice regular charity. (Surah al-Baqarah, 2:177)

The above mentioned Quranic verse highlights that our faith should be true and sincere and we must show it by performing deeds of charity to our fellow men. Furthermore, if we believe that the term 'spend', in this verse, has the essence of *Waqf*, this means that the two types of *Waqf* have been recommended, i.e. *Waqf* for your kin means family *Waqf* and for orphans, needy wayfarer and those who ask and for the ransom of slaves, means public *Waqf*.

Evidence from the Sunnah

Evidence for the legitimacy of *Waqf* can also be deduced from the following hadith;

عن أبي هريرة - رضي الله عنه - أن رسول الله - صلى الله عليه وسلم - قال: " إذا مات ابن آدم انقطع عمله إلا من ثلاث: صدقة جارية، أو علم ينتفع به، أو ولد صالح يدعو له "

Abu Hurairah (Allah be pleased with him) reported Allah's messenger (pbuh) as saying: When a man dies, his acts come to an end, except three things, recurring charity, or knowledge (by which people benefit), or pious offspring, who pray for him.

The concept of 'recurring charity' serves as the basis for *Waqf* as understood by majority of the Muslim jurists. Moreover, other scholars also believed that the faith which enables the believers to perform all the three good deeds mentioned in the above hadith is the institution of *Waqf*. For example, even after the death of the founder, the institution of *Waqf* can indeed assure ongoing, recurring charity for even centuries Cizakca (2010). Moreover, *Waqf* can contribute to raise scholarly work which would benefit mankind for a long period of time and the *thawab* (reward) that accrues to them would be shared by the founder who had provided for their sustenance in the first place. In addition to his previous remarks, Cizakca further concluded that the management of the *Waqf* could be entrusted to the offspring of the founder so that on the one hand, careful and loyal management is assured, and on the other, the offspring would pray for the deceased in gratefulness for his *Waqf*.

Several acts of the Holy Prophet (pbuh) also make clear-cut reference to the founding of *Waqf*. One can rightly argue that the first *Waqf* activity was performed by the Holy Prophet Muhammad (pbuh) when he purchased the land and constructed the Al-Masjid al-Nabawi in Madinah. Besides, building the mosque was one of the earliest things the Prophet (pbuh) did after his arrival as *Waqf* includes properties not only used for charitable services/revenues' but also to produce religious services as well.

Kahf mentions from Ibn Hisham that seven orchards were left to the Prophet by his Companion Mukhayriq upon the latter's death in the battle of Uhud, which had the Prophet (pbuh) assigned as *Waqf* and he used to spend their fruits on his household and for buying defense weaponry and equipment. Apart from these proofs from the Qur'an and the traditions of the Prophet (pbuh), the validity of *Waqf* has also been confirmed by the consensus (*Ijma*) of the Companions of the Prophet (pbuh).

Evidence from the Acts of the Companions

Regarding the legitimacy of this institution, evidence can also be found in the traditions of the companions of the Holy Prophet (pbuh). The incident to Umar (r) played the most important and renowned role for the construction of the idea, policy, and principles of Waqf who got a land in Khyber and then went to the Prophet (pbuh), and said: *Messenger of Allah! I got a land in Khyber. I never got a property more precious to me than this. What do you advise me?* He said: *“If you want, you can make habs on (bequeath) it, and give it as sadaqah (charity); provided that it should not be sold, bought, given as gift or inherited.”* Ibn Umar, the narrator of the incident, said, *“Then Omar gave it as charity for the poor, relatives, slaves, wayfarers, and guests”*. There is no harm for the person responsible for it to feed himself or a friend from it without profiteering but for free.

Two such kinds of Waqf were recorded by Imam Tirmidhi and Nasa'i for the third Caliph Uthman (r). The first one is: 'When the Prophet (pbuh) arrived in Madinah he realized that the city had very little drinking water except the water of *Bi'r Rumah* (Rumah Well) and Uthman (r) then bought half of it from its owner, who later fully purchased the well and made it Waqf for the use of the Muslims. The second report is regarding a land purchased by Uthman (r) for the extension of the Prophetic Mosque and making it an endowment.

It is clear from the above hadith that the companions of the Prophet (pbuh), Uthman bin Affan, had been encouraged by the Prophet (pbuh) to create this type of Waqf. Likewise, movable Waqf example can be seen by the following hadith to the companions of the Prophet (pbuh); Abu Hurairah (r) narrated: The Prophet (pbuh) said, *“If somebody keeps a horse (for Jihad) in Allah's Cause motivated by his faith in Allah and his belief in His Promise, then he will be rewarded on the Day of Resurrection for what the horse has eaten or drunk and for its dung and urine”* So Khalid b.al-Walid (r) was the first one to keep his horse and his amour for the Cause of Allah, in response to the encouragement of the Prophet (pbuh).

All aforementioned examples indicate the legitimacy of the institution of Waqf (whether moveable or immovable) and which encouraged people to following the Sunnah of the Prophet (pbuh) and his companions by creating more and more Waqf institutions throughout the history.

A Historical View of Waqf

According to the Professor Timur Kuran, the tradition of making Waqf was in trend before Islam. He exclaimed that various ancient peoples—Persians, Egyptians, Turks, Jews, Byzantines, Romans, and others—had developed similar structures prior to Islam, thus the institution did not had to be developed from scratch because it did not emerge in a historical vacuum, so the first founders of Islamic trusts and the jurists who shaped the pertinent regulations almost certainly drew inspiration from models already in application around them. It is also claimed that the development of trusts in Western Europe was influenced by Islamic Waqf most notably the establishment of esteemed educational institutions like University of Oxford and Merton College. Where the institution of the trust emerged only in the 13th century, a half millennium after it struck roots in the Middle East.

Al-Andalus

The terms *Ḥubus* or *ḥubs* were used generally in al-Andalus to replace Waqf. The majority of Andalusi charitable foundations were based on goods and chattels thus, most of the mosques, hospitals and cemeteries were built in this way. Similarly, houses were set up as *aḥbās* for particular individuals to live in, such as pious women who were living alone, the imām of the mosque, pilgrims, etc. Income from *aḥbās* (Waqf) lands and shops was allocated to run such charitable institutions. All the property which was setup through Waqf was let out to individuals by means of a contract in which the amount to be paid each year was specified. This agreement was negotiated by a special agent. In order to prevent the tenant of Waqf land eventually claiming the ownership for him, it was recommended that it should not be leased out to the same person for more than four years. In fact, the majority of the infrastructure of al-Andalus was developed through Waqf.

Ottoman State

Different types of endowments were the part of Ottoman Empire; these include Waqf *khayrī*, *ahlī* and the composed type (*mushtarak*). They comprised the influential pilgrimage foundations, mainly the *Ḥaramayn* foundations which contributed towards the financing of more than just the Holy Cities; the sultanic imperial *Humāyūn* Waqfs; the *Irşād* Waqfs, as well as a plethora of foundations which simultaneously incorporated elements from several of the above categories. Revenue-generating properties belonging to Waqf in Ottoman times whose incomes subsidized the endowments' beneficiaries were located within urban centers, in the cities' immediate surroundings and outlying hinterlands, as well as sometimes in very remote rural regions. Waqf assets consisted of all types of commercial and residential properties that were usually rented in order to create funds for the foundation beneficiaries.

Waqf networks in Ottoman lands were the essential infrastructural link in the transmission of knowledge, since Waqf revenues almost exclusively subsidized the construction and patronage of mosques and places for institutionalized learning, namely schools and libraries. After conquering Konya, Meḥmed al-Fātiḥ (the mayor) immediately endowed the city with a magnificent manuscript collection. In other cases, more modest libraries flourished throughout the different provinces, including those owned by private individuals and were maintained for the active use of scholars and students

Awqaf is a unique Islamic intuition, which grew larger over time and covered huge areas, like about one third of the Islamic Ottoman Empire and a substantial part of Muslim lands elsewhere. Various studies indicate that fully three-fourths of the lands consisting of the Ottoman Empire were established as *Waqf* lands. It flourished so much that the Ottoman society left the financing of health, education and welfare entirely to the *Waqf* system. Thanks to the *awqafs* that flourished during the Ottoman Empire, a person would have been born into a *Waqf* house, slept in a *Waqf* cradle, eaten and drunk from

Waqf properties, read *Waqf* books, been taught in a *Waqf* school, received his salary from a *Waqf* administration, and when he died, placed in a *Waqf* coffin and buried in a *Waqf* cemetery'. After the demise of the Prophet (pbuh), *Waqf* grew by leaps and bounds. *Waqf* endowment became a pillar in the religious, social, cultural, scientific, economic and political life of Islamic society. Even non-Muslims in Muslim countries established *Waqf* for the benefit of their communities. *Waqf* earned enormous growth and popularity throughout Islamic history, where a remarkably large proportion of lands were dedicated as *Waqf* lands and the *Awqaf* were responsible for much of what comprised the classical Islamic city and society. According to statistical data, *Waqf* agricultural land in the mid-19th century constituted half of the size of land in Algeria and one-third in Tunisia; whereas one-eighth in Egypt in the mid-20th century. *Waqf* donations in Morocco took different forms and their benefits were extended to all kinds of scientific and educational needs. For many centuries, inheritance architects were in charge of what many ministries are bearing now, such as the Ministry of Education, the Ministry of Higher Education and Scientific Research and the Ministry of Culture. Today, *awqaf* properties make up a considerable proportion of the social wealth in several Muslim countries and almost every Muslim country has a Ministry that handles *awqaf* and Islamic Affairs.

Pillars and Conditions of Waqf

A *Waqf* should have four pillars (*arkan*) which are:

- Founder (*al-waqif*)
- The beneficiary (*al-mawquf alaih*)
- The *waqf* property (*al-mawquf*)
- The declaration (*al-sigha*)

The Founder (*al-waqif*)

In Islamic jurisprudence, a *waqif* must meet following conditions for being eligible to establish *Waqf*; He must be '*aqil* (in full possession of his physical and mental faculties), *baligh* (adult) *hurr* (a free man/woman), sound minded person and that *Waqf* must not be made under any pressure or duress in order for *Waqf* to be valid. Ownership of the *Waqf* asset must be in founder's name before it is dedicated as *Waqf*.

The Beneficiary (*al-mawquf alaih*)

The person, a group or a community as stated in the *Waqf* deed entitled to be benefitted from the offspring of the *Waqf* facility are called beneficiaries. The beneficiary can be an individual(s) or an institution(s) which is awarded the income generated from investing the *Waqf*. They can be family of the *waqif* or a totally unknown person or community. If an individual is in debt and is placed in the guardianship as per the debtor's request, his endowment will only come into an effect upon creditor's approval. Paying up one's debt is an obligation as per Islamic law whereas endowment is a voluntary charitable donation.

The Waqf Property (*al-Mawquf*)

The property intended for dedication shall be wealth not earned through unlawful and un-Islamic means, thoroughly known and assessed and shall be in the possession of the *waqif* at the time of establishing *Waqf*. The proceeds and benefits of the *Waqf* asset should be incessant, i.e. not come to an end. Moreover, the majority of jurists provided that a facility should be physically qualified to enjoy this benefit, which denotes that a *Waqf* on fetus is invalid. The above explanation shows that, a *Waqf* of wine is invalid. A *Waqf* may be cash money, real property, shares or any moveable property, which can be utilized even if it is a common property. On the other hand, perishable items such as food cannot be endowed.

The Declaration (*al-Sigha*)

Waqf is declared by words and also by conduct. If a person spreads a mat in a mosque with an intention of *Waqf*, or constructs a building having an appearance of a mosque, with an intention of giving it away as a mosque, a *waqif* can also express intention for building a Mosque and letting people perform their prayers therein, or a graveyard for the burial of the dead the *Waqf* will be established. Furthermore, it is not necessary to utter the formal declaration of *Waqf* in Arabic. However, a *Waqf* declaration should be decisive and clear-cut, for example, a *Waqf* cannot be established through a promise, neither can it be conditional, that is, on the arrival of a certain person such property is *Waqf*. Another thing indicated by declaration is 'perpetuity', meaning, once the declaration of *Waqf* is made by the donor, a legally binding *Waqf* is automatically affected. Second, that *Waqf* cannot be constrained by time and temporaries. And lastly, the subject matter of *Waqf* should remain so forever.

Conditions of Waqf

There is almost a consensus among the jurists that all the major criteria and stipulations of a charity giver must be applied for a *Waqif* to be eligible to perform the deed. This includes the qualification of sanity, maturity, free will, freedom and legal eligibility to transact for the *Waqif* (Mohsin, 2014).

Notably, if the *Waqf* deed is pronounced by the *Waqif* while he was on his death-bed, it must not exceed from one third of his total property; as any excess to this point would not be implemented (Muhammad I.-e. Q., 1997). This is so because in this situation all the related pecuniary pronouncements of the *Waqif* would be treated as *Wasiyyah* (death-will). And *Wasiyyah* principles are bound to be regulated by the famous prophetic tradition in which the prophet explicitly explained that the *Wasiyyah* should be made up within one third of the deceased's belongings, and in fact, one third is a big portion (Malik, 1994)

A *Waqf* may also be founded for the pious causes of promoting social, cultural, intellectual, and vocational; this

includes establishments of schools, colleges, libraries, Madrasas, cultural centers, conference halls, hospitals and shelters for homeless. Also, the *Waqif* may stipulate a certain ratio of *Waqf* revenues to be given to his children, family members, descendants and offspring. This kind of *Waqf* falls under the category of *Waqf e Ahli* (posterity/ family *Waqf*) (Abdullah, 2013).

Characteristics / Classification of Waqf

The main characteristics of classical *Waqf* are, categorized into irrevocability, perpetuity, and inalienability.

Irrevocability

Irrevocability means the lack of power of the *Waqif* (founder) to revoke his donation at any time. The property is transferred from the ownership of the settler to the 'ownership' of Allah and hence irrevocable. Except in the case of *Waqf* by will and on death-bed, the declaration must be intended to take effect immediately. According to Abu Yusuf *Waqf* is effective and binding as soon as the declaration is made by the donor without any need for delivery of possession to the beneficiary. A *Waqf* shall immediately come into effect once all the requirements and conditions of the *wakaf* had been fulfilled, unless it is expressly provided that it shall commence only after the death of the *waqif*.

Perpetuity

The majority of Muslim jurists agree on the perpetuity of *Waqf*. It is clear that the perpetuity of dedication is intended but the perpetuity of the object is subject to interpretation. Movable property, such as goods and animals, as the subject matter of *Waqf*, is not permitted by some jurists. To these jurists, the *Waqf* property must be perpetual except otherwise is permitted by text or sound reasoning. For instance, the *Waqf* of horses is acceptable according to the text of the hadith, and the *Waqf* of trees and buildings is approved by Hanafis and Shafi'ies, because of their annexation to land. This group of jurists does not allow cash and food *Waqf*. For *Waqf* to be valid, the Hanafis made perpetuity a condition. "If it purports to be made for a limited period or for a temporary purpose, it is void.

Inalienability

Inalienability means that after a valid declaration is made, the subject matter of the *waqf* 'passes out of the ownership of the *waqif* and it cannot be alienated or transferred either by the *waqif* or the *Mutawalli* nor do their heirs can take it by way of inheritance. Inalienability is close to perpetuity, but unlike perpetuity, the inalienability of the subject matter of *Waqf* is rooted in the hadith of the Prophet (pbuh). Since whatever cannot be sold cannot be mortgaged too, thus jurists also prohibit the administrator from mortgaging or pledging the *Waqf* property as security for a loan. Perpetuity and inalienability also appear the same. Nevertheless, where the subject matter of *Waqf* is movable or of temporary nature, inalienability of the object of the *Waqf* during that time will be maintained but not its perpetuity.

Objective / Role of Waqf

The main objective or role of *Waqf* is to promote the social welfare of the *Ummah* and contribute in its economic development. The permanent nature of *Waqf* has resulted in the accumulation of *Waqf* properties all over the Muslim lands and the variety of its objectives provides support for widespread religious and philanthropic activities. This huge size of *Waqf* plays an important role in the social life of Muslim societies and communities. With regards to use of *Waqf* revenues, the most frequent purpose is spending on mosques. This usually includes salaries of imams, teachers and preachers in addition to carpeting, cleaning, water supply, and oil for the lights. With the help of this independent source of financing, religious leaders and teachers have always been able to take social and political positions independent of that of the ruling class. Education in general has been the second largest recipient of *Waqf* revenues. *Waqf* financing of education usually covers libraries, books, salaries of teachers and other staff and stipends for students. Financing was not restricted to religious studies especially at the stage of the rise of Islam. The third big beneficiary of *Waqf* is the category of the poor, needy, orphans, persons in prisons, etc. Other users of *Waqf* revenues include health services which cover construction of Hospitals and spending on physicians, apprentices and patients (Kahf, Role of *Waqf* in Sustainable Development - Kinds and Objectives of Islamic *Waqf*, 2014).

The establishment of *Awqaf* is a clear representation of creating a third and philanthropic sector that is kept away from both; the profit-motivated behavior of individuals and the authority-dominated domain of the government and it's certainly not an invitation to government authority to dominate the area of benevolent activities in the society. In addition to *Zakah* and other forms of charity, the objective of *Waqf* is to create a permanent, cumulative and ever-increasing capital base and infrastructure for benevolent activities. The sphere of *Waqf* is not limited to trust and welfare of financially ill sector but it also expands the scope of benevolence to cover all areas of social welfare even sectors many contemporary economists and political sociologists consider as part of the domain and responsibility of governments such as health, education and defense (Kahf, 2014).

CONCLUSIONS

Islamic *Waqf* is a civil institution, not a religious one. It is governed by a legal structure that leaves no room to the religious hierarchy to tamper with it and it gives its founder a free hand in determining its management, use and distribution of revenues. These legal regulations are what carried *Waqf* to the service of society on institutional basis. The meaning of being civil is that it has its legal framework, objectives, documentation and regulations for management (Al-Hassani, 2013).

Several innovations marked the history of Islamic *Waqf*. First, it was directed towards supporting the poor and needy from a scale of individual charity to a scale of social civic institution with capital investment. *Awqaf* still encompass

important potentials of dynamism in sustaining development and growth of the Muslim societies today.

Several Muslim societies contributed to the Waqf institutions which further assisted in the development of the societies and economies as well as provided support to the governments in becoming less worried about the education, health and other sectors while focusing more on infrastructure and development related projects. An established Waqf institution in Turkey and many other countries envisaged its significance and promoted awareness of this Islamic institution which once properly recognized, can indeed become an important organ to the economic system of any country.

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