



The Relevance and Socio-Economic Values of *Al-Waqf* in Nigeria

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Abstract: This paper discusses the relevance and socio-economic values of *Waqf* in contemporary Nigeria. It provides clear expositions on the values of *Waqf* in the fields of education, economics and other social institutions like marriage etc., this paper, explains the general concept of *Waqf* in accordance with the opinions of the Muslim jurists at various levels. Therefore, the meaning of *Waqf* is conditions, its position in the law of property, who and how it should be administered have been discussed in this paper.

Keywords: Relevance, Socio-Economic, Values and *Waqf*.

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INTRODUCTION

In the Name of Allah the Beneficent the Merciful

In His immutable Divine-Book (The *Qur'an*) Allah (S.W.T) says:

O you who believe! Shall I lead you to a bargain that will save you from a grievous penalty? That you believe in God, and that you strive (your utmost) with your property and your persons: That will be best for you if you know! (Q.61: 10-11)

From the verse of the *Qur'an* above, it could be perceived that the religion of Islam advocates for selfless sacrifice from every believer both physically and economically, towards the upliftment of Islam and the well-being of its adherents. The precedence confers to the material assistance in the Glorious *Qur'an* is indeed, a greater emphasis on its importance within the Islamic framework. It should however, be noted that whenever Allah (S.W.T) mentions or calls for assistance it does not mean that He needs of anybody's wealth rather, it is used figuratively for the benefit of economically disadvantaged class of people. These are categories of individuals who cannot earn sufficiency either due to poverty or physical deformity.

Therefore, in order to alleviate the suffering of miserable people, Allah (S.W.T) enshrines different types of material assistance for them with the solid aim of improving their difficulties and hence freeing them from economic bondage. For example, *Zakah* has been instituted in Islam as a compulsory charity on the well-to-do Muslims to the poor ones in the society. Besides, *Sadaqah* (voluntary charity) and *Hibah* (gift) are also recommended for the less privileged to help them out. Therefore, *waqf* can be seen as being introduced in Islam in order to serve the function of eradicating socio-economic problems in the Muslim Community. The practice of *waqf* has been unanimously endorsed by the four prominent *Sunni* Muslim schools of jurisprudence. *Waqf* also falls within the types of *Sadaqatul-Jariyyah*, because it is usually exercised in perpetuity for an individual or the general welfare of the Muslim community in general.

This paper, therefore, analyses the relevance and socio-economic values of *waqf* in our contemporary Nigeria. However, to make the concept more clearly understood the paper starts with the meaning of the term *waqf* and how it originated. The conditions to be satisfied by *waqf* (endower) and those that govern the validating of *waqf*

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(endowment) and the factors that invalidate it also received equitable treatment. Similarly, the position of *waqf* in the law of property and how it should be administered have also been discussed.

Finally, the conclusion has been drawn in which the findings of the paper have been pointed out.

Meaning of Waqf

The term "*waqf*" with Arabic plural is linguistically defined by Qadri (1986) as detention or tying up. In Maliki school of law it's mostly known as "*Hubs*" Khalil (nd) Keffi, (2002)." jurisprudentially, it is the donation of goods or/and services that are being held in perpetual trust for general or specific charitable causes that are socially beneficial (<http://www.isbd.org.aboutwaqf>). (Retrieved on 21st June 2024). By this definition, it means *waqf* is an inalienable religious endowment in Islamic law.

Origin of Waqf in Islam

According to Gibb and Kramers (1974), the Muslim jurists dated the origin of the institution of *waqf* to the Prophetic period. It was also said that the well-to-do among his companions like Abubakar and Umar (R.A), and many others made endowments in their lifetimes.

It was reported by *Imam Bukhari* that the Prophet (S.A.W) had once time bought gardens from *Banu-Najaran* in order to build a Mosque. They, however, refused to take the money and gave the land for the sake of Allah (S.W.T) as *waqf*. The Prophet made *waqf* of a piece of land he acquired in the canton of *Khaybar* for the benefit of the travellers. According to the *Athar* of Abdullahi bn Umar, his father the second Pious *Khalifah* acquired lands called *Sammagh* in the same canton which were very valuable to him. He sought the permission of the Prophet (S.A.W) to give them away as *Sadaqah* (voluntary perpetual charity). The Prophet (S.A.W) replied; "Retain the thing itself and denote its fruits to pious purposes".

Similarly, Umar (R.A) did this for his children, kindred and poor with the condition that the lands should never be sold nor bequeathed. In other words, he gave the lands out as *Waqf* for his children, kinsmen and poor people.

It was also narrated by Anas Ibn Malik (R.A) of a *waqf* made by Abu Talha. The narration shows that Abu Talha (R.A) had a favourite garden called *Baru'ah* in the city of Madinah where the Prophet (S.A.W) used to go and have a rest under the shades of the garden's trees and drinks from its water. But in his desire to comply with the teachings of the Qur'anic verse which says:

You shall never attain to goodness till you give in alms of that which you love and whatever you give, in truth God knows it. (Qur'an, 3:92)

Abu Talha (R.A) gave the Prophet (S.A.W) the best garden in anticipation of Allah's blessings. However, the Prophet (S.A.W) gave it back to him with a suggestion that he should make it an endowment for his relatives. He therefore acted accordingly as advised by the Prophet (S.A.W) as shown in the following Hadith.

Narrated Anas: the Prophet (S.A.W) Said to Abu Talha: Give (your garden) to the poor amongst your relatives. So he gave it to Hassan and Ubay Ibn Ka'ab (*Bukhari*).

Similarly, Doi, (1983) confirms that Zubayr *ibn Awwam* made an endowment for his daughter. Ikramah did it in favour of his son and Abubakar (R.A) for the benefit of his children. Equally, Sa'ad bn Waqas also gave his lands in Madinah and Egypt as endowment for his children and Uthman Ibn Affan (R.A) made the same of his land called *Baru'ah*.

It can be understood that the institution of *waqf* has emerged from the time of the Prophet (S.A.W) and his companions (R.A). However, certain conditions have been stipulated for any Muslim who intends to exercise or make *waqf*.

Conditions for the Waqf (Donor)

The following conditions are to be satisfactorily met by any Muslim who wishes to denote his possession as *Waqf*.

The first condition is that the *Waqf* must have full right of disposal of his property, he should therefore, be in full possession of mental faculties, be of puberty and be a free man (not a slave). He must also, have unrestricted ownership in the subject of the government.

The second condition is that the *waqf* should make his endowment with an object that is permanent in nature and yield, usufruct (*Manfa'a*) so that it is primarily real estate. However, Muslim jurists like *Imam Malik* and *Imam Shafi'i* opined that *Waqf* is also possible with movable property.

The third condition reveals that the purpose of the endowment must be a service pleasing to Allah (S.W.T). Therefore, *Waqf* (endower) should have the motive of seeking Allah's reward for his endowment of a religious or public nature like the building of Mosques, *Islamiyyah* schools, hospitals and other infrastructure like roads, bridges and water works.

The *waqf* is equally allowed to make endowments for his family which is called "*Waqf al-ahli*".

The fourth and the final condition is that the *Waqf* must clearly express his intention either by saying *Waqftu* or *Habbastu* (i.e have intended to make endowment) or can use other wordings by addition that it must neither be sold nor given away nor bequeathed; otherwise, it would only be a *Sadaqah*. The *Waqf* must further describe the object accurately and state exactly for what purpose and in whose favour the endowment is made. An emphasis has been made on the clear mention of those to whom the endowment is made and for what purpose. However, according to Qadri (1986), no express word is necessary to constitute a *Waqf* so long that the donor intends to dedicate the usufruct of the property permanently to good services.

Conditions for the Validity of *Waqf* (endowment)

The following four (4) conditions as pointed out by Gibb and Kramers (1974) must be observed by the donor before achieving the validity of his endowment.

First of all, the endowment must be made in perpetuity, which in the case of endowment for definite individuals, is managed by allotting the proceeds after they died. It is therefore also inalienable (a right which cannot be taken away).

Secondly, it must come into being at once and there must be no condition for postponing it, except the death of the donor, but in the case of Will (*wasiyyah*) the donor can only make one-third (1/3) of his property *waqf*.

Thirdly, the *Waqf* should be an irrevocable legal transaction (*al-Lazim*). However, according to *Imam* Abu Hanifah, the endowment can be revoked only when it is connected with the death of its founder.

The fourth condition is the conveyance (*Taslim*) of the substance of the endowment to those for whom it is intended or rather to the administrator. However, *Imam* Abu Yusuf, opines that the endowment is already complete by the declaration of the donor's intentions. In the case of foundations for the common good like Mosque and cemeteries, the conveyance is completed by putting it into use, even if only by one person.

Position of *Waqf* in the Law of Property

There are different opinions among Muslim jurists regarding the ownership of *Waqf*.

According to one view shared by Shaybani, Abu Yusuf, Shafi'i and his school, the *Waqif's* right of

ownership ceases. It is usually said that it passes to Allah (*S.W.T*) this view, however, indicates that nobody is allowed to self or claim private ownership of any commodity set for *Waqf*.

Another opinion by *Imam* Abu Hanifah and *Imam* Malik is that; the donor and his heirs retain the right of ownership; he is only prevented from exercising it. This opinion maintains that the ownership of a *Waqf* remains in the *Waqif* both during and after his lifetime.

The third view is that the ownership passes to the beneficiaries. *Imam* Ahmad *bn* Hanbal and some disciples of *Imam* Shafi'i are of this opinion.

Whatever the case, and to curtail the freedom of the interested parties to sell the *Waqf's* properties donated as charity and for the welfare of humanity, an endowment becomes permanent and irrevocable.

Administration of *Waqf*

The management of the *Waqf* is administered by *mutawalli* (somebody appointed to look after the property) being paid monthly for his services. In all the Schools of Law except for Maliki and Hanafi; the founder could be the first *mutawalli* and could always appoint someone as the *mutawalli*.

According to Shaybani, the donor will not be a trustee unless he conditioned it for himself at the time of consecration. However, this view was rejected by Abu Yusuf who said that it was not necessary in the case of *Waqf* and this view is the overwhelming opinion among scholars. Therefore, the founder of the *Waqf* may appoint the original *mutawalli* and provide his successor. When there is no such provision, the *Qadi* (judge) may designate the *mutawalli* usually giving preference to the descendants of the *Waqif*. When the donor passed away in a private endowment the beneficiaries could appoint *Mutawalli*, and in public endowments, the judge alone has the right to do it. The *Mutawalli* has always been under the supervision of the *Qadi* and even if he was the donor, might be dismissed for the abuse of his position.

The duties of *Mutawalli* are to administer the endowment's substance by the stipulated conditions and to receive and distribute the proceeds among the beneficiaries. The judge always retains general supervisory powers over the appointed administrators. He has no right to sell the property unless it is given by legal circumstances. Therefore, the power to lease the property is restricted and in case of houses, he grants a short lease for a period of not more than one year Gibb and Kramers (*op.cit*).

Invalidation of *Waqf*

Like every religious deed, *Waqf* can also be rendered null and void by the following factors.

- i) Muslim. An endowment made by a non-Muslim is also invalid even if it is made for the benefit of the religion and the Muslims like; building a mosque by a non-believer for the use of the Muslims.
- ii) Apostasy. If the founder becomes apostate, the foundation loses its validity and passes to his heirs.
- iii) Conveyance. If the endowment was not conveyed by the founder until the illness which leads to his death, the *Waqf* becomes invalid. However, the author of *Jallab* opined that whosoever made a will of endowment for his heirs in the state of last illness, the *Waqf* is valid and right ownership remains with the heirs. But if he includes other relatives in the will it can only be authentic from one-third of his wealth. *ibid*
- iv) Partiality. According to Khalil (*op.cit*), *al-Waqf* which is only intended for male children is rightly vitiated. This is because it resembles the attitude of the people of the *Jahiliyyah* period.
- v) In pious purpose. The *Waqf* is also invalid when it is intended for sinful acts. For instance, if the revenue realised from the object of the endowment is to be used in wine purchase.

The Relevance and Socio-Economic Values of *Waqf*

It is obvious that the growth and development of every community depends primarily on the socio-economic well-being of its members. Education which forms the backbone of every community also depends on the socio-economic status of individuals within a given community. Therefore, Islam emphasises the importance of material assistance in cash or in kind to those of a lower socio-economic status.

Waqf is one of the charitable deeds described by the Prophet as perpetual in rewards. It can be founded for the benefit of a person, or group of people, or for any pious services. Thus, *al-waqf* can be applicable in our contemporary Nigeria to address the socio-economic problems facing a greater number of citizens such as the following:-

Al-Waqf can be applied to arrest the socio-economic unrest facing the Nigerian community. The existence of various dubious means of confiscating one's possessions is increasing at an alarming rate which causes total insecurity to people's lives and properties. Such innate acts include the dubious "419" act, high-way armed robbery and rampage stealing. There is also the emergency of the so-called

"Area boys" who notoriously threaten peoples' properties and save their lives. Another current scenario of banditry and kidnapping rampantly taking place in northern Nigeria could be surmounted by the use of *waqf* donation. It is a well-known fact the perpetrators of such notorious acts are in most cases gangs of youths who are neither acquired religious education nor conventional.

For this reason, they became idle without any respect for humanity. And some of them are school dropped outs and some are graduates without employment to cater for their living. In this case, therefore, if wealthy individual Muslims can willingly declare some portions of their wealth as *Waqf* to take care of the payment of scholarships for such poor students to secure jobs for the unemployed ones this social unrest could have been checked before it culminated into what it is today.

Another socio-economic value of *Waqf* can be seen in the field of medication or health services. It is a well-known fact that in Nigeria today, many poor citizens cannot afford medical treatment for themselves and their families. Moreover, our government hospitals have become mere consultation rooms owing to the failure of the government to provide adequate medical facilities and treatment to the general public. It is a real-life experience now that with the removal of fuel subsidy by the Asiwaju Tinubu led administration, the high cost of living is day by day becoming unbearable because prices of all products in the country skyrocketed, more importantly on food items. A common man is hardly able to get three meals per day talk less of attending to hospital bills. Therefore, if *waqf* can be initiated in that direction, it would help greatly. For example, an economically well-to-do Muslim may decide to sacrifice a certain portion of his wealth as *Waqf* for the purchase of medicine and other surgical instruments for the benefit of the common man in the society. Somebody can also build well-equipped dispensary stocked with different medications and donate it as *waqf* in a village for the use of the inhabitants of the area.

Marriage is one of the social aspects necessary for keeping one's family lineage. This social institution has been given attention in the Glorious Qur'an and Hadith. It can be observed that Prophet Muhammad (S.A.W) urges young Muslims to marry whenever he has the wherewithal in order to keep his chastity under control and free from temptation. However, it could be seen that a good number of desired Muslim youths could not marry because of the economic hardship in which they find themselves. Similarly, many parents delay the marriage of their daughters for the same reason (we heard of many requests from different parents who wanted to give

out their daughters in marriage during the fasting periods. On this issue, also cash *waqf* is applicable and is of paramount socio-economic value.

Another relevant area of *waqf* has to do with taking care of orphans, widows, handicapped and abandoned children. These social classes of people should be assisted to alleviate their miserable condition. Prophet Muhammad (S.A.W) was reported to have said that orphans and widows should be assisted. Therefore, *waqf* can be applied to serve this purpose. For instance, some states like Sokoto, Kebbi and Zamfara have established orphanage homes where abandoned babies and orphans who have no guardians are being taken care of. Similarly, there are schools for the physically handicapped. Thenceforth, wet-handed Muslims can create endowments to serve these purposes.

The problem of inadequate infrastructure like roads, electricity and good drinking water is worth reflecting on, as well as the relevance and socio-economic values of *waqf* in Nigeria. The rich Muslims can complement the efforts of governments by making endowments through the construction of roads or rehabilitation, the construction of culverts or open-dug wells, or the provision of pipe-borne water for the intrinsic benefit of the common man. Similarly, the building of residential houses donated as endowments will be of great social security for many people who may be left stranded because of the lack of shelter. If there were endowments of houses, the problems of accommodation faced by the victims of crises or travellers would have been minimized to the barest level.

Finally, endowments can be utilised to solve the socio-economic problem of beggars. Islam does not encourage any form of beggary unless when it becomes inevitable. The dependence of any capable individual upon somebody else has been condemned by Islam as a disgraceful sin. Therefore, to curb the number of increasing beggars on the streets and save the image of those habitual dependant on other people, the application of *waqf* can be put in place. For example, a fund can be raised for them where the rich people will be sending their endowments through donations or create for them centres for skill acquisition to become self-dependence.

CONCLUSION

From the above discussion, it can be perceived that the institution of *waqf* exists right from the period of Prophet Muhammad (S.A.W). Therefore, it is permissible for every economically abled Muslim to make *waqf* for the benefit of the general public. However, it is important and even

compulsory for a Muslim who intends to make *waqf* to know and satisfy all the conditions governing its validity and what can lead to its invalidation as explained in this paper.

It is equally important to note that, this paper stresses the fact that nobody, even the donor himself can claim the right of ownership of the property of - *waqf*. This is with a view to making it permanent and inalienable by law. Moreover, the administration or management of *waqf* is the sole responsibility of an *Imam* or *Qadi*. Therefore, somebody can be employed to look after the property of *waqf* and be paid for the job by the Islamic Government. Similarly, a judge (*Qadi*) can be appointed to supervise the well-being of all *waqf* properties. In case of any mismanagement of the property by the employee, he will be compelled to return it and be dismissed instantly.

Meanwhile, this paper outlines the relevance and socio-economic values of *waqf* in contemporary Nigeria. The paper observes that if the institution of *al-waqf* could be properly applied by the rich Muslims, the menace of socio-economic instability in the country could have been reduced drastically if not completely addressed.

Therefore, at this juncture, the paper is calling on our rich Muslims to embark upon the donation of endowment (*waqf*) for the sake of Allah (S.W.T) to attract His blessings and pleasures. Similarly, Muslim scholars all over the country should endeavour to re-awaken the awareness of the generality of the Muslims in Nigeria about the importance of the institution of *waqf*. Seminars and workshops can be organised to accomplish the task and achieve its goals.

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