

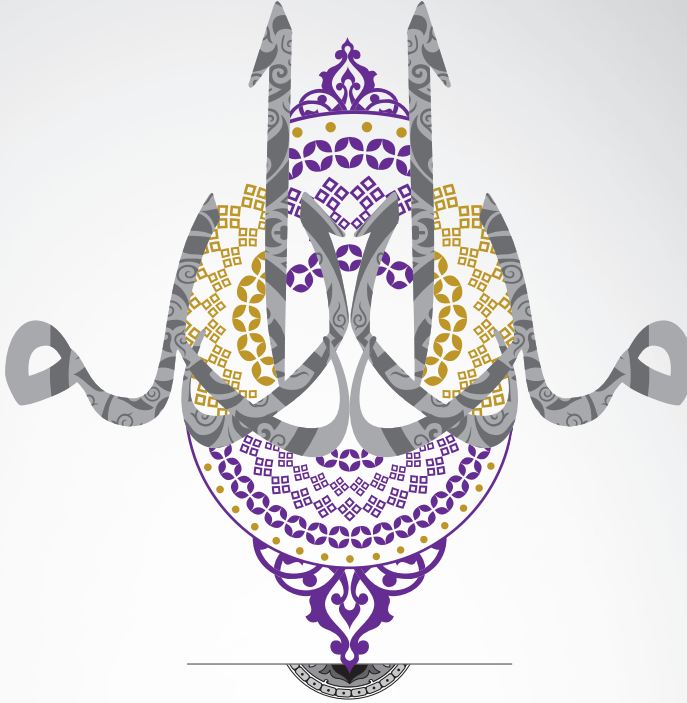


الأمانة العامة للأوقاف
Awqaf Public Foundation

Waqf Midad Project



دولة الكويت
State of Kuwait



Series of Translations (15)

The contribution of waqf

to non-governmental work and social development

Dr. Fuad Abdullah Al Omar



**A Series of Translations on Charitable
and Voluntary Work
(15)**



**Contribution of Waqf to
Non-Governmental Work
and Social Development**

Dr. Fuad Abdullah Al Omar

Department of Studies & External Relations
1435 AH - 2013 AD

KAPF mission is to disseminate waqf culture, so all relevant publications are not for sale



A Series of Translations on Charitable and Voluntary Work (15)

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First Edition: 1435 A.H - 2013 A.D

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Indexing of Kuwait National Library

Al Omar, Fuad Abdullah

The Contribution of Waqf to non-Governmental Work and Social Development / Fuad
Abdullah Al Omar.

Kuwait: Awqaf Public Foundation, 2013

P. :ill. ; cm.

A Series of Translations on Charitable and Voluntary Work.

ISBN 978-99966-38-24-4

Depository No. 682/2013

1. Charitable uses, trusts and foundations.
2. Waqf - Islamic countries.
3. Awqaf.
4. Endowments - Islamic countries. I

I. Title

KW-KcNLK BP170.25 346.0642



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Foreword

Kuwait Awqaf Public Foundation is working on the project of boosting studies and researches related to waqf which falls under the projects of the coordinating state of the waqf file at a pan-Islamic level. The State of Kuwait was entrusted with this task pursuant to a decision taken by the Conference of the Ministers of Awqaf and Islamic Affairs held in Jakarta, Indonesia, in 1997. Ever since, Kuwait has been working on a number of projects in this domain, as follows:

The projects are as follows:

- 1.The project of boosting waqf studies and researches.
- 2.The project of publishing an international periodical for waqf (Awqaf Journal).
- 3.The project of Waqf Jurisprudential issues.
- 4.The project of training waqf cadres.
- 5.The project of the waqf pilot law.
- 6.The project of exchanging and transferring waqf experiences.
- 7.The project of Waqf Data Bank.
- 8.The project of Waqf Bibliography.
- 9.The project of Waqf Thesaurus.
10. The project of Waqf Terminology.
- 11.The project of Waqf Tarajim (about important waqf figures).
- 12.The project of Islamic Waqf Atlas.

In carrying out this task, KAPF acts in concert with the Executive Council of the Conference of the Ministers of Awqaf and Islamic Affairs in Riyadh City and the IDB Islamic Institute for Research and Training.

With respect to translating charitable and waqf-related works aiming at disseminating awareness in this domain, several books, studies, articles and academic theses were translated, including books from western resources in the area of volunteerism. Some other above mentioned books deal with KAPF in order to familiarize the public and concerned people with volunteerism and waqf-related issues.

It is a great pleasure for KAPF to publish this series of translations to be at the disposal of researchers and waqf-interested bodies, individuals, institutions and agencies.

On this occasion it should be noted that this book translated by KAPF from Arabic into English is one of the winning researches in Kuwait International Contest for Waqf Studies in

1420 AH, corresponding to 1999 AD. It was first published by KAPF Department of Studies and External Relations in 1999 and the second revised edition in 1431 AH - 2011AD.

This book discusses an important issue relevant to the role of waqf and non-governmental institutions in realizing social development, shedding a light on the similarities and differences between both of them in order to develop a means for regulating and promoting the relation between them and how to activate it in favour of serving the social development.

May Allah the Almighty bless this effort and instill all benefit and usefulness in it.

Kuwait Awqaf Public Foundation

Introduction

In the Name of Allah, Most Gracious, most Merciful and Blessings be upon His Messenger(PBUH)

The idea of diverting to the issue of waqf, being part of the Islamic economic history and its development during the Prophetic era, came to my mind while I was preparing the academic material on the development of the Islamic history. I sensed that big gap in the modern books dealing with the development of economic history. In most cases, authors ignore that period in which Moslems were dominant, or the reference to that period faded away without indicating the advantages of the Islamic economic system and its prevalence for centuries. Ignoring this era of human history deprived humanity of a Divine learning and a human wisdom it stands in need of during its developmental progress. This could have averted humanity these current economic downturns and caused it to take the right tract for its upset financial trends.

The study of the Islamic economic history and its development with its winding tracts, richness and lengthy period made me feel that I am not the person to carry out this mission, yet the paucity of research thereabout gives an incentive to embark on it and thereby pave the way to others to complete it or set an example to other researchers. Waqf, no doubt, is one of the highlights of the Islamic economic history, therefore the announcement on the International Waqf Contest for 1999 by KAPF and the nature of subjects being suggested encouraged me to go deep into the subject of waqf. This shows clearly the importance of contests in encouraging scientific research. What is more encouraging is that the subject approached the role of waqf in social development. Such a subject is important in man's life, especially if the researcher works for an Islamic institution like the Islamic Bank of Development which aims to push the wheel of development for which waqf is a major tool. Taking all these motives together, one still feels reluctant because going into the subject of waqf and social development, though enjoyable and beneficial, needs more time and its the routes look lengthy and the preoccupation is overwhelming. Nevertheless, the intention to embark on this study was made stronger through depending on Allah, the Living and the Everlasting to whom I resort for forgiveness in case any errors or slips occur while carrying out this task.

It is undeniable that the basic function of waqf, in addition to its clear contribution to economic development, is its effective role in social development with all its aspects. Though waqf emanated from the initiatives of the non-governmental sector, its proceeds used to go to the non-governmental sector within a framework set by the civil society in the light of the emerging social needs. Work in the field of waqf remained within this scope under a non-governmental management up to the 19th and 20th centuries. Several factors led to the intervention of governmental authorities and thereby pave the way for such authorities to

take up, wholly or partially, the responsibility for managing the awqaf. This caused the awqaf to get sometimes nearer to or farther from the needs of the civil society and its priorities. Reflecting on the status quo of the Islamic nation nowadays, one senses the need for restoring the past mission of waqf through assimilating the mechanisms of communication between waqf in its modern sense and the civil society institutions.

It is evident that, within the context of the current situation, it is not possible to develop or create mechanisms which are likely to realize that overall communication between waqf and non-governmental institutions. We should not leave behind our backs all that which we cannot comprehend. A lengthy journey starts by one step exemplified in conducting preliminary researches that pave the way before others. Therefore, the progress of waqf and its historical development comes within this framework, in addition to its relation with the NGOs and their role in social development. This is the aim of this study which is carried out through pursuing and assessing this development along a period of time extending from the middle of the 19th century up to the end of the 20th century. This study, following a brief analysis of the waqf development, seeks to identify the elements of communication between waqf and the NGOs and means of strengthening this communication and cooperation.

I count it a Divine favour to be able to benefit from the sound advice and invaluable help of some of my colleagues to minimize errors and provide this study with the relevant academic contributions. To all these people I extend my thankfulness and appreciation. The academic material inculcated herein is the fruit of several participating individuals and institutions, yet it expresses my own attitude and I assume full responsibility for any slip or mistake therein. Whatever good I attain belongs to Allah and if otherwise, it is from my self or from Satan, the Rejected One from whom I seek Allah's protection.

The Author



Chapter One

The Role of Waqf and NGOs in Social Development



1-1 Introduction

In order to study the relation between waqf and the NGOs and define its axes and analytical sides, we have to manifest the nature of the subject and its framework in the light of the relevant studies. This is meant to put the study in its right place. The study centers on the role of waqf in social development, so one should follow the role of waqf in social development in the past, in addition to the factors which contributed thereto from the perspective of cooperation with NGOs

The first waqf in Islam was Bairuha'a (though there is a difference over this fact) and it was the by-product of a non-governmental initiative in favour of social development⁽¹⁾ which came in response to the Quranic verse 'By no means **shall ye attain righteousness unless ye give freely of that which ye love**⁽²⁾. Therefore, the owner of the said land Abu Talha dedicated it, the first of its type in Islam. On hearing the above Quranic verse, Abu Talha addressed the Prophet (PBUH) saying, **"In my point of view, the best of my property is Bairuha'a and I offer it as a charity, so dispose of it the way you like"**⁽³⁾. Similarly, Othman ibn Affan (May Allah be pleased with him) bought Roma water well from its Jewish owner who used to sell its water to the Moslems. The Prophet (PBUH) wanted to encourage the Moslems to buy it by saying **'whoever dug Roma, paradise will be his abode'**⁽⁴⁾. Accordingly, Othman ibn Affan bought it and put it at the disposal of the Moslems.

Evidently, these two waqfs, or rather ongoing charities, constituted a response to an existent social need. Water was rare in Medina Al Munawarra and there was a dire need for drinking water. Such a need could only be addressed through sustainable water source, i.e., an ongoing charity. Therefore, the waqf was established through a non-governmental initiative on the one hand, and the ruler's solicitation to address an existent and permanent social need, on the other.

In order for the study of the role of waqf in social development from the perspective of cooperation among waqf institutions and their link with the NGOs to achieve their objectives, the nature of the subject must be clearly described and the problem of the study to be defined. Furthermore, the methodology of dealing with it and the terminology being used will be presented in the following paragraphs.

1-2. Nature and Framework of the subject:

The nature of the subject is the relation between waqf institutions and NGOs in the hope of realizing social developments in the broad sense. It is pertinent to start the analysis

(1) Al Zarqa (1366AH:7) considers that Quba mosque was the first religious waqf, then comes the Prophet's mosque, whereas the first among the charitable facilities were seven orchards owned by a Jew called Mukhairiq, later granted to the Prophet after the death of former.

(2) Al Imran Sura, verse 92.

(3) Al Bukari, Hadith #2769.

(4) Al Bukhari, Hadith # 2778.

by showing the nature of waqf and its historical development, in addition to identifying its relation with NGOs in respect of the multilateral development. The study will highlight waqf as an Islamic financial medium in the Islamic economic system and its role in the social development. There will also be a summary of the historical development of the waqf before the 19th and the 20th centuries, followed by a hint at the major changes which affected the waqf system and what this brought about in terms of radical and structural changes.

Islamic waqf is held as one of the most important financial techniques in the Islamic financial system meant to realize comprehensive development, and particularly social development. The legitimacy of waqf in Islamic fiqh (jurisprudence) is based on three pillars (Abu Zahra, 1391 AH: 9-10), (Imam, 1416 AH: 154-158):-

1. The Qur'anic solicitation to do charitable deeds as exemplified in the Quranic verses ***'Help ye one another in righteousness and piety⁽⁵⁾' and 'By no means shall ye attain righteousness unless ye give freely of that which ye love⁽⁶⁾'.***

Waqf therefore is a kind of public charity and when Abu Talha listened to the Quranic verse 'By no means shall ye attain righteousness unless ye give freely of that which ye love', he dedicated what he viewed as the most expensive, i.e., Bairuha'a⁽⁷⁾.

2. The noble Prophetic Tradition states that 'when one dies, his work is cut off save for three things: an ongoing charity, a beneficial learning or a goodly son praying for him⁽⁸⁾. The meaning of an ongoing charity is embodied in waqf.

According to the esteemed prophetic tradition, Omar ibn el Khattab was the first to establish a waqf in Islam in the proper sense. Ibn Omar narrated that Omar acquired a piece of land in Khaibar and he came to the Prophet (PBUH) and said: "I acquired a piece of land and nothing is dearer to me than this piece. What would you order me to do with it?" The Prophet (PBUH) replied saying, 'If you wish, you can withhold its corpus and release its proceeds'. So Omar offered it as a charity, the corpus of which is inalienable, unsaleable and unbequeathable.

There is no harm to those in charge to eat honourably thereof or to provide therefrom to a friend not originally provided by it. Narrators are on agreement concerning the dedication of seven enclosures and orchards (Al Hanbali, 1348 AH). The majority of narrators, however, regard the waqf of Omar ibn el Khattab as the first waqf in Islam. Thereafter, the companions of the Prophet (Al Sahaba) competed in dedicating their moneys and assets for God's good pleasure (Al Hanbali, 1348 AH:7).

3. **Consensus:** Admittedly, the Prophet's companions dedicated part of their wealth and this continued thereafter for generations (Al Hejaili, 1420 AH: 36,54). In this respect, Al Imam

(5) Al Maeda Sura, verse 2.

(6) Al Imran Sura, verse 92.

(7) Al Bukhari, # 2769.

(8) Al Bukhari, verse 2772; Muslim 1000

Al Khassaf (1322 AH: 18) maintains that 'waqf occurred in the Prophetic tradition and what the Prophet (PBUH) had done with his land and the Sahaba with their lands indicate a consensus purporting that the Sunnah of waqf is correct'. When Omar ibn el Khattab wrote his letter in favour of his waqf during his reign, he called a group of Al Muhajereen and Al Ansar to notify them thereof and to bear witness thereto. Consequently, waqf came in circulation. Jaber bin Abdullah says in this respect: 'Nobody among the well-off Muhajereen and Al Ansar but dedicated part of his money as a charity in perpetuity, which cannot be disposed of or bequeathed, (Al Zarqa, 1366 AH: 9). By the unanimous agreement of faqihs, waqf is held as a correct concept (ibn Hajar Al Askalani: 5/403).

Thus, a waqf gains its validity through a saying, a deed and a consensus (Al Hanbali, 1348 AH: 18) because the Prophet (PBUH), Ali ibn Abi Taleb, Omar ibn el Khattab and Talha ibn el Zubair dedicated gardens to the poor, the kinsmen, the needy, the deprived, the wayfarers and in the way of God⁽⁹⁾. Added to the aforementioned, we have the awqaf of Othman ibn Affan, Zaid ibn Thabit, Abdullah ibn Amr and Amr ibn Al As (May Allah be pleased with them all (Al Kattani: 1/404). Thereafter awqaf followed consecutively by the Sahaba following the waqfs of Othman ibn Affan, Omar ibn El Khattab, Al Zubair ibn Al Awam and Muaz ibn Jabal, may Allah be pleased with them all, (Al Khassaf, 1322AH:5-15) and other Sahaba, males and females, so that their number exceeded 26(Al Hejaili,1420AH:36-37). During the Caliphate period, the number of awqaf increased due to the Islamic conquests and the relative financial prosperity (Ibn Al Khoja, 1417AH: 132-134). Besides, new cases of indigence and poverty encouraged dedication, especially to students and poor people.

During the Omayyad caliphate, awqaf expanded and channels of spending exceeded those restricted to the poor and the needy to approach schools, centers of learning and teachers. Spending also covered the establishment of mosques, infirmaries, orphanages, public libraries and other relevant ancillary services. In view of this expansion in the size of the awqaf and their effectiveness, new administrative structures were created to substitute those people who attended personally to their awqaf. This situation urged the rulers to appoint judges and entrust them with the responsibility of maintaining those awqaf. For example, the Judge Abul Zaher Abdul Malek bin Mohammad Al Hazmi used to appoint three days per month for inspecting the awqaf and careless Mutawellis were flogged for their negligence.

This growing role of awqaf during the Omayyad period led to dedicating a special department for waqf-related services independent of all other departments to protect the waqfs and their interests. A special diwan for the waqf was established in Egypt during the reign of the caliph Hisham. The awqaf (Ahbas) at that time were in the hands of their owners and legatees. When the judge Tauba ibn Nimr saw that, he said: 'I see that the ultimate destination of these charities is the poor and the needy, so I have to seize them and protect them from passing through inheritance. On the death of Tauba, the Ahbas have turned into

(9) Abu Dawood, V 3, PP 116-117

a great department (Al Kindi, 1908AD:346)

The Abbasid period, too, witnessed a growth of awqaf so much so that they had a special department under the management of a director named 'Sadr al Woqoof'. A group of people were appointed to assist him in connection with investing the awqaf and spending their proceeds in compliance with the principles of the sharia (Bahr al Uloum, 1417AH: 387). In 118AH, Diwan Al Ahbas lil Ishraf ala al awqaf (the Department for Overseeing the Awqaf) was established and it belonged to the Chief Justice (Qadhi al Qudhat) (Al Sayyed,1404 AH:216). This was often referred to as Diwan Al Bir (Department of Charity) during the fourth century AH. (Al Doory, 1995). This Diwan was established in 301 AH by the minister Ali bin Essa Al Muqtader Billah to invest the dedicated lands and to oversee the distribution of their proceeds (Al Samarra'ie, 1983: 297-298)

A short historical survey of both the Omayyad and Abbasid periods show that the quantitative accumulation of awqaf, together with their geographical distribution and the diversity of their resources allowed for their development and intensified their impact on essential sectors, for example education, health and social welfare. During the Fatimid period, the Ahbas had an independent diwan appended to Bait el Mal (Finance Department) which was in charge of spending and collecting revenues (Al Mezaini, 1420 AH:10). This expansion of Awqaf required certain administrative organization which reflected the growth of awqaf during the Ayyubi era. The waqf revenues during the reign of Sutan Barquq accounted for fifty percent of the revenues of Bait el Mal which brought about the covetousness of many people. The Ulama of Al Azhar reacted against these attitudes and repulsed them (Ismail,1998:60). The process of dedication was not confined to the countries of the east but extended to the North African Arab countries and Andalusia where waqf contributed to the academic progress (Al Tajkani, 1410AH) (Bin Abdullah, 1416 AH).

Waqf played a prominent economic role, in addition to a developmental one. It also encouraged people to go on with their giving and dedication. In this stage, it is not our aim to dwell on the history of waqf and its role throughout history because this is redundant to the study centred on modern times. Our analysis will pivot round tracing the waqf and its development during the 19th and 20th centuries.

The process of analyzing the development of waqf from the late 19th century and the turn of the 20th century exhibits that radical change in the nature of the relation between waqf, the state and the NGOs. The interest in waqf receded due to the state's policy which aimed at restricting the relative independence of waqf for reasons to be clarified later. Gradually, the state, through repeated legislation, replaced the NGOs in managing the awqaf. Similarly, imperialism in the Islamic world played a role by confiscating the awqaf or annexing the unconfiscated ones to other relevant departments, for example the private educational sector was appended to the public educational sector in Algeria. This shift caused the state to take the initiative in view of the political and economic changes during the last decades

and brought about the recession of the NGOs' initiatives, or their disappearance in some countries. The state's domination of the waqf sector, the decline of the NGOs depending on the waqf revenues and the weakness of the voluntary initiatives failed to solve the social and economic problems. The domination of the governmental sector and the absence of accountability and public control contributed to the inefficiency in managing the awqaf and thereby disrupted the confidence therein.

The state's domination, however, was not always without benefits as waqf assets were protected against looting or confiscation, in addition to fighting corruption in managing them. At the beginning of the 19th century, this intervention was limited, then developed during the Ottoman era to providing for the consent of Sheikh Al Islam in that country to the appointment of the nazir in order for such appointment to be valid (Ismail, 1998:60). This intervention, through several legislations and laws, made a nazir fully responsible in case of non-compliance with such regulations, or negligence or lenience in respect of spending the proceeds of waqf. He was also responsible for paying for any shortage in the waqf monies. In the context of organizing the waqf by the Ottoman government, a directive was issued in 1312AH recommending the appointment of the most efficient person as a supervisor of waqf. This directive made it imperative for a candidate to sit an exam in sharia subjects and accountancy under the supervision of a judge (Al Hanbali, 1418 AH:48-49). In the light of the expansion of waqf and the relevant channels of spending and flexibility in utilizing its proceeds embracing charitable work at large, many rulers thought of seizing the awqaf and annexing them to the state's revenues. Nevertheless, such attempts were not a success because the Ulama and reformers acted against this trend (Abu Zahra, 1391 AH:17-12). In Egypt, for example, the Ulama of Al Azhar rejected some of the attempts to annex the waqf revenues initiated by some Ottoman sultans and their walis in Egypt, for example Sultan Mohammad IV, Omar Pasha, Sultan Mohammed I, Abu Bakr Pasha who ruled the Ottoman empire. Added to those are the walis of Egypt during the period from 1058AH to 1149AH, corresponding to 1648AD to 1736AD (Ismail, 1998:60). British and French imperial powers acted against the waqf because they viewed it as an anti-imperialistic force (Cizakca, 1998:28).

The transition of awqaf to the governmental control, though it came gradual, met with strong resistance from the Ulama and Sufis. Some Ottoman walis in Egypt thought of dissolving the awqaf to benefit by them in supporting the state's budget. The Ulama of the four schools of thought faced this attempt and aborted it (Ghanim, 1418:87). This resistance, though it came spontaneously, took an institutional form in some of its aspects. In the Ottoman Empire, the Sufi Method was established in 1910 AD as the most important organization to resist the state's seizure of awqaf (Zarcon, 1418:155). The reason underlying this is the fact that the Sufi method was the major beneficiary of the waqf system at that time (141AD: 149) and this accounted for providing decent accommodation for the Sufis' sympathizers.

Conversely, many rulers of the Islamic countries showed a keen interest in maintaining awqaf until this became a prevalent characteristic of the Ottoman Empire (Ismail, 1998:60). The Ottoman Empire encouraged the establishment of awqaf and provided the lands required therefor in favour of the charitable societies in the conquered countries (Zarcon, 1418:151). Among the issues which led to maintaining the awqaf was the faqihs's interest in emphasizing their independence through associating them with the judiciary and appointing efficient people for managing them. Scholars, past and present, stressed the autonomy of waqf and its link with the judicial system which provided it with the continuity and stability required for its giving. Ghanim (1418 AH: 54) assumes that the autonomy of waqf relied on clear-cut principles in the waqf system, for example: observing the waqf within the framework of the sharia regulations in the interest of public good, subjecting it to the judiciary, solving its problems and giving it the juridical personality required for its establishment and perpetuity.

In connection with taking into account the waqif's desire, the judiciary observed such desires and strongly acted against any action contradictory thereto. The waqif's desires were protected against the domination of the state thanks to the flexibility which made the nazir one of the discreet waqif's family members or one of the goodly Ulama. In most cases, the waqifs or their descendants assumed the nazara, otherwise it was assigned to reputable Ulama.

In case of innovating awqaf, sometimes two of the ulama were in charge thereof, for example Sheikh Shehab Eddin Mohammad bin Mohammad Al Qwaisni Al Azhari and Sheikh Burhan Eddin bin Ahmad Al Barussi who took over the innovation and the Lighting Waqf of the wife of Prince Al Saifi Tatakh Al Jamaki in 976AH/1568 AD (Ismail, 1998:675). The awqaf in the hands of the judge received due attention in terms of restoration to the extent that Judge Abdullah Al Omari in 185 AH was the strongest in constructing the awqaf (Al Ahbas) and he used to keep with the builders most of the day (Al Kindi, 1908AD:395).

In connection with the judiciary and its relation to waqf affairs, it should be mentioned here that the general Welaya (jurisdiction) was assigned to the judges, including the probate jurisdiction to decide which is better for awqaf, (Ghanim (1418AH: 51), and the judicial competence to decide waqf disputes. Among the jobs that were created during the Ottoman rule was the job of the probate nazir who was charged with maintaining the waqf revenues. The responsibilities of a probate nazir were to ensure that the waqf monies had been properly collected and spent according to the sharia principles and as recommended by the waqif. A probate nazir was appointed by a decree issued by Sheikh Al Islam the Ottoman chief Justice. The original waqf nazir was not allowed to dispose fundamentally or originally of the waqf unless through checking with the probate nazir (Ismail, 1998:73). In view of the sensitivity of this job, prestigious Ulama took charge thereof.

The third aspect of waqf autonomy is the juridical personality and the financial zemma (patrimoine) as indicated in the legal texts and bylaws which organize that (Ateeqi et al,

1417:110) (Hammad, 1414AD: 137). The Waqf monies were protected by law through getting them out of the acquisition of their owner, together with objecting to the sale or replacement thereof unless made under restricted conditions (Ahmad, 1415:55)

The advantages of waqf are that it constitutes a tool of development which can survive and flourish while under occupation. In Jerusalem, for example, waqf during the post-occupation period had an economic and social function and a symbol of resistance and rejecting such occupation. Moslems in Jaffa, Palestine, rejected all kinds of communication with an Israeli court established solely for the purpose of litigation in matters related to waqf. In this move, they were supported by the Palestinian Bedouin whose awqaf were not under the control of Jordan as it is the case with East Jerusalem (Kattora, 1997)

A historical survey of the waqf shows those intrinsic merits which caused it to survive and grow from the Prophet's era till the present day, even under the domination of an occupation force. More than once, the governmental authority tried to seize the waqf but the judges and the Ulama stood against those attempts and maintained the autonomy of the waqf which accounts for its viability and deep influence. At the same time, waqf increased considerably with the passage of time and this stands witness to the charitable nature of this Umma (nation) till the Day of Judgement. Awqaf, both charitable and Zurri (Familial), were on the rise especially the latter which witnessed a remarkable increase through the Sultans', merchants' and dignitaries' awqaf, as will be indicated later.

1-3: Contemporary Studies

The study of waqf and its development was the center of interest for numerous scholars and researchers. Though Jurisprudential writings pervaded the approach to this issue due to its importance and the interest in safeguarding it, the studies about its developmental role, and social development in particular, and its link with NGOs are limited. Thus, we shall try in this paragraph to study and analyze some of the contemporary relevant studies during the 19th and 20th centuries, though these are few and sporadic.

Among the important studies in this respect, we find a set of researches which dealt with the waqf in the modern Islamic world, especially during the 19th and 20th centuries under the supervision of Farouk Blici. These studies were published by the French Institute for Anatolia Studies in Istanbul in 1994. The researches centered round analyzing waqf as a system and an institution by the end of the Ottoman Empire, the Arab world, the Balkans and Central Asia Countries. Occasionally, the study approached waqf and its link with the NGOs (Kattura, 1418AH).

Among the contemporary studies is the one carried out by Randy Schom about the history of Waqf in the late Ottoman era and the French Mandate, A Case Study of Damascus. This study handled the issue of waqf from a western perspective and highlighted its role in the

social development, the infrastructure of services, the maintenance of mosques and the spread of education (Schom, 1986). The study also handled the Familial (Zurri) waqf whose growth is attributed to the interest in maintaining the families' properties and protecting them against partition through inheritance or governmental seizure.

Among the comprehensive researches in connection with the transactions introduced to waqf and affected its growth and sometimes brought it to an end is the subject of "Khulu", i.e., vacation for a consideration or purchase of the lease. This was in vogue during the Ottoman era. In his research on the Khulu, Mohammad Afifi studied the awqaf in Egypt during the Ottoman era and their role in the economic life of Egypt and the role of khulu in maintaining the awqaf and their perpetuity. Practising khulu assisted in providing the money required for repairs and restoration. Nevertheless, exploiting Khulu in waqf, the amount of freedom granted to the nazir in defining the amount of Khulu and sacrificing the interests of waqf for one's own interests brought about substantial damage to the growth and continuity of waqf in the long run. Besides, enjoying the right in the waqf by the Khulu maker caused some Egyptian Copts (Christians) to hold some khulus in Cairo which originally belonged to the Awqaf Al Haramain (the Holy Mosques in Mecca and Medina). Some awqaf were passed to some Coptic monasteries and became parts of those monasteries' awqaf (Afifi, 1996:183). The adoption of Khulu caused the waqf revenues to drop in the long run and thereby their role in the social development receded (Afifi, 1960AD: 182).

The study of Ghanim (1418AH) entitled ***Awqaf and Politics in Egypt*** is among the important analytical studies which dealt with a specific historical period. The author tried to conduct some quantitative studies, in addition to the analytical aspects which manifested the checkered history of awqaf. The author tried to draw a comparison between awqaf in the broad sense and the charities and the roles entrusted to them. He also approached the waqf in terms of its legislative background, institutional structure, social application and the multiple functions, in addition to affecting and being affected by politics from the perspective of the community-state relations. Ghanim also approached the difference between the waqf system and the voluntary work in terms of concept. It is known that Waqf has a religious origin, in addition to the fact that it is not tax free as it is the case with the voluntary work bodies. The author indicated that similarities among them are numerous, besides they are all based on popular and non-governmental initiatives and directed towards the same type of beneficiaries.

In his study on Waqf in the Islamic society, Kahf (1418AH) sought to analyze the waqf system from a modern viewpoint which links it to the development of a society, laying emphasis on promoting the waqf management and its techniques. It also dealt with developing the waqf fiqh to encourage dedication and the development of awqaf. The study also aimed to create new methods and formulas for waqf. The author tried to analyze the waqf from an economic and developmental perspective and stressed the importance of intensifying the

waqf concept, the optimal utilization of the existent awqaf and the development thereof. He also submitted a model for waqf management in which the government plays the role of controller not a manager. He also indicated the importance of defining the current role of awqaf, their suitability and the organization of their management. Highlighting the economic-developmental role of waqf requires establishing cooperation and liaison formulas with those bodies known for the proper management of the waqf assets or the proceeds thereof, for example the non-governmental bodies.

A study conducted on the major awqaf (104 in number) in the Arab countries and Turkey (Roded: 60) during the period from 1340 to 1947 AD shows that only 6% were cash awqaf and the rest were real estate awqaf and 55% of the waqf was Zurri (familial). The study showed that 38% of the proceeds of charitable waqf were directed to mosques; 19% to schools and katateeb; 14% to the poor and wayfarers (Roded: 65). This study which was based on an experimental project including 104 awqaf was expected to be applied to all awqaf. In view of the difficulty of going ahead with this project, the researchers were content with the experimental one.

Al Mutairi (1418AH: 151), in his book about the "Arab Charitable Society in Kuwait" indicated the importance of the waqf activities in Kuwait and its role in supporting the non-governmental sector. He also indicated that the waqf formula is the most appropriate for providing legal, administrative and sharia protection against any vicissitudes which might befall such societies. The subject of the aforementioned book "Arab Charitable Society" is an outstanding example of the importance of waqf, knowing that the institutional structure of the Society has disappeared one year after its establishment, whereas the waqf allocated for it survived and continued to spend on its developmental purposes till now, (Al Mutairi, 1418:57)

In a study about Waqf and its role in development, Al Heeti laid emphasis on analyzing some self-investment and external formulas of waqf. He made no objection to advocating them as long as they realize the interests of waqf in the light of each country's specific conditions (1418AH:94). In his study on waqf, winning the prize of Sheikh Ali Al Thani in Qatar Library for the year 1418, Al Heeti laid emphasis on the importance of social development and the role of waqf in consolidating this trend (1418AH: 132)

The Seminar on the Importance of Waqf in the World of Today, on the other hand, approached the role of waqf in development. This seminar was held in London in 1417 AH by Al Al Bait Institution in collaboration with Al Kho'ie Charitable Institution. The researches that were submitted to the seminar stressed the importance and sustainable nature of waqf in development and its ability to address the changing needs of a society. It also emphasized the ultimate goals of waqf exemplified in the nearness to Allah by doing good deeds.

In his two studies on the cash waqf, Cizakca, 1998, showed how this role was restricted to

the distribution of the capital and extending assistance to avoid any accumulation thereof. He indicated in detail the attenuated influence of the cash waqf because the nazirs of awqaf refused to use it in a mudharaba and insisted on using it as secured loans with a revenue equal to a bank's interests. The author requested the cash awqaf to be re-considered and assist in accumulating the capital to serve development, in addition to linking the waqf with Islamic banks and their activities (Cizakca, 1998:21).

Some researchers noticed that the bulk of studies concerned with awqaf were more of a descriptive nature than of an analytical nature. This made their contribution to the waqf learning rather limited (Ghanim, 1418AH: 33). The reason for this is that most of these studies covered lengthy periods of time and kept away from the proper scientific method. This made thorough analysis a rather difficult process. Furthermore, sufficient information, often helpful to researchers in the area of academic analytical addition, was not available in the waqf books, neither was there any joint cooperation among researchers in which there is a plan where each party builds on the previous findings of other parties. Individual researchers concentrated on the benefits of waqf and highlighted its achievements and dwelt on its regulations. Therefore, these studies were not helpful in fathoming the futuristic role of waqf in social development, neither were they so in identifying its relation with NGOs. The seminars and work sessions conducted by the research bodies, though beneficial in highlighting the advantages of the waqf throughout history, lacked that academic consistency among the researches already submitted. They also laid stress on specific axes with no actual academic significance. Most of them lacked that methodology required for such conferences. This, no doubt, caused researches to vacillate between strength and weakness according to the researcher's ability and academic interest.

The studies related to the waqf-NGOs relation came through the available fiqh books and researches which dealt with the waqf regulations before the 20th century, though such a reference was limited. This is attributed to the fact that the establishment of the NGOs came rather late if compared with waqf, taking into account that the role of these NGOs did not witness that growing role in the Arab world as it is the case in the advanced countries. The role of waqf, for example, prospered with the growing need for it. This gained ground when the academic study became independent and the number of its institutes rose during the period which followed the Prophetic era. There was a need for private institutions to provide learning and this solicited the faqihs to legalize collecting educational fees on learning, oratory and other religious duties (Al Zarqa. 1366AH: 10).

This was a reference to the works which approached the growth of the waqf before the 20th century, but the works in the 20th century were limited to some occasional hints in the writings about the NGOs. Al Zarqa indicated the concept of NGOs (1366, AH:26-27) when he maintained that a charitable body whose existence is inevitable in a waqf, initially or finally, is the existence of the owner of the waqf asset as a perpetual *de jure* personality. The

Hanbali (1348:38) indicated that in spending the proceeds of the annexed awqaf (managed by the nazirs), half of the amount would go to establishing new awqaf whenever needed, or to the maintenance thereof or to establishing charitable institutions relevant to the waqf. Bin Abdullah (1416AH: 168) referred to the change in the spirit of the Islamic group at the civil level in managing the awqaf and added that the Islamic world lacks those charitable societies which address the various aspects of community needs. Modern laws in waqf, for example the Algerian law issued in 1411AH (1999), pointed out that properties and movables dedicated to charitable bodies will be considered as secured public awqaf⁽¹⁰⁾.

1-4: The Importance of Waqf in Social development:

Talking about the relation between waqf and the NGOs in the social development domain seems illogical without highlighting the role of waqf in social development at all levels. Studies were limited to analyzing the importance of waqf in social development without ignoring the role of the waqf in other domains⁽¹¹⁾. It is acknowledged that social development is not limited to the social domains, for example the social aids, but it extends to cover spiritual, worshiping, health, and cultural and educational needs. We shall tackle this in the following paragraphs.

On the social level, waqf contributed to saving great numbers of orphans, widows, infirm people and those in dire need through distributing food and meat during religious events. This extends to the distribution of garments to the needy and people with special needs (Al Heeti, 1418:108). In the Arab North African countries, we find al Zawaya (Sing:Zawiya), al Rubut (Sing: Ribat) which is nearer to an alms-house or a hospice) and shelters to receive incoming people and provide for them, in addition to caring for the aged, the infirm, the disabled and people with special needs (Harakat,1960:218-223). The awqaf had also a humanitarian role in Egypt through establishing shelters and hospices which took the form of a humanitarian fervour (Ghanim 1418 AH:292). Al Zaher Baybars established a Habs (waqf) for the burial of foreigners in Cairo (Harakat 1996:216) .

On the worship and Jihad (fighting for Islam) level, waqf contributed to the fight in God's way whether this be through Jihad or self-sacrifice. Actually, there are certain deeds related to extending assistance to Moslems in matters touching the rituals such as Pilgrimage and Jihad and other religious occasions. In the following paragraphs we shall lay emphasis on the worshipping and Jihad aspects related to social development, for example justifying oneself, training and education. Spiritual cultivation is important in heightening commitment to the components of development (Al Heeti, 1418:126) in order to make them tools of development because such development deals with the various needs of a human being, including the economic needs (Wahba,1418:335-336).The waqf also played a prominent

(10) *Islamic economic studies*,1419AH – 1998AD:123

(11) *For more details about waqf in economic development and distribution of wealth until the lowering of interest rate, please refer to Cizakca*

role in getting some of the Sufi methods to acquire consistency in spreading the Da'wa in the Ottoman Empire during the 19th and the 20th centuries, (Kattura 1997). In this sense, the Ottoman government encouraged awqaf and established them in the newly conquered countries, and offered the real estate grants and lands to the Sufi methods to be an asset to them in their Da'wa to Allah in those countries (Zarcon,1418AH:151).The waqf also contributed to intensifying the spiritual aspect of some of the disciples of the Sufi methods through covering the expenses of their travel abroad, then providing for their families in pursuit of Allah's good pleasure and to accommodate human soul to genuine and pure worship (Zarcon,1418AH:150)

In respect of the health domain, waqf contributed to the establishment of the bimaristans (hospitals)⁽¹²⁾ which played a prominent role in the health domain. The first house for treatment was established in 98AH during the reign of the caliph al Waleed bin Abdul Malek for which he appointed physicians and covered the accommodation and livelihood expenses through awqaf (Bin Abdullah, 1416:145). He also established al Bimaristan al Mansouri in 682 AH, which was a specialized hospital known for its consummate organization to the extent that it can match modern hospitals (Mohammad, 1414:117). The waqf played a prominent role in financing the buildings and equipment, payment of salaries of the physicians and their assistants and providing for labs, in addition to financing the schools of medicine (Mohammad, 1414:118), schools of pharmacology and the trainees thereof (al Sayyed, 1415 AH: 280-290). Waqf also assisted in providing for the major hospitals and specialized ones and other mobile health units (Al Heeti, 1418AH: 181-198) which extended medical services to remote areas. Among the unique awqaf in the health domain is the waqf of Salahuddin which meant to provide mothers with milk to feed their children (Bin Abdullah,1416 AH:149).

In the modern age, the Awqaf Diwan in Egypt had eleven clinics which catered for about million people. Well-doers also established thirty medical projects during the first half of the 20th century. Spending on these projects was made through awqaf specified therefor (Ghanim,1418:295-299). Providing drinking water and sanitary facilities were among the best protective means against diseases (Ghanim, 1418:321). In the Sultanate of Oman, for example, we had the awqaf of Majaez (public bathrooms) whose proceeds were allocated for maintaining those bathrooms established for women on the canals (al Aghbari, 1414:200) to maintain public hygiene. Among the waqf projects in modern age is Ain Al Aziziah attributed to the late King Abdul Aziz. He bought several springs in Wadi Fatima and linked them to Jeddah. He also made an authority for awqaf outside the State's domain. This authority was in charge of establishing an accommodation for pilgrims at both the airport and seaport. This relieved pilgrims and at the same time secured an income which can address the purpose for which it was established (Kamel, 1414 AH: 33).

At the educational level, the waqf played an important role in the religious education

(12) The term is originally Persian, meaning the place for a patient.

domain (Mohammad, 1414AD: 111), for example Al Azhar Mosque. It is not an exaggeration to mention that the educational and religious movement in Egypt depended greatly on the waqf institutions (Ismail, 1998: 60). In his studies on waqf, al Sayyed (1415AH : 231-250) mentioned several schools and institutes which relied on the waqf regardless of the different nature of these institutes. Classes, colloquiums and Quran recitation circles were financed by waqf. Mohammad bin Abdul Rahman Al Sayegh Al Hanafi said that he had seen the Mosque of Amr ib el As before the epidemic in 749AD with some forty colloquiums of scholars conducting discussions therein. They all belonged to the awqaf of the Sultan King Al Aziz Othman bin Salahuddin Yousef (Al Sa'ati, 1408 AH: 20). In establishing the waqf schools, starting from the 6th century AH, the Integrated Educational system which contained all relevant services (medical services and orphan preferment) was adopted (bin al Khoja, 1417:147). This extended to cover the students who died by offering them a decent burial through dedicating a piece of land in the city of Septa in Morocco specified for this purpose (Harakat, 1996:219).

The waqf contribution was not restricted to supporting educational organizations, but it extended to keeping up with the changing educational needs. The interest in the 20th century centered on the scholarships granted to the students to study abroad (Ghanim, 1418: 267-270) and extending assistance to universities, taking into account that the first Egyptian university was established by the waqf in 1908. The subscribers' meeting was held in the Al-Awqaf Diwan (Ghanim.1418: 264). Likewise, the University of Um Dorman in the Sudan was established by the awqaf.

Regarding the cultural aspects, the Moslems showed an interest in academic libraries which served as an asset to the educational movement and acted as a source of disseminating culture and learning, in addition to supporting students and other interested Moslems (Al Sayyed, 1415:265-268). Al Sa'ati(1408AH:35) regards Dar El Ilm which was established in Mosul in the 8th century AH as the first waqf library in Islam to be at the disposal of students. There were rooms for study and academic research⁽¹³⁾. The library of al Azhar is the oldest of its type in Egypt and it is enough to mention that over 16000 books and volumes were dedicated to it during the first half of the 20th century (Ghanim, 1418:281). The dissemination of culture and learning through libraries is of paramount importance because a library takes charge of disseminating learning among people, which constitutes one of the major axes of waqf.

Reflecting on the development of education throughout the Islamic history, we find that thanks to the waqf that education-related services were provided, for example food, accommodation, garments, treatment and otherwise. Failure of the government to provide education while having such myriad of scholars and learned people can only be justified

(13) For more detail about the role of waqf in educational and cultural development, please refer to the study conducted by Al Saati (1408AH) and Ibn el Khoja (1417AH).

through the growing educational output made possible through sufficient awqaf backing to the extensive and holistic educational process. Great numbers of scholars volunteered to transmit their learning through dedicating their time and learning to that purpose. Many authors hinted at the role of waqf in the educational process and other related services and what it brought with it in terms of outstanding educational progress throughout the Islamic history (Dunia, 1415AH) (Al Ayyed, 1415AH:249-253).

At the administrative level, there was another role, though ignored by the historians, directed at improving the institutional potential of social development. This side, though not belonging to the social development axes, proved effective in approaching the administrative level. Therefore, this reference has been made hastily. Ibn Taimia (1398 AH: 85), in dealing with the importance of the institutional potential of waqf says, "A ruler is entitled to establish a diwan to collect the awqaf monies whenever this is deemed necessary". In response to the changes in the environment of the waqf, the awqaf developed throughout history and became institutions with a systematic work and advanced accountancy system. Central systems were set up, for example the Supreme Awqaf Council and the Awqaf Board of Directors in Egypt (Ghanim, 1418:84). Similar institutions in Syria and Lebanon were established and thereby the cornerstone of the institutional structure of waqf was laid as one of the pillars of the civil society. In India, an awqaf Board with an executive officer therefor was established in the Bengal Province in 1934. The registration of awqaf and preparing a register therefor reflected an interest in maintaining the waqf and became, in the light of its importance, a part of the administrative organization of the waqf. During the reign of Sultan Murad III, all lands and assets were registered in a special register and a special page was dedicated to each property. Any change in this register was permitted only through a firman (decree) issued by the Sultan. This register was named *Al Daftar Al Khaqani*, i.e., the metal notebook, in a reference to the metal gates of the room where these registers were kept (Al Zarqa, 1366AH: 109). This administrative system preserved the awqaf and established their institutional and administrative structure.

Waqf also assisted in providing the finance required by the poor, or rather contributed to social solidarity and security of the members of the society. The Ottoman government encouraged the establishment of provident funds to advance loans with expedient payment conditions, or to extend assistance to the disadvantaged or to provide for the poor to initiate their own projects (Blicii, 1994). In modern times, waqf played a role in the establishment of some banks and financial institutions which served the above mentioned purposes. The cash waqf also assisted in the establishment of the Awqaf Turkish Bank in 1954 AD (Cizakca, 1995:325) which is one of the major banks of today. Waqf also assisted in the establishment of several banks and financial institutions, for example the Islamic Bank of Bahrain, Kuwait Finance House, Faisal Islamic Bank of Egypt, Nasser Social Bank of Egypt and many others, all of which contributed to the social development in the respective countries.

In addition to the waqf social role with its numerous axes, it also played a role in the stabilization of the social make-up of the society and ensuring that money should not fall in the hands of the rich only. In Islam, the middle class comprising employees, craftsmen and other professionals play an important role in the social make-up. Some researchers believe that the familial (Ahli) waqf was important for preserving the middle class mainly consisting of professionals and scholars (Al Dhaiqa, 1418:125) as it assisted in their formation and providing them with the required skills (Al Sayyed, 1415:258). The importance of the middle class originates from the role it plays in maintaining a social balance between making money and the distribution thereof. This in turn leads to a balanced economic development. Waqf also employed a good rate of the work force in its projects. The Turkish awqaf, for example, employed 13% of the work force in Turkey in 1931 (Cizakca, 1998)

The interest in social development axis manifested by waqf was not limited to man as we found women sharing man this responsibility during the different ages. The role of women was not limited to the establishment of awqaf (a quantitative study of the major awqaf show that 25% of the awqaf were established by women) (Roded:60), but we found that 14% of the awqaf had women nazirs. In Egypt, there were many women who assumed the roles of nazirs of awqaf at the beginning of the 19th century (Ramadan, 1418:176). Waqf documents constituted a rich source for identifying the interests of the society so much so that some women's awqaf represent one of the historical sources for identifying the progress of women in Islam (Fay, 1997:934) or following the development of family ties (Al Harbi, 1420:20). The waqf also protected the fortune of a Moslem woman against falling under the authority of husbands, sons or their families.

The multiple roles of the waqf and its contribution to the various social activities manifest its importance in extending services to all the categories of the society according to their geographical distribution. The awqaf also contributed to the development and provision of services. Therefore, we find specific bodies specialized in specific social needs and other minor ones, for example establishing hospitals for the leprous and the demented. Such diverse and intensive services extended by the waqf played an important role in the social development and its evolution during the last two centuries.

1-5: The Importance, objectives and problem of the study:

The importance of the waqf study as a unique system stems from the fact that it is a civilizational system which has an impact on the civil society with all its institutions. It created those Islamic integrated societies and cemented the social fabric, boosted the spirit of solidarity and intercommunication among the people,

These qualities of waqf, however outstanding they sound, did not receive the due attention and remained restricted to wishful thinking, whether this be in connection with the relation with the government, the private sector or its administrative organization. Here the

need rises to improve our background knowledge of the waqf and its relation to the NGOs which constitutes the core and the major aim of this study, and the role of both in the social development process. The importance of this study emanates from the recommendations and conferences of waqf, for example the seminar of the Islamic Bank of Development (1409 AH) and the seminar on 'Towards a Developmental Role of Waqf' organized by Kuwait Awqaf Public Foundation in 1414 AH which, unfortunately, did not approach this subject in spite of its importance. This, no doubt, gives this study its unique place in this specific period of the waqf progress.

Due to the specific nature of this study, it is based on two axes: the first is a historical axis and the second is connected with social development. In dealing with the historical axis of the waqf, the study tends to approach waqf from a historical perspective and its relation to the NGOs in modern times. By 'modern times' we mean the 19th and the 20th centuries, in addition to that dimension connected with the comprehensive development in general and the nature of the relation with NGOs. Writings, past and present, which dealt in detail with jurisprudential (fiqhi) side of the waqf are numerous. In this study we laid emphasis on the two previous dimensions, together with benefiting from the jurisprudential writings related to the relation between waqf and the NGOs. Furthermore, this study seeks to elicit and highlight the role of waqf in joining the NGOs in the social development domain. Thus, this study, as envisaged within this framework, aims to answer the following questions:

1. What is that historical development of waqf comparable with the NGOs?

How can we improve our awareness of waqf and the NGOs, and what are the factors that develop the relation between them to create a better vision for both?

What are the means of communication between Waqf, on the one hand, and modern NGOs with their different formulas?

What are the suggestions to organize and develop the relation between waqf and the NGOs to address the local and national developmental aims, encourage fruitful thinking and serious discourse in order to create a solid basis for a cooperative and fruitful relation between both of them?

In this context, the study tries to analyze the historical background of the relation between waqf and the NGOs, such as charities, hospices and foundations. The study also seeks to identify not only historical events in common between the waqf and the NGOs, but it also seeks to identify the findings which can be elicited for predicting the futuristic relations between both of them. It also seeks to investigate the historical facts and events from an impartial point of view in the hope of reaching purely scientific conclusions, in addition to an attempt to unfold that bright past and its contribution to the NGOs in the area of social development, leaving aside any comparison between a bright past and a dull present. A reading in the past is not meant to bring about grief over our current state of affairs, but rather

it should constitute a motive towards sensing the axes of growth of the waqf institutions to become an effective agent in extending support to the NGOs in the domain of social development. The aim underlying this is to make the present as bright as the past and to exceed that vaunted model being advocated by the advanced countries.

1-6: Methodology and Tools of Study:

Any study should have a clear methodology for scientific analysis and a style in approaching the subject of the study. In this context, the methodology can be put down as follows:

The study advocates the analytical descriptive method. In its analysis, it follows the theoretical approach of research, in addition to extrapolating modern Arabic and Non-Arabic relevant literature. The study also depends on the approved data of researches and seminars which approached waqf in the Islamic and western countries in view of their importance in enriching the waqf heritage.

The study is keen to indicate the role of waqf and its fundamental principles throughout its history, together with trying to benefit from the human heritage in establishing waqf institutions or NGOs in the West. The aim is also to find the points of difference and similarity between them without matching what Islam gave us in comparison with what human mind could attain through discreet and sound thinking. The real purpose is to show how Islam took the initiative in this regard and how it filled the hearts of Moslems with faith and tranquility concerning the usability of waqf for each time and place.

In indicating the references, the name of the author, the year of publication and the number of the page were mentioned whenever a quotation is made; otherwise no reference is made to the page in the absence of a quotation. However, I may refer to the references throughout the pages, not in the footnotes. Contrarily, the Quranic verses and the prophetic tradition were indicated in the footnotes. A reference was made to the sura followed by the number of the verse. In dealing with the Prophetic Tradition, the number of the hadith was indicated. In connection with Sahih al Bukhari, I followed the numbers used in Fath al Bari; in Sahih Muslim, I used the same numbers in Mokhtasar Sahih Muslim by al Munziri. I also indicated some references with lengthy names in the footnotes to avoid expatiation on the pages.

In connection with quoting from English references, the author gave a translation thereof in some parts of the book, though this translation may be inadequate or lacking in some respects.

Some terms were borrowed from non-Arabic references, for example 'transparency' which needs some clarification. Being limited in number, they were not listed in a separate paper, but they were clarified once they occur.

Parameters and time Duration:

A historical study of a specific economic issue in Islam, for example the role of waqf in social development, is rather tricky due to the untiring effort it requires in terms of research and analysis. What makes such a study even more difficult is the lengthy time duration. Though this element is not implied in the contest as laid by KAPF, the description of those issues indicated by the study of modern historical background can be taken to mean modern times. Therefore, the researcher chose the 19th and the 20th centuries to cover the time duration of this study. This makes the duration of the study rather lengthy, perhaps exceeding a century. This is rather lengthy if compared with this type of study.

Studying the development of a specific historical period of a specific country, as we mentioned earlier, is tricky. With several countries involved in such a study, an originally difficult one will become more and more difficult. With this in mind, I do not claim that this study has embraced all the aspects of waqf development in the Islamic countries due to the difficulty thereof, the lack of references and the shortage of time.

This study did not approach the al Waqf al Zurri (al Ahli or familial Waqf) but it was restricted to analyzing the relation of charitable waqf or the awqaf under the authority of the government with the NGOs because al waqf Al Ahli, in the researcher's point of view, lies outside the domain of this study. At the same time, this point is still controversial as to its permissibility by the different countries. In a study by Mahmoud (Mahmoud, 1998:17) on the legal status of al waqf al Ahli, it was found that 50% percent of the countries recognized it and the other 50% percent cancelled it by the force of law.

Organization and Sources of Study:

This study comprises an introduction, seven chapters and a conclusion, with a list of the references at the very end. In chapter one, a stress was laid on the role of the waqf and the NGOs and their impact on social development, along with the importance of their study. The chapter also highlights the nature of the subject of the study. It analyzed the studies, methodology and tool, in addition to analyzing the reasons underlying the growth and increase of the waqf and the characteristics of cash waqf.

Chapter two tried to understand that flimsy relation between waqf and the state in modern times. The chapter begins by tracing the state's intervention in managing the waqf and reasons for this intervention, its advantages and disadvantages. The chapter also highlights the legal framing of the state's authority in managing the awqaf, the reasons which brought forth such intervention in detail, followed by an analysis of the three axes of the waqf relation with the state.

Chapter three is concerned with the relation between waqf and the NGOs and the elements they share in common, for example their interest in social development with its various and

changeable forms. The chapter also analyzed the relation between the waqf and the NGOs and the progress of this relation over the ages. Later, emphasis was laid on giving accurate definitions of the NGOs, together with the possibility of annexing the waqf to this sector. The chapter also sought to highlight the modern trends embodied in an interest in waqf and the NGOs, identifying the relation between both of them and citing realistic experiences for their integration and fusion. Thereafter, a reference was made to the basics of the relation between waqf and the NGOs to realize the social development.

Chapter four approached the points of similarity and difference between waqf and the NGOs and the reasons for their convergence and divergence. The chapter started by highlighting the similarities between the waqf and the NGOs, then turned to the differences between them. This was followed by the environmental, political and economic factors which contribute to this convergence and the advantages thereof.

Chapter five stressed how this relation between waqf institutions and the NGOs was strengthened in favour of the local and regional developmental purposes. The chapter opens by defining the sharia principles of the waqf in identifying its relation with the NGOs. This was followed by an identification of the proposed formulae for the cooperation between the waqf and the NGOs, in addition to the parameters of relations between them.

Chapter six laid stress on the important suggestions to actuate the relation between waqf and the NGOs in the interest of social development.

Chapter Seven, the last part of the study, represents the conclusion of the study and other appropriate recommendations put forward by the researcher.

Definitions:

The study aims to give a definition of the two major terms involved herein: waqf and social development.

Linguistically speaking, waqf means withholding or retention which indicates that once a certain asset is given as a waqf, it cannot be sold, bequeathed or granted. Its corpus is kept and its proceeds are released in the way of Allah (Al Heeti,1418:13).

Speaking in terms of sharia, Al Heeti said (Al Heeti,1418:14) that faqils gave numerous definitions for waqf in the light of the reliable schools of thought. Among such definitions are those advocated by the Hanafis which viewed a waqf as 'withholding an asset and releasing its proceeds'; the Shafiis, on the other hand, viewed it as 'withholding a utilizable asset and appropriating its proceeds to a lawful channel of spending.'

Some of the Hanbalis defined it as 'withholding an asset and releasing its proceeds'. This apparent difference in the definition touches the status of the dedicated asset (Al Ain Al Mawqoofah) and if this asset is passed to the beneficiary (Hanbalis), or to God's property

and releasing the proceeds (Shafiis and the two disciples of Hannafia) or to the property of the waqif (Abu Hanifa and Malikis) (Hammad, 1414AH: 288) (Al Booti.1418AH: 9).

Among the modern definitions is that one cited by Abu Zahra (1391AH:7) who viewed waqf as a process of ‘immobilizing the corpus of an asset and appropriating the proceeds to a charitable body initially and finally’.

Reflecting on such definitions, we find that most of them are taken from the Prophetic tradition based on the Prophet’s saying to Omar ibn el Khattab, **“If you wish, you can withhold the corpus and release the proceeds”⁽¹⁴⁾. Admittedly, the Prophet is the best** to know the sharia regulations and to give waqf an all-inclusive definition. At the beginning, waqf was restricted to charities only, then the Prophet’s companions started to dedicate their property to their posterity to safeguard the money and to let beneficiaries benefit therefrom incessantly. The first waqif on his posterity was al Zubair ibn el Awam who dedicated houses to accommodate his posterity. He allowed any of his daughters leaving her husband’s house to live in this house, not injuring, neither injured and once married, she loses that right⁽¹⁵⁾.

Reflecting on these definitions of waqf, we find that the linguistic connotations purport that the meaning indicates Habs or withholding an asset and holding it inalienable by both the owner and the beneficiary. He is entitled to benefit from its usufruct (Al Heeti, 1418AH:14). The differences among the faqihs, however, were over some minute points which do not affect the legality of the waqf (Abu Sulaiman, 1420AH:6). Therefore the so called differences are differences based on variation, not on contradiction because each one of them suggested a vision in the light of his jurisprudential background, the waqif’s conditions and the school of thought he belongs to. All the faqihs (jurists) are in agreement on the legality of the waqf and that it is an auspicious qurba (means of getting nearer to Allah). At the same time, a waqf based on disobedience to Allah is not valid (Ateeqi et al’1417: 252).

A waqf may be charitable or familial (Zurri) or a mixture of both (Mushtarak). This was an accidental division made by people, then codified later (Imam,1416:181) (Ghanim,1418 AH:47). Al Ahli waqf occurred in many references as we mentioned earlier and the companions of the Prophet dedicated awqaf in favour of their sons. This is an evidence that waqf existed in the early Islamic period (Ateeqi et al,1417 AH:254). The majority of awqaf existed in the private sector and were managed by this sector the fact that as revealed in the financial correspondence which hinted at them (Al Hejaili, 1420 AH:8-10). This shows that they did not fall within the authority of the state and no mention was made to a role assumed by the state in managing the awqaf. However, there was an intervention by the state in case of dire need or that a despot impaired such a dedication or that the dedication encroached upon lands belonging to Bait el Mal, for example the lands of the Sultan.

Some researchers (Kahf,1418 AH:23) assume that the waqf monies may be divided into a

(14) Al Bukhari, 2772.

(15) Al Bukhari, Fath el Bari 5/604

direct waqf (related to the production of consumer goods for the purpose specified therefor, for example a hospital or an orphanage) or an investment waqf (which aims to utilize the net proceeds thereof). Besides, waqf indicates both aspects of saving and investment for some future purposes (Kahf1998: 6).

Social development, on the other hand, as termed by the United Nations, means social services in the field of education, health, housing, vocational training and developing local communities. Therefore, it can be defined specifically as the 'process' of consolidating the efforts of the citizens and the government to improve the economic, social and cultural conditions of the local communities and to extend services to such communities to get involved in the life of the country and contribute to its progress (Al Johari et al,1978:34). This definition stresses the importance of cooperation between the citizens and the Ahli and civil society in social development. Wahba (1418 AH: 99) assumes that social development is a process of social change linked with the social make-up and its functions for the sake of satisfying the individuals' social needs. Taking the two definitions together, we find the first relates to the outcome of the social development whereas the second relates to the social development itself. Therefore, social development may be defined as a process of social change linked to the social make-up in order to satisfy the social needs of individuals and to extend services in field education, health, housing, vocational training and developing local communities. This can be achieved through combining the efforts of both the private and the governmental sectors.

1-7: Reasons Underlying Growth of waqf:

The interest in the study of the waqf stems from the growth of its assets with the passage of time. A historical survey of waqf validates this growth and accumulation with the passing of time. There were actually some discouraging reasons which made people shun waqf, nevertheless the flame of charity inside the hearts of the people in conformance with the Prophetic saying, ***'A group of people from my Umma will always remain triumphant on the right path and continue to be triumphant (against their opponents). He who deserts them shall not be able to do them any harm'***⁽¹⁶⁾.

The analyses on the growth waqf are desirable but to go deep in this aspect seems redundant because this goes beyond the ability of a researcher. Thus, we shall try to analyze some of these factors, together with laying stress on the relevant aspects. The factors which assisted in establishing the institutional structure of waqf are as follows:

1. Expansion in waqf Processes, mainly by Sultans, Major Merchants and Military Commanders

The assets of waqf and its property increased with the growth and accumulation riches

(16) Muslim, #1095.

which came as result of the conquests, booties and other resources. Therefore, the major awqaf were those dedicated by the sultans and rulers. As an evidence of this, the major awqaf in Egypt were those dedicated by the sultans, the rulers and the walis (Ismail,1998AD:60) followed by the awqaf of military commanders, merchants and ordinary people. A study conducted on 104 awqaf in the Ottoman Empire showed that one third of the waqifs were from among the Ulama (men of learning) and statesmen (Roded: 60). In view of the increasing awqaf donated by the rulers, waqf lands expanded in some Islamic countries. In Egypt, for example, these lands accounted for one third of the cultivated lands (Abu Zahra, 1391:26) and the same applies to Turkey, Bilad Al Sham and other countries (Armaghan, 1415 AH: 339).

Researchers also noticed that such a multiplicity of awqaf made by the sultans and the rulers was mainly attributed to their intention to protect their wealth (Abu Zahra,1391:24). This, however, may be restricted to a specific time and place, for example the Mamluki era. Other researchers did not notice that relation between dedication (Iqaf) made by the rulers and the interest in safeguarding their property (Cizakca,1998:12). In the interest of protecting public property, the Ulama (scholars or clerics) indicated that the awqaf of the kings and the sultans which do not belong to them may be brought outside the domain of the waqf while benefiting from them. In this case the conditions thereof can be fully cancelled unless proved to be real awqaf (Al Zarqa, 1366AH: 39). Therefore, only those awqaf made out of their own monies were held as awqaf.

2. Expansion of the waqf Assets, Variation and Types:

The expansion of waqf was not limited to a specific geographical area but it expanded to cover different territories. A waqf nazir may find himself in charge of far away awqaf and agricultural lands in an outstretching geographical area. This entailed great efforts and full dedication to collect the proceeds of these awqaf, and then spending such proceeds according to lawful means. Therefore, it was not a surprise to see a nazir in charge of awqaf in Istanbul, Bilad AL Sham, Egypt, Iraq or Morocco or in all of them. Furthermore, he may be living in a different country. Sometimes, the awqaf may be in a specific country, for example Egypt, but the proceeds go to a spending channel in another country, for example Al Haramain Al Sharifain (the two Holy mosques in Mekka and Medinah) (Ghanim 1418 AH:191).

3. Multiplicity and Types of Spending Channels:

Among the reasons which augmented the growth of the waqf was the emerging need for the social services and the flexibility of the waqf system to cope therewith. This encouraged well-doers to dedicate awqaf. At the beginning, the awqaf were dedicated to charitable purposes, for example extending help to the needy and students, then there were awqaf for the fleet. In the regions at war with the Crusaders in North African Islamic countries and

Bilad Al Sham there were awqaf to ransom the Moslem captives (Al Tajkani, 1410 AH:556). The Faqihs also gave a fatwa (dispensation) in favour of settling the debts of the captives, in addition to ransoming them.

4. Flexibility of Waqf Multi-Purpose Structural Framework:

Among the factors that assisted in the growth of Awqaf is the flexibility of adapting its framework to any organizational frameworks concerned with the promotion of social development. In Morocco, several awqaf were made for the garments and coverlets to provide for strangers and wayfarers (Al Tajkani, 1410 AH: 557). Near the end of the Ottoman Empire and the beginning of Modern Turkey, many cooperative or solidarity associations were established in the form of awqaf to advance loans for a simple interest rate or to extend help in disasters and mishaps (Kattura, 1997). The King of Aouda in India made a cash waqf in favour of mosques and charitable purposes (Ahmad, 1418:35). The flexibility of waqf can be best exemplified in its ability to direct its proceeds to several aspects of ongoing or occasional services, as necessity demands. In Egypt, Ahmad al Badrawi made a waqfia (waqf Deed) in 1905 in favour of circumcising fifty Moslem children annually (Ghanim, 1418:335). In Tatwan, in Morocco, a waqf was made in favour of beautifying and adorning brides (Al Tajkani, 1310:567)

5. Growing Needs and Failure of Governments to Satisfy:

In view of the expansion of the state and the paucity of material resources, a need emerged for providing fundamental infrastructure services, social services or places of worship at the individual and the public level. In connection with the infrastructure levels, waqf played a role in providing drinking water and lighting services to the individuals and organizations in charge of extending such services. Among the activities of the waqf were providing water and lighting. In 1039AH/1629AD Al Sheikh Al Imam Shams Eddin Al Maleki, the nazir of the awqaf of Al Imam Al Shafii and Al Laithi (May Allah be Pleased with them) carried out a major project for carrying fresh water to the tanks installed beside the mosques of both Imams, in addition to providing them with lamps and other accessories. The project of Sultan Murad Khan 1V and the awqaf of sultan Ahmad I contributed to this project (Ismail, 1998:70-71). In 1335AH/1917 in the State of Kuwait, the population of a specific residential area bought a piece of land and made it a reservoir for rainwater (Joshi, 1417AH: 40) to avoid the dangers of rainwater on their houses during the winter season.

6. Protecting Lands against Usurpation by Colonialists:

In view of the national awareness and the fight against imperialism, citizens resorted to changing their lands into awqaf as a legal trick for protecting these lands against usurpation. This was made clear in the waqf deeds. In Egypt, for example, extensive stretches of lands were changed into awqaf in whose waqf deeds there was a warning against selling them or

handing them over to the occupation authority (Ghanim, 1418 AH: 363-367). The Algerian Awqaf were an immune stronghold during the French occupation of Algeria until the French introduced legislative changes which permitted the confiscation of Awqaf (Powers, 1989:535-536).

7. Flexibility in Immobilizing Assets, Cash Money and Shares:

Among the factors which assisted in the growth of the awqaf was the flexibility in immobilizing the awqaf in question, for example the production tools, money and companies' shares. For this purpose, a hint will be made to the cash waqf and the companies' shares which are increasing in importance nowadays if compared with the real estate waqf and their role in upgrading cooperation between waqf and NGOs. It also goes without saying that the revenue of cash waqf is more plentiful than that of the real estate as this will be made clear later.

Waqf often took the form of an immovable real estate property, but it could also be a movable property. The outweighing point of view is that the waqf of movable money is permissible (Al Heeti, 1418:36-37) and most of the Faqihs permitted this waqf of the dirham and the dinar (Ateeqi et al, 1415:234) if there is an agreement among the people on using them⁽¹⁷⁾. In Fatawa ibn Taimia, as narrated by Mohammad bin Abdullah Al Ansari(1398AH:31-234), "A money waqf is permissible because it is through spending its corpus that a usufruct is realized; monies are paid in mudharaba and the profit thereof is directed to one of the waqf channels. Sheikh Taki Eddin says, "If a money waqf is made in favour of the needy, then this is not far from being permissible." (Ibn Qudama Al Maqdesi 2/310). With this multiplicity of attitudes as to the permissibility of money waqf where money can be paid in the way of mudharaba, Al Zarqa,1366:49) pinned it on the conventions because the waqf of the dinar and the dirham was known in the countries under the Roman rule. This indicates that it is allowable in those specific areas but not elsewhere (Al Zarqa,1366:49). Nowadays the convention in the Islamic countries and the non-Islamic ones is that money and the companies' shares are among the recognized wealth for any society (Al Hanbali, 1348 AH: 67).

Some of the waqf monies in the Islamic countries and most of the waqf monies in the advanced countries are fluid monies, therefore money waqf for charitable purposes is permissible as such money can be spent on general charities, as maintained by Imam Malek and advocated by the school of thought of Imam Ahmad (Dunia, 1415:120). Money waqf was a point round which much controversy erupted during the 10th Century AH. Al Mawla Yousef bin Husein Al Karmani (al Mufti) issued a fatwa in which a money waqf was declared impermissible and he sought to annul it. Conversely, Al Mawla Abul Saud bin Mohammad Al Emadi al Mufti (Died 992) issued a fatwa which held a money waqf legal and permissible (Mostafa bin Abdullah:1/898). Some of the modern waqf laws permitted the money waqf.

(17) For more details about the attitudes of jurists on Nuqud (cash) waqf, please refer to Ahmad (1415AH:50)

The Egyptian law stipulates in Article 8 that “a waqf of the companies’ shares and bonds is permissible provided that this is conducted according to the sharia principles” (Abu Zahra, 1391). The Libyan law also permitted the waqf of the companies’ shares provided that such companies conduct their transactions according to the sharia principles (Imam, 1416AH: 199).

The first prenotions of the cash money emerged during the Ottoman rule when some of the provident funds were confiscated, bringing their monies and awqaf under the supervision of the Ottoman government. These provident funds were established for giving loans to people with weak revenues and to extend help to those visited by affliction, for example the Janissaries’ Fund (belonging to the army) or the Baktashia Order Fund (a Sufi method). The availability of such monies generated by the awqaf made the nazirs regard them as cash waqf. This underlies the idea of establishing the first waqf Bank (VakifBank). The idea came to existence for the first time in 1919 when Khairy Effendi took charge of the Ministry of Awqaf. Nevertheless, it was only in 1954 that this bank was established (Bleich, 1994). The cash money contributed to more than 50% of the capital of this bank. Thereafter, cash awqaf spread in most of the Islamic countries and communities even in the non-Islamic countries so much so that they represent 38% of the total awqaf in Singapore (Cizakca, 1998).

The advantages of the cash waqf are numerous, most important of which are the flexibility in utilizing the assets of waqf whenever there are good investment opportunities and the high revenues in case of the proper investment of the principal in specific investment sectors. It is known that direct investment is better than real estate investment. Furthermore, a cash waqf does need putting provisions of depreciation as it is the case in buildings and assets, besides this cash waqf allows for diversification of investment with minimal risk factor. In addition to all the aforementioned, there are some disadvantages exemplified in the possibility of the erosion of the waqf monies, especially in the countries with unstable economy.

The importance of cash and shares’ waqf stems from the fact that the human wealth invested in shares is immense if compared with other sources of wealth. Table (1) reveals that the world investment in shares has amounted to \$15,954 billion, i.e., 48% of the world wealth in terms of the outstanding monies. Therefore, withholding this type of waqf presently means ignoring 50% of the world’s wealth.

Table - 1

World wealth in terms of the outstanding monies distributed according to their type as on 31/12/1995 (In US Billion dollars)

TYPE	SHARES	BONDS AND THE LIKE	REAL ESTATE 18	CASH AND OTHER ASSETS
Amount in Billion dollars	15,954	12,857	1049	2947.1
Percentage	48.5%	39.1%	3.5%	8.9%

Table - 2:

Revenues on Shares and Bonds Compared with Inflation ⁽¹⁸⁾

	Years	Rate of Annual Revenues or (increase) in the value of investment	Inflation Rate	Net revenues after Inflation
Shares	1914-1981	12.1%	8.3%	3.8%
Bonds	1914-1981	3.1%	8.3%	-5.2%
Gold	1900-1997	2.9%	8.3	-5.4%
Silver	1935-1997	3.47%	8.3%	-4.83%

For a careful and discreet waqf who is interested in raising the revenues of his waqf, cash or shares waqf is the best model for reducing the risk of investment, together with raising speculated revenues. It also protects the invested capital against inflation – an argument often raised by the proponents of real estate or asset waqf against the cash waqf. Table 2 explains that the revenues generated by the shares are deemed positive after deducting the inflation rate. The revenues on the bonds or the investment in the sale and purchase of gold is negative after calculating the inflation rate.

Establishing money waqf helps to get waqf institutions nearer to non-profit organizations whose property is mostly made in cash. What makes money waqf even more important is the fact that most of the major charitable associations in the Islamic countries are based on money waqf, for example the charitable Foundation of King Faisal, the Institution of “Iqra’a” in Saudi Arabia whose capital is estimated at one thousand million SR (Kamel, 1414AH: 53). Money waqf is important in the sense that it complements the waqf of an asset. Experience

(18) Morgan Stanley Research

showed that most in-kind assets are too difficult to liquefy when a waqf needs repair or restoration. In this case, a nazir finds himself compelled to get loans, collect the Khulu or lease, though it would be better to find cash resources (in the form of awqaf) to make up for this shortage and to preserve the in-kind waqf. The experience of the Kuwaiti waqf restricted to real estate waqf has affected the developmental role of the waqf, due to the limited revenue and the preoccupation of the waqf staff with collecting the proceeds, giving less attention to the distribution thereof (Al Zumai, 1414 AH:57). Therefore, the waqf staff adopted a new strategy based on combining the inkind waqf with the money waqf.

What manifests the importance of the money waqf as complementary to the inkind waqf is the fact that restricting awqaf to the inkind type or the real estate type at a time this waqf needs restoration or repair caused those in charge to resort to different techniques and transactions which negatively affected the waqf in the long run (Al Hanbali, 1348 AH: 125-126). There were specific techniques indicated by the faqihs and adopted by the nazirs in order to bring awqaf in their possession and to lower their value (Cizakca, 1995:321-322), for example Al Qeema⁽¹⁹⁾; Al Qamees⁽²⁰⁾; Hissat al Ghiras⁽²¹⁾; Meshad Al Meska⁽²²⁾; Al Hikr⁽²³⁾ and Al Khulu and other different techniques⁽²⁴⁾.

Al Khulu is a reference to an abstract concept which belongs to the payer of money ziz-a-viz the usufruct in the property or the shop for which he paid the money to the waqf. Based on this assumption, he will have the decision relevant to the waqf lieu as long as he pays the standard rent, and sometimes less than the standard rent in the absence of a lessee who accepts the standard rent (Afifi, 1417AH:179). The need for Khulu emerged as results of the dire need for restoration at a time the awqaf failed to carry out this task. Most of the Khulu transactions were consummated before the Maleki judge because the Maleki school of thought validated the principle of Khulu. This, however, caused the developmental role of waqf to recede in the long run.

(19) *Al Qeema means that a piece of land is leased from the waqf for a specific amount of money wherein a lessee puts tools or grows trees with permanent roots. This gives the lessee a permanent qeema in that piece of land to the extent that a mutawelli cannot get rid of this qeema. This result in getting a an insignificant amount for leasing the land.*

(20) *Al Qamees indicates that that there could be a milling facility for waqf in which a lessee puts his milling accessories and the whole facility is put under the control of the lessee.*

(21) *Hissat Al Ghiras indicates a farm belonging to the waqf and the lessee is entitled to utilize it provided that he has a share in this utilization. This could be combined with the Qeema technique (mentioned above) which means a way to acquire the farm*

(22) *Meshad al Meska is the case in which a waqf agricultural land is leased for agricultural purposes and the leasing term is expired (while the tools still existing there) and then it is re-leased for the standard rents to another lessee. In this case the first lessee is entitled to return to the piece of land and he has priority over any other lessee.*

(23) *This indicates the case in which the waqf land is specified for erecting buildings thereupon by the permission of the mutawelli. After the Hikr period the lessee remains to hold the buildings or other facilities while paying the standard rent which leads up to owning the same. Later this Hikr may be sold and it moves from hand to hand.*

(24) *Adapted from Al Hanbali (1348AH :PP125-134).*

Summary

A historical survey reveals that waqf originally meant to address an existing and ongoing social need through a non governmental initiative at a ruler's exhortation. The case remained so until a radical change was introduced to the waqf-private sector relation when the government began to interfere with the waqf. Here the non-governmental sector breached with the waqf. Through analysis, it has been made clear that the waqf played a prominent role in the social development with its various dimensions. This constitutes an incentive to go ahead with the process of dedication (Iqaf). With the importance of waqf in social development, modern studies failed to highlight this role due to the absence of joint methodology in scientific research and the lack of coherence among the available researches. This gave rise to accumulative waqf-based literature and its role in social development. Here rests the importance of this study.

The accumulation of waqf with the passage of time emphasizes the viability of waqf and its ability to extend services to the society. The accumulative growth of the waqf and the growth of its assets can be attributed to many reasons, for example the charitable inborn trait in the Islamic nation, the growth of personal ownership, the flexibility of waqf and its diverse channels of spending, the flexibility in the type of the waqf, and finally the growing needs of a society. The analysis also highlights the importance of the cash waqf as a technique complementary to the in-kind waqf and a supporter thereof. It also stood as a barrier against using methods which are detrimental to the waqf in the long run as we witnessed in the last two centuries.

Analyzing the waqf-state relation in modern times is not a basic constituent of this research, yet the importance of this relation in understanding the relation between waqf and NGOs tempts us to analyze the relation between both of them – such a relation which went through ups and downs and got disrupted due to the state's intervention in managing awqaf. Therefore, this chapter tries to give a compendium as an approach to Chapter Three which will pivot round the relation between the waqf system and the NGO's.



Chapter Two

Waqf and The State: The Attenuated and Flimsy Relation



2-1: Introduction

The first intervention of the state in the waqf affairs during the Islamic epoch came through the Power of the Judiciary (Welayat al Qadha'a) as a representative of the ruler on the de jure awqaf whose welaya was entrusted by the waqif to the judiciary for reasons related to the management of awqaf or spending the proceeds thereof. Therefore, this intervention of the judiciary or the state was limited to those awqaf entrusted by the waqifs to the state or those put under the management of the state. Al Ahbas (awqaf) began to receive the due administrative attention through Diwan al Nafaqat assigned to Zaid ibn Thabit (Ibn Taimia: 31/30-32). In this framework, the first diwan for the Ahbas was established in 118AH-736AD by the Omayyad judge Tawba ibn Nimer during the reign of Caliph Hisham (Al Kindi, 1908AD: 346). In view of the expanding awqaf, a special diwan under the authority of the judiciary was established. The governmental authority tried to consolidate its hold on the waqf in the later periods, as we mentioned earlier, but the opposition on the part of the Ulama and the public stood against those attempts (Abu Zahra 1391AH: 17-21) (Ibn el Khoja, 1417AH:169).

During the 19th and the 20th centuries, mainly during the Ottoman era, a need arose for establishing awqaf legislation for organizing and managing them and overseeing the spending of their proceeds. This pushed the Ottoman government to issue new legislation to organize the waqf affairs (Al Heeti, 1418:19). A governmental decree was issued in 1242 AH to establish the Nazara of the Sultanic Awqaf which was in charge of 10,000 awqaf at that time (Uzak, 1417AH:340). Some researchers maintain that waqf during the Ottoman era became a source of wealth and a means of reinforcing the economic and social caliber of the nazirs. The avarice of the nazirs in their management of the waqf and spending the proceeds thereof triggered malpractice and abuses (Al Dheeqa, 148 AH:128). Consequently, the interference of the state emerged to bring back the waqf institution to the right tract and to ensure that waqf is put under proper financial and technical management. A system for waqf registration, accountancy, management, investment and collection of the proceeds was introduced on 19th Jumada al Akhera 1280AH, followed in Jumada al Akhera 1287AH by a system specifying the type of the lands in the Ottoman empire and transactions of waqf lands. A directive was issued in 2nd of Ramadan 1331 to organize recruitment in charitable waqf (Imam, 1416 AH: 163-164). Furthermore, it was not permitted for anybody to become a mutawelli unless provided by a waqif or through a procedure validated by the judiciary (Al Zarqa, 1366 AH: 190).

The majority of the waqf-related regulations were meant to organize the waqf through subjecting it to proper vigilance without causing it to suffer. Nevertheless, some of these regulations sought to blot out the Islamic façade under the guise of constituting an impediment in the way of modernization. It was through the strict procedures issued by the Kamalist (AtaTurk) government in 1924/25 that the Sufist methods and the awqaf related thereto were obliterated (Cizacka, 1998:2-3). After a long time, the awqaf system was restored in

Turkey in 1967 though the structure thereof was based on that of the NGOs in France and Switzerland (Zarcon, 1418:161).

The awqaf in the Arab countries (for some time part of the Ottoman Empire then breached with it) under the Ottoman rule were identical with those belonging to the Ottoman government. In Albania, for example, the awqaf were divided into two sections: The Waqf of the Sunnite Group and the waqf of the Sufists. This state of affairs remained until the withdrawal of the Ottoman Empire and its collapse under the imperialistic pressure. This made the seizure of these awqaf easy irrespective of the clear relevant registers. In 1967 both the awqaf and the registers vanished (Kattura, 1997AD).

In Greece, the awqaf's situation constituted a special case due to the understanding between Greece and the Ottoman Empire before the withdrawal of the latter. An agreement was made in respect of paying compensations for the confiscated awqaf or substituting them. The awqaf outside the frame of this understanding were reverted to a special committee (mostly chaired by non-Moslems) for consideration. In view of the availability of such convenient arrangements, it was possible to preserve most of the awqaf. Therefore, it is not strange to find till now a waqf for the family of Mohammad Ali Pasha of Egypt in Tasus island (Kattura, 1997) with an area of about 50 square kilometres, in addition to many other awqaf in the city of Kola in Greece (Ghanim, 1418 H: 132-133). It is not strange therefore to find Greece plan to buy 18 Egyptian awqaf, all of which are located in the Greek mainland.

In Former Yugoslavia, all the awqaf were dissolved in 1883, then confiscated in 1905 and later returned to each respective order under the management of a specific society. The proceeds of such awqaf were directed to a public purpose, for example a school or a public library (Kattura, 1997 AD). In India, the Moslems fought bravely for their awqaf (about 100,000 in number) until a waqf law was finally issued in favour of the Moslems (Mussalman waqf Validating Act) in 1913, followed by other laws until the separation of Pakistan from the Indian Subcontinent (Ahmed, 1418AH). In Algeria, the French imperialistic authority sought to cancel the Familial (Ahli) Waqf and confiscate the lands of the charitable waqf which posed an obstacle in the face of seizing the Algerian lands (Powers, 1989:540). In Egypt, bringing the awqaf under control started gradually when the Sufi orders put their awqaf under the control of a sheikh selected by the Sufi Sheikhs in 1812 AD through whom the proceeds of awqaf were distributed. Later, the government established Diwan al Awqaf in 1895 (Abu Zahra, 1391AH: 32). In 1913, things changed and the Egyptian awqaf were put under the control of the Ministry of Awqaf (Zarcon, 1418AH: 154).

In the interest of exercising control and proper management, often held as pretexts for the state's intervention in the awqaf, the state took the abuses of al Ahli waqf to justify such an intervention. This is manifested through numerous criticisms directed against al waqf al Ahli (Powers, 1989:538), in addition to the call for updating the waqf laws to keep up with modern developments (Abu Zahra, 1391:27). In Egypt, a lengthy controversy erupted over

the legality of al waqf al Ahli which lasted for years until settled through the issuance of the law # 48/1946 which maintained both types of waqf. At the same time, there was a liberality in utilising the sharia regulations fitted to all times in each school of thought without being confined to one specific school of thought. This was also meant to protect the heirs from the malpractice of the waqifs (dedicators), the beneficiaries from the nazirs and the waqf assets from the nazirs (Abu Zahra, 1391 AH: 37-40). After the issuance of the law, criticisms were raised against al Waqf al Ahli until lawmakers in Egypt cancelled the said law through the draft law # 180 / 1952. This cancellation was validated through the nazirs despotism and their non-compliance with the sharia regulations regarding the channels of spending, in addition to the failure of the waqf management which gave the nazir the authority to control such spending. This was humiliating to the beneficiaries who claimed a right which they regarded as indisputably theirs. It also caused the waqf to undergo debts and thereby barring the usufruct to reach the beneficiaries (Imam, 1416:147). After the July 23, 1952 Revolution, al Ahli waqf was cancelled (Yaken, 1388 AH: 223) whereas the charitable waqf remained in operation through the laws 247 & 547/1953 (Abu Zahra, 1319 AH: 42-43).

The legal development in the area of attending to the awqaf and justifying the intervention of one country into the affairs of another is similar to what happened in Egypt. Here are some examples:

In Syria and Lebanon, the High Commissioner during the French Mandate issued a decree # 753 on March 1921 for managing the Islamic Awqaf. A file for the Islamic denomination must be prepared, and a supervisory body with administrative and financial autonomy should be established. At the head of this supervisory body, there should be a Supreme Council (Yaken, 1388 AH:190). A by-law was issued in 1922 to clarify on the details of waqf management. Furthermore, the Familial Waqf (al Waqf al Zurri) was separated from the charitable waqf in 1930 and the management thereof was entrusted to the respective Mutawelli.

During the post-mandate Syria and after separation between the Syrian awqaf and the Lebanese awqaf in 1930 (Qabbani, 1415:39), a law for organizing the Familial and the Mushtarak waqf was issued in March 10, 1947. The law permitted the Familial waqf and induced some changes from the other schools of thought in favour of the non-perpetuation of the Familial waqf. Two schools permitted it, though the waqif was given the right to change it. It should also be registered with a judge (Yaken, 1388AH: 224). On the other hand, most of the charitable waqf regulations were derived from the sharia regulations (Imam, 1416 AH: 167). In 1955, a decree was issued in favour of the autonomy of the Sunnite awqaf which were entrusted to an efficient management. The Mufti of the Republic (the person in charge of issuing fatawa) was considered the highest authority in respect of the Islamic awqaf (Yaken, 1388 AH:214).

In Kuwait, a department for the awqaf was established in Rabie Al Awal 1368 AH/ 1949 AD. This department first turned its attention to mosques and their maintenance, providing

them with the necessary requirements, paying the salaries of the Imams and Muezzins and giving sacrifice meat and meals for the needy, fresh water and all charities. The awqaf were not restricted to property inside Kuwait but extended to reach India, Bahrain, Mekka, Basra and Al Ahsa'a⁽²⁵⁾. Following the establishment of the Department of Awqaf in Kuwait in 1949, it was noticed that the people shunned the waqf because most of the well doers tended to finance projects outside Kuwait, seeing that the state undertook the responsibility for extending social services. In addition, the failure of the waqf to extend social or developmental services affected the sentiments towards the process of dedication⁽²⁶⁾.

In order to organise the awqaf management in the State of Kuwait, an Amiri Decree was issued in 29 Jumada al Akhera AH / April 5, 1951 AD in favour of putting into effect the sharia regulations appertaining to awqaf without being restricted to one specific school of thought in this respect. It also approved the Familial waqf, in addition to the charitable waqf and authorized a specific person or agency to share the administration of the waqf with the Department of the Awqaf. After the independence of Kuwait, a Ministry of Awqaf was created in January 1961. Kuwait Awqaf Public Foundation was then established in 1993 pursuant to an Amiri Decree in response to a call for actuating the role of awqaf to cope with modern developments. At the same time, an amendment was introduced to the NGOs laws so as to permit the establishment of hospices to which well doers can make their contributions.

Reflecting on the history of the waqf laws in the Arab countries, one does not fail to notice that the issuance of such laws came successively within a limited period of time, for example the Waqf Law was issued in Egypt in 1946, in Jordan in 1946, in Lebanon in 1947, in Kuwait in 1949, in Syria in 1951, in Tunisia in 1956 and in Iraq in 1959. At a glance one finds that these laws are nearly the same in their purport with some subtle differences dictated by sectarian differences or the particularity of each country. It seems that all the laws originated from one source. These laws were issued for reasons to be clarified later as there came with them a growth in the economic factor exemplified in the state's unprecedented domination of the country's productive and economic capacity. Such laws also conformed with prevalent worldwide trend calling for controlling those monies directed to charities. In Britain, for example, a law was issued in 1952 related to charitable issues which provide for the establishment of an authority in charge of carrying out the auditing for the charitable societies (Al Mutairi, 1415 AH:12-13).

Apparently, the legal legislation, Turkish and otherwise, got an impetus starting from the mid 20th century⁽²⁷⁾ and tried to assert the state's control in different degrees on the awqaf in terms of nazara, management and distribution of the proceeds. There were also some attempts at checking or withholding the familial waqf (al waqf al Zurri) as we mentioned

(25) *Ministry of Awqaf & Islamic Affairs, 1413AH: PP 16-17*

(26) *Ibid:P52*

(27) *For more details about the development of waqf laws in the Arab and Islamic countries, please refer to (Mahmoud 1998)*

earlier (Mahmoud, 1998:17). The idea of terminating the familial waqf is not a by-product of this age (Abu Zahra, 1391 AH: 19-24) but it was an idea which existed long ago because waqf was used as a means of evading accountability for the hoarding of wealth or as a means of restricting succession to a specific family or families in behalf of a special category of successors. Most legislations were in favour of creating a ministry or an authority of awqaf, in addition to re-distributing the waqf proceeds to conventional activities. This caused the awqaf to recede and to give priority to other alternatives through ongoing charitable funds, bequests and athlath (thirds). Legislation in most Arab countries laid emphasis on management and accountancy issues (Mahmoud, 1998:18). Actually, we have criticized indirectly the state's intervention, but this should not be taken as an attitude against the organization thereof because waqf, just like any other economic institutions, is liable to abuses and mismanagement. This requires steady efforts from those in charge to organize and manage them properly.

2-2: State's Intervention in Waqf Management:

As previously indicated, the state's efforts are in full swing to oversee the awqaf and to direct them in the light of the various developments. We shall try to highlight these factors in view of their importance in identifying the future relation between the waqf and the NGOs. Among those factors are the following:

1. Inconsistency between awqaf and the state's policy:

The awqaf are mostly located in strategic positions inside the cities, so the need arose for confiscating these awqaf and putting them in the state's possession as the case was in Istanbul and other major cities. This brought about the state's intervention aiming at the proper management of waqf. Among the problems which confronted the waqf were those assets in the center of the city which are frequently liable to confiscation or assessment for urban organization purposes, for example cutting roads, or building bridges and other utilities. This gave rise to an important issue related to awqaf in terms of compensation, whether this be in the form of fair amounts of money or getting a replacement. In Turkey, the same problem emerged at the time an urban organization of Istanbul was conducted which brought with it a need for confiscating several awqaf to go on with the organization process in Istanbul.

Sometimes the awqaf constituted an obstacle to the state's policy, for example the Agrarian Reform policy advocated by the socialist system in Egypt during the second half of the 20th century caused the state to interfere with the awqaf, taking into due account the considerable size of the awqaf in Egypt which accounted for 20% of the agricultural lands or 50% of the lands belonging to the Agrarian Reform (Ghanim, 1418AH: 464).

2. Mismanagement and Corruption in Major Awqaf:

Admittedly, a mutawelli is solely the person in charge of maintaining the waqf and this makes him liable to commit mistakes, particularly if he is inefficient or untrustworthy. This caused corruption to become rampant, mainly in connection with spending the waqf proceeds (Zarcon, 1418 AH: 156) or seizing its assets and funds (Harakat, 1996 AD:212).

During the Ottoman era, the peasants and farmers experienced a lot of oppression at the hands of the nazirs so much so that they resorted to the state's authority to protect them against the extortion of those in charge of the waqf (Al Dheeqah, 1418 AH: 128). This corruption often stemmed from entrusting the awqaf and the collection of their proceeds to inefficient and dishonest people. Sometimes the awqaf were under the authority of one of the Ulama or a Sufi sheikh who, in turn, charged an inefficient person with this task. This caused a great deal of misunderstanding and brought about reciprocal charges of corruption, as was the case in Turkey (Zarcon, 1418AH: 158). Similar divisive questions appeared in other Islamic countries, for example Malaysia (Al Habshi, 1998:10). On the other hand, we find some of the nazirs resort to specific means, as we saw earlier, to put their hands on the awqaf or their proceeds.

The charges of corruption were not restricted to the charitable waqf but extended to reach the Familial (Zurri) waqf. In Egypt (Abu Zahra, 1391AH:34-35) and Lebanon (Yakan 1388AH:221) there were numerous complaints about the mismanagement and negligence on the part of the nazirs in the Familial awqaf. There were also heated differences among the beneficiaries of the familial waqf (Ghanim, 1418AH:494-510). At the same time, the state's intervention did not mean the end of corruption which stuck to some of the awqaf run by the state or the corruption which was rampant in some of the awqaf organizations (Ghanim, 1418 AH: 493).

3. Awqaf's Support of Political Factions or Acting as a Lobby in Social and Political Life:

In view of the weakness of the Ottoman government and the spread of sedition, its hold on the awqaf weakened and caused these awqaf to become a focus for social and economic influence and a means for amassing wealth (Al Dhaiqah, 1418 AH:127). Near the end of the Ottoman rule, many of the cash awqaf (taking the form of provident funds) were confiscated because they belonged the Janissaries or owned by the Pektasiya Order which was influential among the Janissaries and the army as well (Bilici, 1994). The Government was afraid of the malpractice in respect of awqaf, so some them were annexed to the state's awqaf. Nothing can evidence this attitude towards confiscation better than the fact that other awqaf, for example the public libraries and the awqaf of books with no political orientation remained untouched. In view of the growing influence of the Sufists, the state's dominance over the awqaf came to exercise pressures on these Sufists to bring their political power under

control or restrict it to spiritual domains (Zarcon 1418 AH: 152). The attempt to dominate or confiscate the awqaf served to reject the modernization trend which appeared in Iran and Turkey and to minimize the leverage of the Ulama in public life. (Zarcon, 1418 AH: 153). When the sheikhs and the Ulama found them deprived of the means of provision extended by the awqaf and failed dedicate themselves to learning, they were forced to acquiesce in the state's authority.

4. Too big to be managed by an individual or a Family:

In a remark made by Ibn Jubair following his visit to Damascus, he mentioned that the awqaf had engrossed all its property (Harakat, 1996 AD: 217). In a study on the awqaf in Egypt from the early Ottoman era, the waqf lands were estimated at 40% of the cultivable land (Al Dhaiqah, 1418:123). This high percentage of the waqf land is mostly an agricultural land which is beyond the ability of a mutawelli to care for. It requires a dedicated staff to carry out this task. At the same time, the immensity of the waqf lands deprived the Ottoman government of considerable financial returns it was in dire need for (Cizakca, 1995:348). The reasons for this increase of property in some of these awqaf may be as follows:

1. The role of waqf in maintaining the social prestige of a family and its role in the society through maintaining its property and social prestige.
2. Preserving the ownership, mainly big ones, and avoiding fragmenting them through inheritance in an attempt to preserve the name of the family.
3. The people's interest in safeguarding their real estate property so that they might not be seized by foreigners (Ghanim, 1418AH: 358).
5. Disputes over Awqaf and the Requirements of State's Intervention:

In view of the immensity of Awqaf and the despotism of the nazirs, taking into due account the high prestige conferred upon these nazirs by virtue of assuming this responsibility, there were heated disputes concerning the management of awqaf and many strove to attain this glorious aim. In this respect, Abu Zahra says, "The immense awqaf have become a target pursued by some people and for whose cause they fought relentlessly to win". With respect to the awqaf of the Sufist orders in Turkey, the archsheikh of this order entrusted them to a mutawelli and this often sowed the seeds of dispute in connection with the distribution of the proceeds (Zarcon, 1418 AH: 156)

5. Inadequacy for Self-Maintenance and Repair:

The interest in doubling the waqf capital plays a role in maintaining this waqf. It has been made clear that 81% of the Awqaf in the Turkish city of Borsa have been preserved throughout the centuries by using a part of their revenue for this purpose or through accepting new contributions (Cizakza, 1998:24).

In many countries, the awqaf revenues failed to cover the restoration expenses meant to improve the proceeds thereof. This state of affairs caused the state to interfere in favour of this restoration. In Malaysia, for example, 10% of the awqaf generate proceeds (Al Habshi, 1998:17) and the rest (90%) require the state's support to be able to generate proceeds. In the Kingdom of Saudi Arabia, the government advanced a loan of 5 million SRs to the Awqaf budget for the revival and development purposes of the awqaf, mainly those whose proceeds are inadequate for the said works (Sheera, 1415 AH:327). In India, the government established a program through which it advanced loans to the minor awqaf in order to be able to restore the waqf. Eighty seven waqf projects benefited from these facilities, forty one of which were completely finalized (Haque, 1988:7). This shows that the state's attitude towards the waqf is not always passive, but rather the state contributed to the preservation and development of the awqaf. What manifests the need for the state's intervention is that many of the awqaf were liable to damage due to the nazirs failure to carry out the required repair. This caused some of the nazirs to resort to crooked means, for example, the Khulu and mortgage, which affected the waqf proceeds in the long run.

6. Converting some Awqaf into Public Utilities (Schools, Libraries or Museums)

In view of the historical importance of some of the awqaf, or due to their strategic location, they have been converted into public utilities, for example public libraries. This caused their proceeds to recede and forced the state to intervene in operating these awqaf. This applies to the waqf of Al Azhar University which had been converted into a public utility. The awqaf dedicated to this purpose failed to safeguard and protect the books as this state of affairs required more resources to help the library carry out its cultural and educational mission (Al Namla. 1420AH: 5).

7. The Role of Imperialism in Undersizing Awqaf and Imposing Control:

Governmental authorities, mainly in those countries falling under the imperialistic powers, exhibited an interest in the cancellation of waqf and putting it under strict control. Imperialism, mainly in North African Arab countries, as well as India and Indonesia, played an important role in confiscating the awqaf because they constituted a center for national and religious awareness in those countries (Mohammad 1414 A.H.: 122-123). The awqaf also constituted an asset for fighting imperialism because these awqaf were under the waqif's disposition, not in the hands of the imperialistic power (Ghanim, 1418AH: 380).

In Algeria, the study of Awqaf reflects that multitude of the awqaf in the pre-imperialistic period in which 331 properties belonged to the Grand Mosque in Algiers (Bilici, 1994). These extensive awqaf made the French imperialism try to confiscate the awqaf under the guise that they had no inheritors after the departure of the Ottomans. In the end, imperialism confiscated all the awqaf in Algeria in 1873 AD (Powers, 1989:554). In India, the administrative and the legal system established by the British to rule the country put restrictions on the establishment

of awqaf and the management thereof which consequently caused the number of the awqaf to a drop (Ahmed, 1418AH: 36)

8. Awqaf Economic Power Brings about Concern

The awqaf, with their immense size, if compared with the property of the state, began to exercise an ever-increasing role which made the state's intervention rather inevitable. In the 18th century, a Naqshabandi sheikh managed to engage successfully in business, industry and world trade. This caused the economy of the state to prosper, but on the other hand raised the state's appetite to seize those respective awqaf. Zarcon (1418AH: 151) believes that the state's intervention in the awqaf had a financial motive in the first place due to the great influence it exercised on the state's economy. The Turkish Awqaf, for example, at the beginning of the 20th century, employed 13% of the workforce in Turkey, which is a high rate by all means (Cizakca, 1998 AD). What increased these concerns was the accumulation of the waqf lands which accounted for 40% of the agricultural lands in Egypt in 923AH(1517). It was also estimated at 20% according to the statistics of 1812AD (Ghanim, 1418AH: 81).

The intervention of the state in the waqf affairs is not without some benefits as we mentioned earlier. Nevertheless, the abuses of this intervention should also be taken into consideration, mainly the loss of the waqf legality or eligibility in the absence of the state from political life. When the Ottoman Empire was in control of many parts of the world, including Europe, many awqaf were established in various geographical areas, for example Greece, Yugoslavia, Bosnia and Herzegovina, Albania and other Balkan states. When the power of the Ottoman Empire receded, the awqaf in those remote areas suffered as a result thereof.

Among the other abuses of the state's intervention is that the waqf regulations made the nazara a governmental responsibility and thereby the distribution of the proceeds was assigned to the government. It followed that the performance of the waqf was affected by the efficiency of the government (Ghanim, 1418 AH: 470-479). Admittedly, this correlation with the governmental policies does not necessarily reflect the various social needs. This is expected to affect the contribution of the waqf to social development and hinder its role in coping with the changeable social needs. Furthermore, being linked to the governmental policies and put under the state's management persuaded the government to direct the proceeds of the waqf to specific projects which served short term political ends.

Among the other abuses of the state's intervention in the waqf affairs in those countries is that the authority over awqaf was entrusted to a civil judiciary not to a sharia judiciary. The sharia judiciary during the Ottoman era maintained the waqf institutions through sound management and managed to approach the non-governmental institutions (Al Dheeqah, 1418:132. This enabled the waqf institutions to undertake their effective role in social development. In view of the high prestige and the learning of the judiciaries at that time, they could pressurize both the authority and the management to enable the waqf to undertake

the responsibility of performing its intrinsic role and accomplish its objectives. At the same time, the legislative and the representation councils in Algeria at the time of the French imperialism were used against waqf, whereas the legislative council in India was used to protect the waqf (Powers, 1989:563).

The state's intervention in the management of the waqf, some researchers maintain, did not lead to better productivity, neither did this contribute to safeguarding the waqf assets or promoting the distribution efficiency among the waqf purposes (Qahf'1418 AH: 98). This question is supported by several modern theories which tend to assign services to non-governmental sectors at a time the state's productivity in this domain is unsatisfactory (Al Omar 1999 AD: 12-14). Therefore, turning to NGOs is a just a step in the ladder of transferring the awqaf from the state's authority to the Private sector or the joint sector as it was in the past.

The increasing power of the state's authority on the waqf through the various relevant laws and the amendments thereto made the waqifs suspicious of the state's intention towards the disposition of the proceeds. The people in Egypt shunned the waqf when the law #247/1953 and its amendments were passed by the Minister of Awqaf entitling him to spend the whole proceeds or part thereof without complying with the waqif's conditions (Abu Zahra 1391AH: 418). Moslems in other countries, for example Kuwait, shunned the awqaf when the concerned ministry took up this role (29⁽²⁸⁾).

In Turkey, where the waqf law was cancelled, twenty-six charitable societies were established in forty years, namely from 1926 to 1967. At the same time, the number of the awqaf increased when the awqaf became outside the authority of the state. During the twenty eight years which followed (from 1967 to 1995) 3473 awqaf were established (Uzac, 1417AH: 340). This means that the rate of the awqaf increased by 124 times when they were under private management.

2-3: Axes of Waqf - State Relation

We have indicated the nature of the waqf-state relation and the reasons underlying the state's dominance over awqaf. It is pertinent now to analyze the axes of waqf, its major functions and the need for a governmental management to oversee it or to delegate this power to any private body.

As we mentioned earlier, waqf in terms of economic and practical aspects, depends on three major axes, as follows:

- a. Promoting the waqf and its proceeds.
- b. Spending the waqf outstanding proceeds.
- c. Control over waqf.

(28) Ministry of Awqaf & Islamic Affairs, 1413 AH:52

A thorough analysis of the history and development of the waqf, and the economic theories about the Public Choice show that a state, by virtue of its administrative and organizational composition may fail to carry out the first two axes of waqf, i.e., the development of waqf and its proceeds and spending the net waqf revenues. This may be attributed to the following:

The first axis related to the promotion of the waqf and its proceeds requires a purely commercial and financial thinking to multiply profit and seek optimal investment opportunities to double such a revenue expected from the invested asset. This stands in contradiction with one of the functions of a state represented in extending services to all citizens irrespective of how much this will cost apart from any financial revenues. Moreover, a state, by virtue of the legal organization and structural hierarchy cannot be flexible enough to hunt for investment opportunities. That is why we find governments investing their financial resources and reserves with the central bank through private financial institutes. In this respect, and by imposing the state's dominance over the waqf monies, we find the state entrusting the task of investing waqf monies to specialized investment bodies with the aim of augmenting the waqf revenues and proceeds, together with diversifying the risks. At the same time, a proper utilization of the investment potentials of the awqaf combined will bring forth many financial advantages. In view of the importance of this issue, it may need a thorough study or may be approached by some future studies especially in respect of striking a balance between augmenting the profit and the social impact (Anas Al Zarqa, 1415AH). The interest in promoting awqaf and their restoration stems from their crucial role in maintaining the waqf. For example, a study, as we indicated earlier, has shown that 81% of the awqaf in Borsa in Turkey were preserved as a result of investing part of the proceeds in the waqf itself, or its proper repair and restoration (Cizakza, 1995:325).

The second axis related to the proper spending of the waqf proceeds requires a nazir to review the various channels of spending and if he undertakes them personally or entrusts them to other parties, provided that the conditions of the waqif should be taken into due account. They should also be directed to those channels with high social impact because this will bring a waqif nearer and nearer to Allah. In case a mutawelli was a governmental authority, studies reveal that such an authority is mostly ineffective in extending services and costly in expenses for numerous structural reasons (Darado and Molz, 1998). Consequently, the amounts left for the needy will be insufficient. A government may also advocate specific policies in pursuit of short-term advantages through which waqf may turn into a minor satellite to the governmental policies, in which case the proceeds of waqf will be directed to those channels advocated by the government, not approved by the civil society. It should be admitted that there is wide spectrum of social needs overlooked and ignored by the government or need a lengthy time to cope with.

Therefore, the process of pegging the spending of the proceeds to the governmental authority causes waqf to deviate from the important social needs. This was the case was in

Egypt when the waqf proceeds were limited to two channels only (Ghanim, 1418AH: 479).

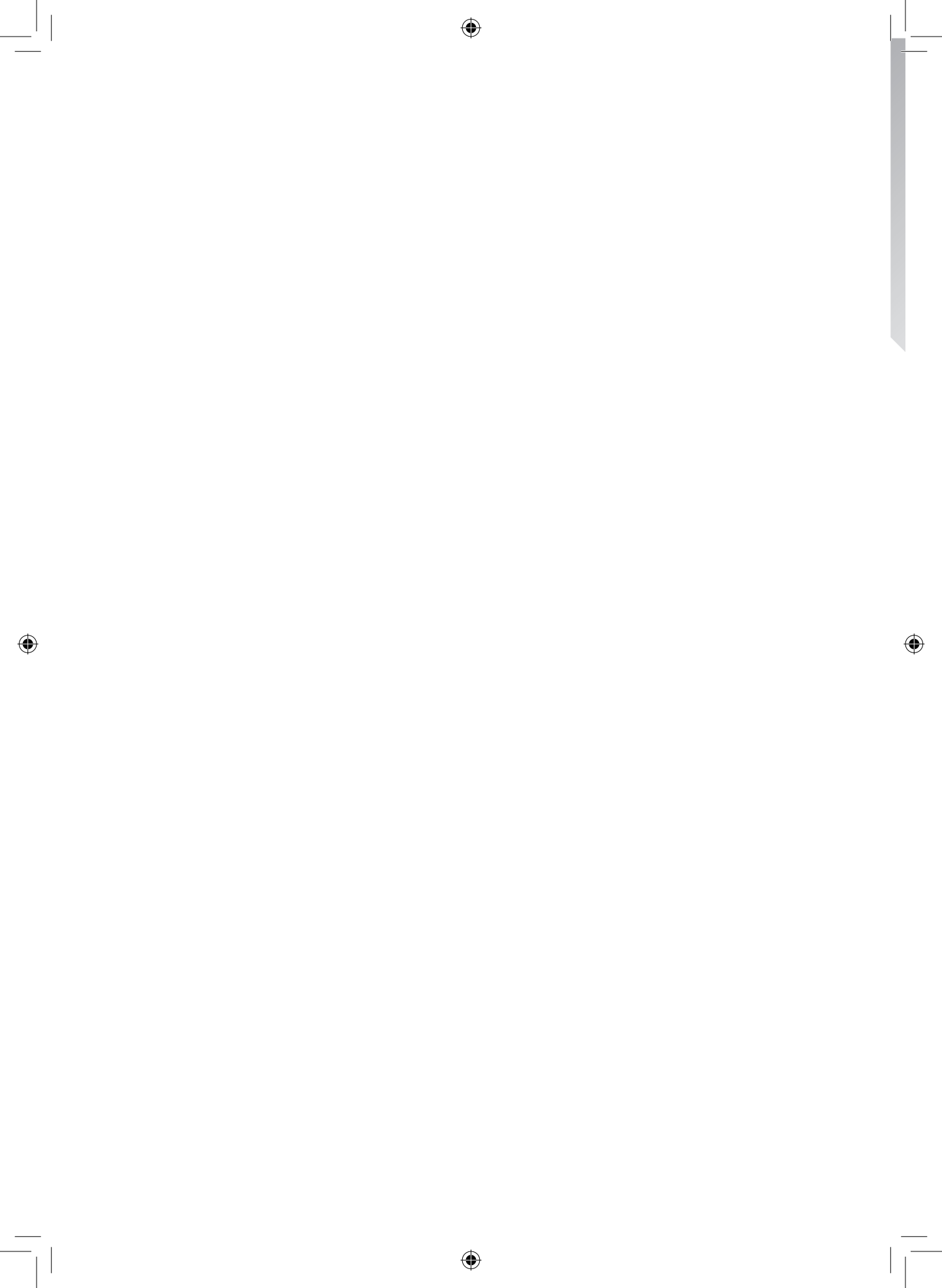
The third axis is the importance of exercising supervision on waqf by the governmental authority and the judiciary. The positive results of the state's intervention in the management of awqaf to safeguard the waqf from malpractices and the proper censorship at all levels, no doubt, encourage creating a legislation in favour of imposing supervision on awqaf to forestall negligence or mismanagement on the part of the nazirs. The regular state's supervision constitutes a basic pillar in supporting waqf and ingraining the public's confidence therein. A State should also establish appropriate laws and by-laws to secure the proper management of the waqf in order to be able to fulfill its objectives in the domain of social development. Influential people in Egypt recognized the importance of supervision on waqf and did not make do with self-supervision exercised by the nazir. Some waqifs had set up a board of directors to oversee their waqf and to follow up its interests (Ghanim, 1418 AH: 381)

2-4: Summary:

The chapter dealt with the waqf-NGOs' relation and how this relation sank to the bottom as a result of the state's control of the waqf and its management, often claimed to justify state's intervention in the waqf affairs. The economical trend exemplified in the state's dominance of the economic and social potentials also contributed to this intervention. The growth of the political influence of some of the awqaf and nazirs, added to the malpractice of others also contributed to the state's intervention. It is not a surprise therefore to find much criticism directed at the Zurri (Familial waqf) and how it is utilized in avoiding inheritance or in forming fiefdoms. At the same time, much criticism was directed at the management of the Zurri waqf and the abuses of the mutawellis and the severe differences among the beneficiaries. In the meantime, the retracting role of waqf came with the increasing number of beneficiaries and resorting to ineffective means in financing it. These factors together created a need to reform the waqf through reviewing relevant legislation to bridge the gap induced by application. Reform also entailed adopting modern means of management made possible through electing a board of directors in stead of having one individual to carry out this task. The forfeit of the waqifs' rights to attend to their awqaf and the forbidding of the charitable waqf which was an asset to the charitable waqf (Abu Zahra, 1319 AH: 193) discouraged people from dedicating new awqaf. Therefore, there was a dire need for encouraging al Ahli waqf through setting down regulations which check malpractice or failure to achieve the sought goals.

It has been made clear through the chapter that the process of reforming awqaf through the state's dominance did not fulfill the sought aims and consequently no improvement was made tangible regarding efficient productivity or the increase in the number of the awqaf, neither was there an increase in profit or the impact of this profit either in social development or in the distribution of its proceeds. Among the three axes touching the relation of the waqf with the state's authority, there are two which must assigned to efficient bodies, i.e., the axis of

waqf development and that of spending the waqf proceeds. Admittedly, the axis of spending the proceeds in social development activities is a promising area in which cooperation with the NGOs can be initiated, which requires more emphasis be laid on it. The third axis, the supervision on the waqf, is a central axis which must be taken into due account by the state by establishing the legislation required for it. The state's intervention in managing awqaf did not fulfill the sought objectives due to inefficient control and the failure of the institutional make up required for realizing such objectives. This issue requires those in charge to think seriously of new practical techniques for managing waqf so as to regain its role in social development and invite NGOs to cooperate with waqf, in which case the state remains to extend support and impose supervision.





Chapter Three

The Relation Between Waqf Institutions and NGOs (Non Governmental Societies and Charities)



3-1 - Introduction:

In the previous chapter, we have pointed out the importance of communication between NGOs and waqf in respect of spending the waqf proceeds to serve the purposes of social development. The need for such institutions coincided with the first seeds of the civil society in western countries as one of the axes of such civil society and its means of viability and survival (Salamon, 1994). In the United States, for example, the income of the voluntary societies, inclusive of voluntary work, amounted to about \$316 billion which represents 6.8% of the national income (Boujellal, 1998:8). In the Islamic countries, a remarkable increase in the formation of the NGOs has been noticed during the 80's and the 90's of the 20th century as a result of the development of these societies. In a reference to the causes underlying the establishment of these NGOs, the General Association of Charitable Societies (1999AD) in Jordan indicates that "the pressures of the social problems with their human dimensions in any local community stirs the members of this community to embark on a social work which aims to serve disadvantaged categories and help them overcome their problems".

The increase in the financial resources directed to the NGOs, the growth of the developmental projects in which these members were involved, and their effect in the domain of decision making were made clear in the areas of health, education and extending help to the needy (World Bank, 1982AD: 2). This interest in the NGOs stems from the fact that they represent one of the axes and tools of social development. The contribution of the community members by money and effort constitute one of the elements of social development (Al Johari et al, 1978AD: 34).

In view of the worldwide interest in calling the NGOs to serve social development, the center of our study seeks to analyze the NGOs and their role in social development as a 20th century by-product. The study, however, will not try to approach the historical background of this phenomenon throughout history because this falls out of the boundaries of the study. Nothing shows the importance of this issue better than the growth of the NGOs in the second half of the 20th century and how they brought with them a similar growth in specialization or services. Some of such institutions became major sectors engaged in fighting poverty in specific rural areas or extending advice on public policies to be advocated by governments in extending public services to poorer categories. Due to the diverse efficiencies, abilities, skills and financing, this sector has become a developing and growing sector with the passage of time.

When we try to study the relation between the waqf system and the NGOs system, we have to consider the qualities in common, i.e., social development, which is the core of this study. Hence social development was the link between the NGOs as early as the emergence of Islam till today.

On analyzing the social development in the previous chapter, it has been defined as a

process of social change annexed to the social structure and its functions. It seeks to form a social structure through which the social needs of individuals are satisfied. Such needs are too numerous for the waqf to satisfy. Therefore emphasis may be laid on some of those activities integrated into the NGOs, which can be put down as follows:

The need for practising worship alongside with the religious and moral building of a society.

The need for acquiring knowledge and directing it to the society's and individual's good.

The need for work and winning one's sustenance, finding suitable jobs, providing job opportunities, acquisition, production and other activities.

The need for health, prevention and means of treatment whenever needed.

The need for attending to the people with special needs.

The need for having a family and a society with moral values, equity and rectitude.

The need for recreation and spending leisure time in activities that strengthen family and social ties.

Naturally, there are other social needs within the perspective of social development which remain untouched, for example the need for democracy and freedom of speech and the like in terms of the needs of social development. All these may have other means from which the waqf must stand aloof for the time being. The previous analysis shows that the needs of social development which can be covered by the waqf and the NGOs through their direct fusion are basic needs for any developing society. At the same time they are diverse so much so that they open the doors wide for cooperation and communication. If this cooperation is so ample, then what are the reasons which affected the communication between both of them? This will be handled in the next paragraph.

3-2: The Relation between the waqf and the NGOs:

Reflecting on the development of waqf over the Islamic history, particularly during the 19th and the 20th centuries prior to the circumstances which brought about state's intervention in the awqaf affairs, one finds that the NGOs were almost in full control of the waqf to realize its objectives. They also constituted a fundamental element in the waqf of assets. Before the development of the civil society and the emergence of modern legislation which involved the NGOs in the social development, waqf was the organizational mould commonly used in social development and amassing public efforts to raise the society's and individual's standard.

A historical survey of the waqf contribution to the social development domain indicated in Chapter Two shows clearly the role of waqf as a major entity in the NGOs in mustering public and voluntary efforts to serve the Islamic societies in the areas of social development. Waqf has always been the weft of the civil society make-up and the major pillar in supporting the

public initiatives directed at developing it.

Taking the Egyptian waqf experience into consideration, we find that the awqaf and the waqf-related institutions were established by non-governmental initiatives without any intervention on the part of the state. This was one of the major characteristics of the non-governmental policies of awqaf. Most of the awqaf which were established near the end of the 19th century and the beginning of the 20th century were established by the public to bridge the gap in the fundamental services, for example education and health, through the waqf of properties and creating those charities in charge thereof. These local institutions and activities were self-supported through waqf and managed independently, taking into consideration that the concentration of the awqaf came mostly at the local level rather than the national level (Ghanim, 1418 AH: 378-380). In India, on the other hand, the awqaf contributed in extending support to 344 NGOs involved in vocational training extended to the poor (Haque, 1998). In this way the awqaf helped in providing a solid foundation for a consistent society. They also contributed to the social solidarity at the local level.

Historically speaking, the importance of the NGOs derives from the fact that they constitute a means for protecting the awqaf, especially during certain political and economic circumstances. Among the reasons which caused the awqaf to be entrusted to NGOs is the existence of such awqaf in non-Moslem states, in which case it is extremely difficult to put these awqaf under the trusteeship of a Christian waqf. In the former Yugoslavia, for example, and after the withdrawal of the Ottoman Empire from those territories, many of these awqaf were confiscated by the Serbian government up to 1905. Later, the Serbian government was forced to return them to the Moslems who, in turn, had formed NGOs to manage these awqaf and direct their proceeds to the public good of the Moslems (Katura, 1997: AD).

Similarly, the Islamic awqaf were protected in Greece. This developed technique preserved many awqaf which comprised Islamic libraries with priceless treasures of books, manuscripts and references as the case was with the Sarajevo library in Bosnia and Herzegovina. This has also preserved the Islamic awqaf in countries in which Islamic communities exist, for example, the United States of America where the ISNA acts a holding and patron institution of all the schools and mosques which were established as waqf in those countries. Moreover, the waqf institutions, in collaboration with the non-governmental forces, played a role in providing a foundation for the fusion of the various societal agencies through creating a type of social solidarity against external enemies. The political influence of the waqf was tangible in providing the basic weft of the economic and social life during the later years of the Ottoman Empire. This, no doubt, enabled the society to resist the imperialistic hegemony (Al Dheeqa, 1418AH: 127-128). Without these basic services which realized social solidarity, fighting the imperialistic hegemony would have been impossible, especially when we find the whole potential of the nation is directed to the military effort to fight imperialism.

From the aforementioned, it is made clear that this full fusion between the waqf and the

NGOs was the cornerstone and the social development services were the pole which brought them close together. Later a gap was created between the waqf and the NGOs to which a reference will be made later.

Among the reasons which led to this breach between waqf and the NGOs was the state's dominance over the awqaf. This affected the manner of al Ahli waqf which was an asset to the charitable waqf. This caused other alternative methods to emerge, for example the bequests, al Athlath (Thirds) and the ongoing charity funds. This indicates that the essence of charitable waqf is the non-governmental initiative. Most of these alternative means, such as the ongoing charity funds, are currently managed by the NGOs. Thus the NGOs contributed once more to the progress of waqf and the process of dedication for charitable purposes. Other similar forms were created for example al Athlath or the splitting of waqf in the form of a waqf share or an ongoing charity and making it available to others other than the rich. This increased the dedicated monies and involved new categories in the waqf process for the first time.

What emphasizes this charitable trend in the Islamic Umma and what will continue to emphasize it till the Day of Resurrection is that tendency towards charitable works. If a spring drains here, another one will soon be gushing forth there, as it is the case in Kuwait. Waqf experience in Kuwait shows that even after the lack of sentiment for dedication ⁽²⁹⁾, the number of bequests and ongoing charity funds increased as an alternative to waqf. An institution for educating Arab students was established in 1965 and many awqaf were established in its behalf. A Kuwaiti society for attending to the Disabled was also established and many awqaf were dedicated to it in the form of an ongoing charity. Many semi-governmental agencies were also established, for example Bait al Zakat. Other non-governmental societies, for example the Social Reform Society, Islamic Tradition Revival Society and Al Najat Charitable Society established ongoing charitable funds where the corpus is maintained and the proceeds are released. Among those methods which facilitated the process of dedication is the waqf of the "thousand thousand" of the International Charitable Authority. This is based on having a thousand persons who make a waqf of a thousand Kuwaiti dinars as a permanent waqf. This made it easy for the waqifs to contribute to the waqf.

Among the reasons which affected the waqf-NGOs relation is the fact the governmental authorities directed the waqf proceeds to the activities of the Ministry of Awqaf and Islamic Affairs (Ghanim, 1418 AH:393). This adversely affected the waqf and reduced the amounts specified for charitable purposes, including the NGOs. This cut off the relation completely between waqf and the NGOs in Egypt, no matter if these institutions were in charge of hospitals, schools or shelters (Ghanim, 1418 AH: 470). In Egypt, the Ministry of Awqaf transferred the waqf monies earmarked for charitable non-governmental institutions to other channels of spending far from funneling them into social development. Ignoring the waqif's

(29) *Ministry of Awqaf and Islamic Affairs, 1413AH:P52*

wish (as seen by Abu Zahra, 1391:980) in pursuit of specific interest is unallowable unless this change is kept within the range of the supreme goal of the waqif, not outside it, and, moreover, this change is deemed necessary.

The numerous waqf legislations with the multiple restrictions therein concerning its relations with the NGOs affected its relation with the civil society and social development, especially in connection with local communities which depended mainly on the waqf to address their needs.

Generally speaking, the waqf system, which was brought under the state's control, witnessed a decline in its relation with the civil society. The reasons for this attenuated relation can be put down as follows:

The tendency of most of the modern laws to dispense with al Ahli waqf (held for a long time as one source of providing for the charitable waqf) or imposing restrictions thereupon. As a result, al Ahli waqf, often managed by the NGOs, witnessed a decline.

Complying with governmental policies which distribute the proceeds according to the governmental wish rather than the actual needs of the civil society as expressed by the NGOs. The Egyptian awqaf laid emphasis on the housing projects in response to the governmental policies which sought to provide housing services to the citizens (Ghanim; 1418 AH: 498). This came at the expense of the activities of the civil society in the areas of social development.

The weakness of the NGOs in the Islamic countries and the lack of confidence therein due to the absence of an effective control system.

3-3: Definition of NGOs:

Before embarking on approaching the details of the relation between the waqf and the NGOs, it seems pertinent to define what is meant by NGOs. Generally speaking, NGOs, charitable societies or voluntary societies give the same implication in terms of concept or nature. Nevertheless, there is a subtle difference in connection with the intellectual connotations or the term used in each specific country. Therefore, it is not easy to give a clear-cut definition thereof in the light of the wide spectrum of purposes and objectives. NGOs constitute a fundamental tool for realizing the civil society and having its differentiating qualities. Some researchers, for example Diamond, view the NGOs as an organized social life made unique through volunteerism, self finance, autonomy and joint values and regulations. They differ from a society in the sense that individuals in the NGOs work collectively to express their ideas and interests through an exchange of views. They also claim their rights from the government and hold a government accountable for its activities (Diamond, 1994-95). In the west, such organizations are called non-profit organizations because it is not profit that they are after. Therefore, they are exempted from taxation. Finance institutions, on the other

hand, mostly use NGOs to distinguish themselves from the governmental organizations they deal with before limiting their activities to the governmental sector. The World Bank views the NGOs as 'those institutions which are independent or semi-independent of the government and operate in humanitarian areas which realize cooperation among the people in stead of corporate activities (Nelson, 1995:73). In other words they do not seek profit. NGOs, on the other hand, are defined by the World Bank as 'institutions which seek to ease human suffering, raise the level of the poor and protect environment, provide basic social needs and develop a society' (World Bank, 1995:16). The foregoing definitions show that there are many things in common between the NGOs which differentiate them from others and define their works and activities.

To avoid any controversy regarding the term, we can use 'non-profit' to define the NGOs which have the five basic pillars : Official(with a legal entity; private (not governmental); no distribution of profits (not corporate); self-governance (without any outside intervention); and voluntary (Salamon and Anhire, 1415AH:12). In addition to the foregoing, the British law provides that these institutions must have a board of trustees whose members receive no salaries (Al Mutairi, 1415AH: 80). Therefore, the advantages of the NGOs pivot round the following: they are official, private, non-distribution of profit, governed by a board of trustees and of a voluntary nature. In this study, our foregoing definition of the NGOs does not involve some of those organizations whose activities are incompatible with those of the waqf and its essence, or those who advocate a special political orientation. The same applies to some non-governmental organizations established by the government or falling under its control (Dickliten, 1998:5).

The NGOs can be classified according to the following table:

Type of Organisation	Status	Examples
Voluntary Organizations	To be a link between the grass roots or beneficiaries and mainly interested in securing the interests of their members	Societies with Economic Activities, for example Poultry Societies, Products' Marketing or Preserving the Environment
Grass roots Organizations	These are self-financed organizations and democratically serve their members and held responsible for the management thereof and assess their activities on a collective basis	Trade Unions, for example Engineers, Workers, and Women's associations.
Charitable Organizations	They extend charitable aids inside and outside the country and show interest in public good.	Relief agencies, Charitable societies, Zakat Committees.

Type of Organisation	Status	Examples
Organizations which make up for the shortage in services	Seek to extend the services required by the disabled or remote areas.	Children's Societies, Disabled Societies.

Reference: Dickliten, 1998 : 6

A question may be raised about if waqf is considered a part of the NGOs. As we mentioned earlier, the NGOs can fall under a set of different names, for example the non-profit law, the charitable sector, the independent sector, the voluntary sector, the tax-exempt sector, the non-governmental organizations, the sector of societies, the economic sector and many other names (Salamon and Anhire, 1415AH:18). Speculating about these names, we find that they are close to the concept of waqf. This allows waqf, as it was in the past, to get closer to the NGOs. What confirms this fact is the emergence of a new technique in the work of the NGOs known as the 'community trust' which is defined as an organization involved in fundraising and making offers, and being committed to establishing permanent awqaf within a limited geographical area (Joshi.1417AH: 11).

Nothing can better show that the waqf was part of the NGOs than the fact that its management and the disposition of the proceeds thereof were in the hands of the nazirs from among the waqifs' relatives (Al Dhaiqah, 1418:125). Therefore, waqf, before the state's intervention, was managed by the public represented in the Ulama and citizens. This proves that the waqf was part of the non-governmental work and one of its axes.

Drawing a comparison between waqf and non-governmental work, we find that waqf is nearer to the charitable sector because it stems from charitable work and at the same time it is directed to it. It is charity that a waqif seeks when he dedicates an asset and releases its proceeds. This also means that a waqf is a part of the independent sector or the non-governmental organizations because whether a waqf be a familial or a charitable one, it is under the authority of a nazir. The state does not intervene in its management except in circumstances specified in the Islamic fiqh. A judge cannot dismiss a nazir appointed by a wali without a legal and convincing reason (Al Hanbali, 346AH: 56). Waqf can also be considered part of the social economy because it is directed towards the socio-economic purposes. It is also an organization which is commercially managed in the same way a cooperative insurance company or products' marketing company is managed.

On the other hand, waqf cannot be regarded as a part of the non-profit sector because it aims to make profit, though this profit is distributed to the waqf purposes. Similarly, it cannot be regarded as part of the tax-exempt sector because all tax laws are applicable to certain

types of waqf due to the fact that waqf, as a private property, is liable to taxation with the exception of specific cases in the west. At the same time, waqf cannot be included within the charitable societies' sector because establishing a waqf does not require permission from the relevant authorities. At the same time, the nature of the waqf work is different from the nature of the work of these societies in term of the body in charge thereof and the nature of its formation.

It is difficult to enlist waqf in the voluntary sector because those in charge of carrying out waqf activities receive a wage or a standard wage as stipulated in the books of fiqh (Abu Zahra, 1391 AH: 375) (Al Hanbali, 1348AH: 540). Due to the importance of this subject, similarities and differences between the waqf and the NGOs will come in detail in the next chapter.

Ruminating on the development of the NGOs, we find that they developed through the 20th century due to numerous factors. In the advanced countries, the NGOs developed with the development of the open and democratic political system and the issuance of pro-NGOs legislation. The laws provided for tax exemptions which provided financial assistance to them. The 70s and the 80s of the 20th century brought about more pressures on the governments through advocating the Public Policy theories which call for solving social problems through methods less costly than the governmental management and measuring the performance of governmental units by the market measurements (Darado and Molz, 1998:586-587). These theories lay emphasis on the extension of services through setting criteria for competitiveness and specifying the quality of such a service to promote the ability of the staff in charge to address the needs of the public.

According to this theory, the service can be extended competitively by private and public institutions. This is expected to upgrade the effectiveness of extending the services (Niskansen, 1971). This economic trend strengthened the role of the non-profit organizations in contributing to the extension of social services.

The formulas of the NGOs differ with the difference of the countries, nevertheless they center round specific types, most common of which are the trust, the foundation and association. A trust is similar to the familial waqf as the person dedicates part of his tangible or intangible property to specified beneficiaries. For its management, the dedicator appoints a board to be in charge thereof in terms of investment and distribution to the beneficiaries (The American Heritage, 1996). A charitable society, on the other hand, is similar to a charitable waqf in the sense that it does not distribute profits but retains funds in the hands of trustees to spend from the proceeds on specific charities, for example hospitals, universities or social services such as shelters (Encarta Encyclopedia, 1998).

The activities of such charities are mostly carried out through their administrative staff or via other agencies to which the proceeds of the charity are directed to be spent on specific

areas. The waqf of Harvard University is managed by the university itself and its proceeds are directed to the various educational and cultural needs of the university. Regarding the formula of the university, we find that it combines an informal professional gathering to serve the members or others. The resources of the university depend in the first place on the subscription of the members or their donations. They are also allowed to accept donations from governmental and non-governmental agencies.

With the great development and the wide circulation of the trust with its complicated techniques in the west, we find that it was deeply affected by the Islamic waqf system. The unique characteristics of waqf exemplified in the developmental trends and charities had their impact on creating the contracts of trusts in the West (Ahmad, 1418:29) to the extent that western thinkers proved beyond doubt that the vaunted Oxford College created the Trust contract on the lines of the Islamic waqf (Gaudiosi, 1988), taking into consideration that the Oxford Trust Contract was the first to be made in the western countries.

Casting a look on the Islamic NGOs, we find them different in terms of their nature and types from their counterparts in the advanced states. Their growth did not correspond with that development in the western countries for many reasons. Among those reasons are the decline of democracy in some countries, the restrictions imposed on the establishment of the NGOs, the non-development of the civil society, the paucity of non-governmental initiatives, the weakness of the educational structure, the lack of awareness, the unavailability of the legislation which led to the paucity of resources. A UN report on the NGOs in Bahrain shows how these NGOs suffer from the paucity of resources to the extent that they turned to the state as their chief financier (UNDP, 1998). In its interest to build bridges of cooperation with the NGOs, waqf must take these points into consideration.

3-4: Current interest in Waqf and its Relation to Non-Governmental Work:

The growing interest in waqf goes in tandem with the increasing interest in the NGOs as public services in many countries are entrusted to these NGOs (Salamon). In spite of the slight differences between Waqf and NGOs in some respects, they both approach the noble objectives exemplified in public service and social development.

The significance of studying the relation of waqf to NGOs stems from the well-known economic theory which maintains that the volume of services extended by the government is limited, and consequently, a state cannot afford to fully address the services required by a society. Therefore, they are entrusted to the private sector or the joint sector. These services are known to be costly with no benefit expected by an investor, thus the heavy responsibility of producing these services will fall on the charitable societies and the NGOs.

The interest in developing waqf system and linking it to the NGOs will constitute the front line to the Islamic countries against the expanding 'new imperialism' trying to dominate local

and voluntary organizations in the Islamic countries through financing them. This is meant to realize objectives incompatible with those of social development (Ghanim, 1418 AH: 19). At the same time, waqf represents a means of support to both the state's and society's authority, and acts as a common factor to dovetail relations between both of them (Ghanim, 1418AH: 27). Such a factor is likely to benefit from the points of strength in both of them and reduce the weaknesses in the hope of optimally benefiting from the waqf institution. Waqf can be regarded as a joint sector where the ruler and the subjects are involved to direct the waqf to a public interest. It is a religious sector regulated by the Islamic sharia and the waqifs' recommendations. Waqf extends support to the state and consolidates its hold in the sense that it provides social security through fighting poverty and eradicating it. It also constitutes an asset to the state's activities connected with the social security network which aims to protect the needy and the small sectors. This is expected to provide a type of social security required for the sustainable development of the country. Taking into consideration the governmental trend towards restricting its services, waqf represents a permanent mobilization of endless, or rather swelling resources to consolidate social welfare programmes. This causes the additional resources of the state to be directed to other productive and developmental sectors. In view of the important relation between waqf and NGOs, it seems pertinent to analyze the relation between them, which is to follow in the next chapters.

Basic in understanding the relation between waqf and NGOs is this emphasis on the fact that waqf, realistically and through human experience, is effective when it assumes a midway position between governmental agencies and the NGOs initiatives. The contribution of the authority of the state, as represented in the governmental agencies, is helpful if it remains detached from managing the waqf and suffice by exercising supervision, providing the facilities and exemptions required for its development. The intervention of the state during the last two centuries affected its performance, as we shall mention later. A waqf is inefficient if it is made to extend services to a society rather than act as a link between the governmental authority and the civil society. Therefore, it is recommended for waqf to have recourse to the NGOs to carry out this role. The overlapping roles which we witness nowadays will fail to effectively and comprehensively realize the ultimate aim of social development. Waqf, as it is brought under the state's control now, must seek to create this link between the state and the NGOs.

In creating this relation between governmental authority and NGOs, we shall try to highlight some of the basic elements related to waqf and its relation to the NGOs, for example abiding by the waqif's conditions, the non-provision of specific beneficiaries, and last is the authorization to manage the waqf and spend its proceeds.

The first basis of this relation is abiding literally or liberally by the waqif's conditions. Being of paramount importance, faqihs considered non-compliance thereby an enormity because

'a waqif's conditions are as binding as a law-maker's conditions'⁽³⁰⁾ Nevertheless, they allowed for a change or a review of the waqif's conditions in case of necessity (Abu Zahra, 1391 AH:98). Likewise, Al Zarqa sides with those who support acting contrarily to a waqif's conditions in the interest of public good (1366AH: 156). Therefore, a charity can be charged with managing a special activity, for example a school, which is contradictory to the waqif's conditions, who provided for having a headmaster and teachers paid by the waqf in case this is in the interest of the Moslems. This saying is confirmed by Sheikh Taki Eddin (May his soul rest in peace) who maintained that 'a waqif's conditions are changeable for the better with the passage of time and if a waqf is dedicated to faqihs and sufists at a time there is a need for Jihad, then it should go to the soldiers (Ibn Qudama Al Andalusi :3/323).

Another point touching the important relation between waqf and NGOs is the anonymity of beneficiaries because such anonymity does not affect a waqf deed. By virtue of this quality, an NGO may benefit from the waqf proceeds.

A third point in this issue is that a mutawelli (the person in charge of managing waqf) is entitled to delegate some of his powers to another person, in addition to removing him or defining his wages for the work he does. He is also entitled to entrust the waqf affairs to another person (Yaken, 1388 AH: 79-80). Nevertheless, we find that the studies which dealt the waqf regulations did not approach this process of delegation in favour of the NGOs. In the interest of general good and the requirements of specialization, reducing costs could persuade us to resort to the NGOs to distribute the waqf proceeds. It should be noticed here that one of the basic differences between waqf and NGOs is that the power of a waqf mutawelli in disposing of the waqf monies is rather limited, whereas the NGOs have ample powers of disposition, no matter if these funds be in kind or cash.

3-5: Realistic Experiences of Combining Waqf with NGOs:

The previous paragraphs reveal that shattered relation between waqf and the NGOs as a result of the state's control of the waqf but is it possible to extend bridges of cooperation between both of them? The incentive which calls for bridging this gap is the need for cooperation in the light of their joint objectives and mutual activities, in addition to the organizational structures which promote this communication without affecting the autonomy or prestige of any of them. Contemporary researchers call waqf to benefit from the charities and systems developed by the NGOs (Al Shafie, 1998AD: 13).

Modern successful experiences of combining waqf and NGOs emphasize the possibility of raising the levels of communication between both of them. Among the realistic experiences is that of Kuwait Awqaf Public Foundation which was established in 1993 which sought to manage the awqaf inside and outside Kuwait, in addition to optimally invest and develop

(30) Ibn Taimia (1398AH – 31,100-102) believes that this indicates a waqif's intention in terms of Umoum and Khusous (generality and particularity), itlaq wa taqyeed (Absolutism and constraint) tashreek wa tartib (involving many parties or arrangement)not with respect to implementing them.

awqaf, distribute their proceeds and solicit new ones. KAPF, in this area, developed a unique and pioneering experience.

KAPF sought to create an institutional structure for cooperation between waqf and NGOs through the establishment of nine Waqf Projects and nine Waqf Funds which cover different domains (See tables 1 & 2).

The waqf funds established by KAPF constitute waqf units with independent financial Zemma, each of which is directed to a specific charitable purpose without any intervention in investing what is earmarked for the fund's purposes from waqf monies being invested with other waqf monies. Thus, a waqf fund is defined as an organizational structure established by KAPF as per the approved regulations therefor to realize definite objectives and carry out developmental projects in various domains in fulfillment of the waqifs' wishes and conditions. Such funds embrace a broad spectrum of social and cultural activities, including the disabled and people with special needs, mosques, health development as shown in the following table:

Table 1

No	Fund's Name	No of Governmental Bodies	No. of NGOs
1	The Waqf Fund for The Disabled and People with Special Needs	3	7
2	The Waqf Fund for Culture & Thought	2	6
3	The Waqf Fund for Scientific Development	2	7
4	The Waqf Fund for Family Welfare	2	6
5	The Waqf Fund for the Holy Quran and its Sciences	1	7
6	The Waqf Fund for Preserving the Environment	4	6
7	The Waqf Fund for Health Development	3	4
8	The waqf Fund for Attending to Mosques	4	
9	The Waqf Fund for Community Development	7	2

Similarly, a waqf project constitutes an organizational structure established by KAPF alone or in collaboration with a governmental or non-governmental body according to the approved regulations for implementing specific developmental purposes. Nine developmental projects were established to serve numerous advanced projects revolving round social development as shown in Table 2.

Table 2

Waqf Projects

No	Project	Partner
1	Kuwait Autistic Center	Ministry of Education (General Secretariat of Special Education)
2	Kuwait International Contest for Memorizing and Reciting the Holy Quran	Waqf Fund for the Holy Quran & its Sciences
3	Circles of Memorizing the Holy Quran in Mosques	Many governmental bodies
4	Attending to Students	Ministry of Education and many other bodies
5	A Tree per each Student	Ministry of Education & many other bodies
6	Social Hot Line	Waqf Fund for Family Welfare
7	Happy Home	-----
8	Restoring Traditional Mosques	Ministry of Awqaf & Islamic Affairs
9	Attending to crafts in Kuwait	-----

The establishment of waqf funds is a genuine part of the strategy of KAPF for the period extending to 2005 which was approved in February 1997. The mission of KAPF is to “consolidate waqf as a sharia developmental formula, effective in the institutional structure of a society and activating the process of managing waqf resources in a way that realizes the sharia purposes of the waqifs, promotes a society and boosts modern Islamic civilisational orientation” (KAPF, 1997 AD).

An analysis of the two tables above shows the interest in getting private institutions involved in each fund (sometimes exceeding official involvement), which caused these funds to gain popularity and regain trust in the waqf system and its suitability for social development. The freedom of the board of directors in managing each fund's monies to serve its objectives contributed to the flexibility of such organizational moulds and their ability to address the needs of a society as viewed by the civil society and approved by the public. Such experience and the like in terms of the advanced techniques which combine waqf with NGOs play a role in bringing together the waqf with such institutions to intensify the impact of their joint efforts.

3-6: The Basis of Effective Relation between Waqf and the NGOs in Realizing Social Development:

In order for the relation between waqf and NGOs to be instrumental and productive in the area of social development, it must be based on clear-cut elements which direct them to the sought objectives. Such elements, though fundamental, will be touched upon because in the chapters to come they will be listed in points. The Major elements which determine the relation between both of them include universality, integration, equilibrium, locality (in some activities), coordination, treatment based on professionalism, flexibility in procedure and finally evaluation⁽³¹⁾.

Universality, in an effective relation, requires the social development activities of the waqf and the NGOs to be inclusive of the various aspects related to social development, no matter if these activities be educational, cultural, spiritual, social, health or otherwise. Basic in the relation between waqf and NGOs is that this relation should not be confined to those specialized in educational activities without turning towards to those activities targeting social aid to the poor and the needy. Universality entails an interest in social development from its various aspects. This is compatible with the modern trends based on integrated development. Furthermore, universality does not provide in its cooperation with the NGOs for specifying a particular geographical territory or category, but rather it should extend to cover all the organizations involved in social development.

Integration, as a basis of effective relation, requires an existence of such integration in the nature of the projects set by the waqf in the NGOs, the aim of which is to heighten the developmental effect of the waqf projects. Building a school, for example, in a village is not enough to create social development while neglecting the health services to promote the mothers' awareness, or conducting planning workshops to create job opportunities. Therefore, it is possible for waqf to set up a school to qualify teachers to teach at the NGOs institutions. This causes the activities of the waqf to go in line with the educational needs of the NGOs.

The principle of equilibrium in the effective relation calls for defining the priorities of social development according to the needs and circumstances of a society so that such priorities may realize the sought social equilibrium. The waqf proceeds being limited makes the process of prioritization essential to realize this equilibrium. Experiences show that NGOs are associated with services extended to specific categories or definite geographical areas which require the role of waqf to be integrated into a general policy that realizes the sought equilibrium without disrupting the social balance.

Institutionality in the relations requires the integration of the waqf activities into the NGOs within a framework of clear-cut institutional relations. There must be an institutional relation

(31) These principles outlined by some researchers lay stress on the success of the success of economic development Projects (Al Gohari et al:PP 44-59)

in the joint projects in order to secure effectiveness and perpetuity. Within this framework, a part of the revenues earmarked by waqf may be directed to the projects of the institutional structure, for example training personnel, providing equipment, setting regulations and bylaws and work methods which ensure the effectiveness and perpetuity of the project.

The element of locality is also important in the successful relation and joint cooperation between waqf and NGOs. The experiences of the international institutions show that local participation in the projects, whether this comes from a group of individuals, part of a tribe or a specific community, is essential for the perpetuity of the project and the expansion of its effectiveness (World Bank, 1983:3). This underlies the interest of many international institutions to involve local communities in the social development projects to experience a feeling of ownership which urges them to maintain and safeguard the project.

Coordination is the cornerstone in the successful relation between both institutions. Projects carried out by an NGO in favour of waqf must have undergone all the coordination procedures with the governmental agencies or any other NGOs engaged in the same activity. The importance of coordination stems from its role in avoiding duplicity and dissipation of efforts.

The importance of coordination in creating this integration among the various activities in the same sector brings about optimum results to the local community and reduces the costs of the services extended. Therefore, waqf, through the waqf projects or services, must be keen to form part of the components of evaluating the projects to be executed (study) in terms of coordinating with other bodies.

Dealing on a professional basis emanates from the fact that waqf nazara is a great responsibility before Allah and the judiciary. Therefore, the relation between waqf and NGO must be based on professional grounds through defining the functions, tasks and responsibilities within the framework of legal contracts in which the rights and obligations of each party are clearly specified. Flexibility in procedures, in addition to strengthening the relations between both of them, constitutes one major incentive for their communication. Without such flexibility in procedures, the NGOs would not be able to realize the desired effectiveness required for implementing the waqf activities.

Likewise, evaluation is an important factor in the effective relation since there should be a regular evaluation of the waqf activities and their impact on the social development and what this leaves on the change in policies and attitudes. Included in the process of evaluation is the evaluation of the executive department, i.e. the NGOs and their ability to execute a project in the light of the set objectives and their effectiveness in that respect.

The World Bank, for example, in its relation with the NGOs has created a computerized program to follow up and evaluate the ability of NGOs to execute the projects entrusted to them, in addition to the efficiency of the institution and its effectiveness (World Bank. 1991).

3-7: Summary

In this chapter, we have stressed the universal interest in the NGOs and their role in social development and the common factors between them and the waqf. We have also laid emphasis on the fact that waqf was once a non-governmental institution which played an effective role in social development. Besides, the NGOs used to protect and attend to the awqaf in the Islamic and non-Islamic societies. At the same time, waqf was integrated into the NGOs, affecting and being affected by them. We have noted how the state's intervention in waqf affected the relation of waqf with the NGOs and caused the familial waqf to recede and the waqf proceeds to be seized by the government. Several legislations were made to restrict the relation of waqf with the NGOs.

The control of either the governmental sector or the non-governmental sector on waqf nowadays does not provide a favourable atmosphere for its growth and deprives it of its effectiveness, neither the distribution of the proceeds by the government led to any results in the social development. On the other hand, the state-controlled waqf failed to coordinate with the other governmental bodies to get the governmental activities integrated into the NGOs services. The support of waqf to the NGOs will secure continuity of work because it provides sustainable funding which provides the appropriate livelihood and autonomy to carry out their tasks and realize their activities.

It has been made clear that there is a need for merging waqf with the NGOs, for example the Waqf Funds, to heighten the social effects of their activities and cause them to be integrated.

The pillars of the effective relation between waqf and the NGOs in realizing social development rest in the universality, integration, equilibrium, institutionalism and locality in specific activities, in addition to coordination, professionalism and flexibility of procedures, and last evaluation.



Chapter Four

Waqf and NGOs
Similarities and Differences
Separation and Connection



4-1: Introduction

In the previous chapters, we have shown the importance of waqf role in social development thorough the proper utilization of the NGOs. We have also shown that the waqf was a part of the non-governmental work; from it, it originated and to it, its proceeds are directed. The differences in definition between waqf and the NGOs were also made clear, the common factors between both of them and the stanchions of the effectiveness of such a relation were also highlighted.

As we mentioned earlier, waqf was a part of the NGOs which contributed to the creation of the civil society and assisted in consolidating the social norms and changing them for the better. Nevertheless, after the intervention of the state in managing the waqf, the relation of the waqf with the NGOs became at low ebb. The question which yields itself to be asked is whether waqf is willing again to re-establish a relation of partnership and dialogue with the NGOs. The answer to this question is that there is a wide spectrum of benefits for this relation of and cooperation between waqf and the NGOs, which can be put down as follows:

Exchange of information: It is known that the NGOs can provide the waqf with integrated data about the various needs of the society, assist in formulating its priorities and techniques so that they can be connected with the needs of the society and boost its role in social development.

Directing the policies and plans: the plans and policies initiated by the waqf are unrealistic unless sifted by other agencies, for example, the NGOS usually known for fieldwork and approaching social needs. This, no doubt, enables them to study the plans proposed by waqf and to direct its policies.

Sowing confidence and bestowing legality: As we mentioned earlier, confidence in waqf eroded as a result of the state's intervention. This confirmed the need for granting confidence and legality through involving the NGOs to boost confidence in the waqf activities.

Quality and Cultivation: As a result of the connection and relation between them, the NGOs, by virtue of their nearness to the masses, can play that role of cultivation and creating awareness on the role of waqf and its numerous activities in social development which is expected to boost confidence in the waqf and increase the number of waqifs.

Identifying the Public Opinion: Numerous are those who cannot communicate their ideas and opinions to the waqf officials, especially those belonging to a governmental agency. This deprives it of a substantial amount of knowledge, The NGOs, by virtue of being close to these individuals and providing a favourable atmosphere for dialogue and exchange of opinion, represent a channel for those individuals to express their opinions towards waqf and its developmental impact.

Some of the above-mentioned benefits resulting from the contact between the waqf

with the NGOs constitute a motive for such fruitful communication which should not have occurred without a thorough understanding of the similarities and differences between the waqf and the NGOs. This is meant to boost communication in respect of similar areas and for approach and variance in areas of discrepancy.

4-2: Similarities between Waqf and NGOs:

In Chapter three, emphasis was laid on the terminological differences between the waqf and the NGOs. Now the major similarities between both formulas will be featured to serve as an approach to clarifying the reasons for connection or separation between them. Among the similarities are the following:

1. Resorting to Law:

Both the waqf and the NGOs resort to law in case of mismanagement or abusing the organization's resources or the waqf proceeds. Most of the NGOs, if not all of them, are incorporated pursuant to a corresponding law which gives the ministry in charge the responsibility for control by virtue of the law which gives them the right of litigation and filing suits against the board of directors for failing to keep within the set objectives. In waqf, a judge can replace a nazir if proved inefficient or a breach of trust is verified (Al Hanbali, 1348 AH: 44-47).

2. Juridical Personality and Financial Zemma (Patrimoine):

The common factor between waqf and NGOs is that both of them have a juridical personality and a financial Zemma for carrying out their activities. A juridical personality is a modern term indicating the human or moral entity related to a right or a commitment (Hammad, 1414: 162). The juridical personality and the financial zemma were conferred by the law upon the NGOs in order to conduct their activities. Waqf, on the other jurisprudential level, is a «sui juris persona with a capacity to stand as a defendant or a plaintiff» (Al Zarqa, 1366 AH:20). Therefore, waqf has a juridical personality as viewed by jurists because a juridical personality deals with the entities where efforts and monies join for a collective benefit or common interest. Besides, they enjoy an independent financial zemma (Hammad,1414AH:162). Therefore, waqf, by virtue of this juridical personality, can be judged for or against. It has also a juridical zemma and a de jure capacity (Ateeqi et al, 1417AH: 110). Some modern laws on waqf indicated this as we find the Algerian law issued in 1411AH / 1991 stipulating that waqf is a property of natural persons or juridical persons. It enjoys a juridical personality and the state is entrusted with the task of observing waqf interests and acting thereupon⁽³²⁾.

Researcher Ali Juma'a, on the other hand,(1414 AH:104) and after analyzing the five components of a juridical personality, including a group of people pursuing a definite aim, having articles of association, members to manage the activity, having a financial zemma

(32) *Algerian Waqf Law, Islamic Economic Studies* , V 5, Muharram 1411AH- 1991 AD.

and a recognized juridical personality, he came to the conclusion that Islamic waqf has such a juridical personality.

A financial zemma is a sharie (legal) description which indicates rights and obligations. Once in existence, debts and other incurring obligations related to juridical personality are owed to it in the same way its rights are owed by it (Hammad, 1414AH:118).

According to modern civil laws, which allow for contractual procedures and recognize the rights and obligations of such procedures, along with the independent financial zemma, waqf and the NGOs enjoy the juridical personality and the independent financial zemma (Ateeqi et al, 1417AH: 118). Thus, a financial zemma and a juridical personality are essential for the proper management of the waqf and NGOs and for including both of them within modern legislation. The existence of a juridical personality and a financial zemma for either of them facilitates communication and contracting between both of them.

3. Transparency:

One basic factor in common between waqf and NGOs is transparency on financial and administrative transactions so that all the activities of the institution are always subject to investigation and auditing. Transparency indicates clearness in transactions and relations so that they are put at the disposal of numerous bodies for investigation to give credit to such transactions (Al Omar, 1420 AH: 110). Within this framework, transparency in the NGOs and waqf do exist clearly for several reasons. In the NGOs, this transparency is exemplified in an annual report made by the board of directors and approved by the general assembly. There is also a financial report issued by the auditors and submitted to the general assembly of an NGO. Actual practice of the NGOs revealed that minimum corruption had occurred due to that transparency. In waqf, regardless of having an appropriate administrative system, such transparency is not as effective as it is in the NGOs in respect of defining the procedures of activities. It is a relief to find some of the modern awqaf authorities, for example Kuwait Awqaf Public Foundation and the Sudanese Awqaf Authority, have embarked on issuing financial and administrative reports on their activities and performance. The absence of a minimum transparency in a proper administrative system, depending on the nazir's honesty and having fear of Allah, made waqf, just like all other administrative systems, liable to some corruption. The state's control of the waqf failed to check all robberies and financial corruption as the case was in some parts of the Egyptian countryside (Ghanim, 1418 AH:410) Thus, transparency of the NGOs entitles them to act as a container for receiving waqf monies and directing them to their proper channels. This, no doubt, contributes to the transparency of waqf before the public.

4. Public Service vis-à-vis non-Profitability:

Waqf and NGOs share a common interest in the disadvantaged categories, for example

the poor, the needy and people with special needs. They seek to provide means of a decent living and public good. In the interest of extending help to the disadvantaged categories, many well-doers dedicated the awqaf in favour of the orphans until they attain maturity (Al Sayyed, 1415 AH: 235). That is why we find faqihs , in dealing with the channels of spending waqf proceeds, specifying likely needs, provided that such a need should be permanent (Al Zarqa, 1366 AH:53). The main objective underlying the establishment of the NGOs is to carry out public services. The services extended by such NGOs get nearer to those extended by the waqf. Analyzing the beneficiaries of the NGOs in one Islamic country, for example Bahrain, we find that their major activities focus on those channels advocated by the waqf. Table 3 shows the beneficiaries of the NGOs activities, for example the disabled, orphans, children and poor families in Bahrain.

Table 3

Beneficiaries of the NGOs activities in Bahrain

Beneficiaries	Percentage
Local community	24%
Orphans	5%
Poor families	24%
Students	10%
Disabled and people with special needs	24%
Women	24%
Children	24%
Young men	10%
Aged people	5%

N.B.: The percentages mentioned above constitute a multiple total which means that a total is not 100% because an assistance may reach the children, and extends to disabled in case a child was disabled.

Just like NGOs, waqf aims to address the needs of some categories or initiate some missing charitable activities. Both of them are concerned with the public good and pursue the interests of the needy categories without seeking any profit while carrying out their activities. Therefore, both institutions pursue public good devoid of any profitability purposes. This brings them close to each other in the light of the honourable objectives and dignified activities.

5. Assistance recipience conditions and general policies converge to realize social development:

The communication of waqf with the NGOs stems from the fact that they pursue one objective: social development with all its dimensions. By extrapolating the contents and the economic essence is a development process (Qahf, 1418AH: 22). Similarly, the objective of the NGOs is social development, too (Wahba, 1418AH).

Social development is the common factor between waqf and NGOs, particularly because the components of social development are based on the following (Al Johari et al, 1978:42):

Investing human resources and developing them in a society.

Improving the material life of a society.

A complementary objective which requires coordination and balance among the various organs involved is developing a society. In addition to the similarities in the work areas in specific sectors, for example education, waqf institutions agree with the NGOs in the sense that they advocate identical services. In the area of education, for example, both apply the open door policy through which each student is entitled to join education (Schom, 1986AD) without which education would not have been able to spread throughout the Islamic state (Al Sayyed, 1415AH: 249).

6. NGOs initiative and an open system for involving all:

In its establishment, management and spending of the proceeds, waqf, as the case is in the NGOs, depends on the private initiatives, though their means and purposes may differ. Waqf is established through a well off person whenever this person wishes to satisfy a basic need of a society. At the same time, both are open to all Moslems according to their social status and financial capability.

7. Administrative and Financial Autonomy:

Waqf has an administrative autonomy because a nazir, before the state's intervention, was in charge of all its affairs and activities. The greatest part of the familial waqf is managed by a nazir pursuant to a power of attorney executed by the waqif's descendants. Therefore, the welaya is validated first through the waqif, then through a bequest and then to the judge (Al Hanbali, 1348AH: 42). NGOs, though similar to waqf, are managed by extra-governmental bodies, which give it the administrative and financial autonomy. They are not governed by a single person but by a board of trustees which accepts no salaries for its work (Al Mutairi, 1415:8). Such financial and administrative autonomy attributed to waqf and NGOs strengthens the mutual relation between both of them for their joint interests.

Reviewing the similarities between waqf and the NGOs reveals clearly their consistence in terms of resorting to the law, enjoying juridical personality, financial Zemma, transparency,

similar objectives for public good, private initiatives and last the financial and administrative autonomy. This consistency in a cluster of peculiarities will constitute the basic factor for the effective communication between waqf and the NGOs.

4-3: Difference between waqf and NGOs:

Despite the fact that both waqf and NGOs have many things in common as shown above, there are numerous differences between them due to their different nature. These differences can be put down as follows:

1. Intention

Waqf system depends on a predetermined intention to establish a waqf to bring a waqif nearer to Allah's good pleasue and reward. NGOs, on the other hand, seek a purely worldly purpose in the interest of the people or the local community, safeguarding the interest of members or seeking to achieve better resources for the heirs or any other objectives which have nothing to do with the nearness to Allah and winning His reward. This does not mean that all NGOs advocate this concept because there were some organizations which had been established to achieve this purpose of getting nearer to Allah. Such organizations are rare and exceptions often cannot be reckoned with. Difference between the two institutions, though existent, will not strongly affect their interrelation if contracting relations between them were organized and channels of spending for both get closer.

2. Incorporation License:

To establish an NGO, western and Islamic laws are identical with respect to getting a permission from the relevant authorities, notifying them or documenting this intention with a lawyer's office when incorporating an NGO. Before the promulgation of a society, a trust or any form of the NGOs, there are definite rules to comply with. In the case of waqf, there is no need to get a permission for its establishment because this wish is validated through intention and utterance (Al Zarqa, 1366 AH:24) Al Hanbali, 1348 AH:4). Modern laws provided documentation for securing waqf and its continuity. Other laws, for example the Egyptian Waqf Law, provides in one case for the consent of the other party when this party is a charitable body with a legal representative such as societies. The law provided that in order to accept the waqf proceeds, there should be an express approval made by the society's representative, otherwise this entitlement is invalidated (Imam, 1416 AH: 194).

Waqf therefore is different from the NGOs in the sense that it does need permission from the governmental authorities. The juridical personality emerges with the establishment of the waqf following the declaration of the waqif (Ghanim, 1419AH: 430). With respect to NGOs, the laws related to establishing charities in western countries still depend on the consent of the relevant authorities in order to get tax benefits (Al Mutairi, 1415AH:81). Similarly, in Islamic countries there should be a confirmation and acceptance from the relevant authority.

In observance of the aforementioned, waqf should approach those licensed institutions, and exceptionally those unlicensed ones, as necessity requires in conjunction with social development.

3. Management:

Administration in NGOs, including trusts, provides for a board of directors consisting of several persons to be in charge of managing and overseeing the performance of an institution. In the case of waqf, on the other side, though welaya may be conferred upon one person or more, it is often assigned to one person. Modern laws tend to appoint the relevant minister or the director of awqaf as a mutawelli. The way a mutawelli manages the awqaf is different from that of the board of directors in an NGO. The latter is of a collective nature and discussions are often conducted in a free atmosphere. Therefore, in establishing relations with NGOs, waqf must see to it that a board of directors in an NGO must be effective and reflects the attitudes of a local community and the requirements of social development.

4. Time Duration:

NGO are often bound by a time duration or subject to dissolution at the member's or the administrative authority's request. Waqf, on the other hand, is not governed by a time limit as it is held perpetual ad infinitum. Such perpetuation is consolidated through directing waqf proceeds to an ever existent charitable channel (Al Hanbali, 1348 AH: 13-14) (Al Zarqa, 1366 AH: 54).

5. Mobilizing Financial Resources:

Both the waqf and the NGOs depend on self-resources, yet waqf is characterized by its ongoing resources and proceeds as long as its assets are properly invested. NGOs' proceeds, on the other hand, fluctuate according to the prevalent social conditions, tax exemptions, and the enthusiasm of the members and the support extended to them.

NGOs' revenues come from two channels: voluntary and involuntary revenues. The former includes the estates, bequests, and conditional giving (grants and gifts), the revenues of charity markets and fundraising charitable campaigns. The latter includes business transactions, selling of goods and extending services at a reduced price. It also comes from the wages and grants from official bodies, in addition to investment revenues.

Waqf, as maintained by many countries, is no longer considered as public monies and so its financial zemma is not integrated into the financial zemma of the state. Waqf cannot be viewed as public funds because a state has not the right to dispose thereof, neither it is a private money because it is allotted for public good. So waqf monies can be defined as public monies apportioned for special channels of spending (Ahmad, 1415: 58). At the same time, waqf monies belong to Allah and cannot be usurped, confiscated or directed to any other purposes as the case is with the NGOs. A state can take up the NGOs' monies in case of corruption and re-direct them to proper channels.

NGOs and Waqf institutions have something in common with respect to the nature of their monies allocated to bring about benefits and interests to such institutions and the possibility of cooperation between them through mobilizing the financial resources to establish a waqf-investment project in which all resources are invested while proceeds are earmarked to joint activity.

6. Scope of Supervision:

In addition to the Divine supervision, a mutawelli is accountable before his own conscience, the public and the judiciary (the judge). The accountability of a mutawelli has been a major axis of the first waqf law in modern times issued by the Ottoman Empire under the name of 'system of orienting the directions' in Ramadhan 2,1321 AH, corresponding to July 23,1891 AD. The law stipulates in article 52 that questioning a mutawelli should be conducted by a judge according to the Islamic sharia regulations, whereas questioning a mutawelli in the case of annexed awqaf (managed by their owners) was conducted annually by the Awqaf director (Al Hanbali, 1348 AH: 5). The board of directors and other relevant governmental authorities in many countries usually supervise NGOs. In exceptional cases, the judiciary carries out this task. Therefore, waqf, in its relation with the NGOs, should lay emphasis on controlling the activities connected with distributing the waqf proceeds.

7. Distribution Policies:

Most of the awqaf, except those which listed general charities among their channels of spending, can be considered as predetermined channels which cannot be changed with the passage of time even when the said channels are no longer needed unless provided otherwise by the judge. Admittedly this provided protection to the waqf, nevertheless it deprived it of the flexibility required to cope with the changing social needs. NGOs, on the other hand, enjoy that flexibility conferred upon the board of directors to distribute the proceeds in a way that realizes the general objectives of the institution. Thus, the flexibility of an NGO in setting the distribution policies according to the social needs can be regarded as a promising factor for the waqf to get into contact with these NGOs.

8. Tax-Exemption:

Tax exemption for NGOs allows for a convenient and continuous support for these institutions to fulfill their objectives (Al Mutairi, 1415 AH: 82). The main reason for granting these tax exemptions is the interest on the part of modern societies to help these institutions flourish and carry out the activities believed to be beyond the state's ability to perform wholly or partially. The waqf system did not enjoy that exemption, neither was it relieved of the taxes of all types⁽³³⁾. Some modern waqf laws tend to relieve waqf of the fees and taxes .The

(33) *The imposition of Zakat on a waqf asset was advocated only by the Malekis even if this waqf was for indefinite beneficiaries. Others said that if a waqf asset was for indefinite beneficiaries, here zakat is nor required (Fiqhi Encyclopedia, Kuwait, 23/236)*

Algerian waqf law provided for exempting “waqf public properties from taxes and registration fees because these properties constitute a work of charity”⁽³⁴⁾. Therefore a proper utilization of the NGOs by waqf in specific activities will ease the tax burden imposed on waqf and increase the proceeds directed to public good.

4-4. Environmental, Economic and Political Factors Bearing on the Interrelation between Waqf and NGOs:

In addition to the self connection and self-disconnection factors , there are environmental, political, and economic factors which might cause the gap to expand or narrow down between waqf and NGOs. Such factors will be analyzed in the following paragraphs:

1. Governmental System and its Philosophy :

The system of government plays an important role in getting the waqf nearer to or farther from the NGOs. In case a government advocates a policy in favour of de-regulating trade and boosting the role of the NGOs through minimizing the role of the state in extending services (now known as Public Choice policy), the two institutions are likely to converge. The proponents of this policy which is likely to lead to privatization will cause many governmental institutions to resort to the NGOs to bridge the gap resulting from the state's withdrawal from extending some services and reducing its role in extending such services. On the other hand, advocating a specific policy or philosophy of ruling might impinge on the relation between waqf and NGOs. Socialism, advocated by the system of ruling in Egypt and calling for the state's control through extending all services, put as one of its priorities reducing the role of waqf in extending support to the NGOs in establishing hospitals and other societies. It confined the role of waqf to religious purposes inside and outside the country (Ghanim, 1418 AH: 470). Likewise, social reform policy and nationalization overburdened public property and resulted in drying up all waqf resources (Ghanim, 1418 AH:103).

The tendency towards the de-regulation of trade and reducing the state's economic role in extending public services caused the waqf and the NGO to get closer to a point of integration (Joshi, 1417 AH: 19-20). At the same time, the state's tendency towards regulating economy will broaden the private property base and encourage well doers to dedicate their properties. The state's role in providing facilities and lands which can be used as awqaf managed by the NGOs will foster cooperation between waqf and NGOs. As a waqf project in the Sudan, and in collaboration with the Students' National Fund, the state allocated some lands to be utilized for building student residential complexes (Ahmad, 1415 AH: 70). In 1991, the Sudanese government also decided to allocate lands for awqaf at an average of 5% of the investment lands of the governorates to be divided equally between education and all charities (Al Nasry, 1418 AH).

(34) Article 44 of the Algerian Waqf Law, *Islamic Economic Studies*, V 5, issue 2, 1419AH – 19889A, P 128.

2. Nature of Activities funded by Waqf:

The philosophy of waqf is based on the broad concept of waqf interests, which are not confined to the activities falling within the limited array of 'charities'. There is a great likelihood of connection between waqf and other NGOs activities because implementing such activities require close connection with the NGOs to direct them and oversee their works. The more these activities are specialized, the more likely the relation is between the waqf and the NGOs. In case a waqf institution wishes to turn its attention to a medical domain through building hospitals or managing preventive medicine activities, this is regarded as a difficult task which requires the assistance of the NGOs, for example medical treatment institutions or charitable hospitals, to execute and follow up their management. On the hand, if waqf is confined to specific charitable activities such as the sacred meat or breakfast meals this requires the waqf to carry out this task alone. This stands in contradiction to the need for the NGOs.

Sometimes, as a result of the waqf circumstances, for example the micro-finance projects or the waqf activity is located in a remote area, it becomes rather difficult for the waqf to follow up these projects due to the specific nature of such projects which deems it indispensable for the waqf to entrust them to NGOs.

3. International Orientation:

International organizations or granting states tend to give a more important role to the NGOs because this will pressurize towards linking waqf to the NGOs. Most international organizations or granting states provide that concerned governments should depend on the NGOs in extending services in the social development domain. One of the factors which encourage the interrelation between waqf and NGOs is embodied in the current trend on the part of the international organizations to establish a social safety net to maintain a reasonable standard of living to the poor through consecutive crises affecting the life of the poor and the needy. Many of these organizations, for example the World Bank, began to consider partnership with the NGOs and include this principle in its dialogues with the different governments in connection with the annual loan policies. They also extend financial assistance to these organizations to raise their efficiency (Nelson, 186:1995). The interest in this issue is reflected in the increasing involvement of NGOs in executing the World Bank developmental projects as this soared from 12% in 1990 to 47% in 1997 (World Bank, 1998:4).

4-5: Motives and Warranties of Connection:

We have seen to what extent the two organizations are different or alike in many respects. Analysis shows the importance of the interrelation between the two organizations in behalf of social development and their identical approaches to realize this objective. It also features

the importance of integrating governmental and non-governmental efforts to realize the objectives of social development (Hasan, 1418:141). The motives for communications between both organizations can be put down as follows:

1. Trimming of Spending and Improving the Economic Impact of Waqf:

The interest in rationalizing spending on the dedicated asset stems from the fact that it is a means for bringing benefit to the beneficiaries (Dunia, 1415AH, 124) which is expected to enhance the economic impact of the waqf, together with promoting the beneficiaries' portion. Should the contribution of the NGOs', known for their efficiency, be helpful in trimming the expenses and increasing spent proceeds as indicated by some relevant studies (UNDP, 1993: 75), this will be enough justification for cooperating with them and realizing the good of waqf.

2. Intensifying the Distributive Effect of Waqf:

Getting the assistance of NGOs intensifies the distributive effect of waqf and thereby doubles the reward for the well-doer. NGOs, particularly those dealing with the poor categories, may constitute an effective link between financiers and beneficiaries (World Bank, 1990:11). Involving other parties, for example NGOs, in the waqf through their expertise and experience may account for expanding the waqf awareness about the requirements of social development. Waqf personnel may also find better opportunities for dialogue and learning from a wide spectrum of views. Should the waqf be dedicated to the poor and the needy, then distribution thereof in cash may realize the waqf objectives and relieves the waqf of the administrative burden it undergoes. The distribution thereof in the form of productive projects that allow the needy to find an opportunity to satisfy their needs is better than cash distribution. This is expected to raise the distributive effect of the waqf. The productivity of such products may be better from an economic point of view if undertaken by specialized societies interested in finding the poor and making sure that the assistance has already been distributed to them. This is expected to intensify the distributive effect of waqf and enhance the waqf capability in concentrating on the poorer categories through the programs and activities which it boosts. Therefore, the NGOs will help waqf to reach beneficiaries because they are within their geographical domains and often close to them. This is a basic issue because reaching such poorer categories, mostly ignorant of their rights due to their illiteracy, constitutes a challenge to developmental institutions (World Bank, 1995:21).

Seeking the aid of NGOs consolidates the distributive effect in terms of getting the beneficiaries acquainted with the waqf aid and means of utilizing it so that it reaches the most deserving. For example, a scholarship fund was established in behalf of the talented from among the deserving categories, the NGOs might circulate this at a large scale among the beneficiaries. This offers the opportunity to the most deserving beneficiaries - which strengthens the distributive effect of waqf proceeds.

3. Optimal Utilization of Waqf, its Sustainability and Getting more Moslems Involved therein:

From an economic perspective, the optimal utilization of an establishment is exemplified in having high efficiency in realizing its objective (Cizakca, 1998:205). Taking this criterion into consideration while dealing with waqf, we can say that an optimal economic utilization of waqf means a continued flow of proceeds with minimal cost made possible through a good investment of waqf and a balanced distribution of its proceeds.

The involvement of NGOs, as indicated by the World Bank experience, contributes to the sustainability of giving by the project and enables it through the NGOs to approach beneficiaries and cause them to maintain the project and mobilize local resources to support it (World Bank, 1998:3). The proper utilization of the NGOs by waqf will, no doubt, help sustain the dedicated asset and using its revenue. This experience of the World Bank is made clear in a remote area in Pakistan when involving the beneficiaries in maintaining primary schools established by the Bank manifested a deep interest to keep these schools with the passage of time. This interest reduced the costs of restoration (World Bank, 1995:24). On the other hand, involving the beneficiaries in running these schools and highlighting the importance of education raised the enrollment in those schools, particularly in connection with girls. This raised the economic returns of the school's project. Faqihs were forerunners in this respect when they considered the weighted public good. They were of the opinion that nazara shall be entrusted to the beneficiaries if they are predetermined and the waqif left this issue open (Abu Zahra, 1319AH: 347). The point here is that such beneficiaries are believed to give their due attention to the dedicated asset and the spending of its proceeds.

4. Enhancing the Effectiveness of Waqf and its Developmental Role:

The call for this communication between waqf and NGOs comes as a result of the weakness of waqf being put under the dominance of the state and the need for getting the assistance of the NGOs so as to be approved by Moslems and developmentally more effective. Waqf, after being dominated by the state, no longer manifested an interest in the social impact and developmental aspects. The major interest of waqf was transferred to sticking by the governmental bylaws and the channels of spending.

The social impact of the waqf receded following the states's control as it was confined to conventional aids far from coping with the changing needs of the society and mainly the needs of the disadvantaged and poorer categories. Following traditional ways of distribution and the lengthy periods required for that affected the social impact of waqf.

The developmental role of the waqf dropped due to the high charges of managing the awqaf by the state. This caused the proceeds earmarked to respective beneficiaries to fall off. Modern waqf formulas nowadays decides the percentage of the overhead expenses to the total proceeds. In the waqf deed of the well doer Koc in Turkey, established in 1969,

the percentage of the administrative expenses to the proceeds were defined. They should by no means exceed 20% of the proceeds, inclusive of emergency and buying new awqaf (Cizakca, 1998:227). In this respect, Sheikh Abu Zahra (1319AH: 376) criticized the Ministry of Awqaf for deducting 10% to 15% as charges which he considered higher than the standard charges. At the same time, confining the waqf to religious festivals, far from the political atmosphere affected the developmental role. In Egypt, for example, the state ordered that the proceeds of the awqaf should go to the call to Allah (Da'wa) and the mosques (Ghanim, 1418:470). However important these channels are, there remain the poor and the needy, in addition to charitable activities which realize social development, all of which remain outside the domain of the waqf activities.

The relation of waqf with NGOs, benefiting from their services and boosting cooperation with them in outstanding areas could make effective contributions and help them overcome some of the traditional obstacles and parameters which govern waqf. This is expected to create an effective role for these joint efforts in leading the social change and realize the sought development which can be achieved through joint and enlightened efforts based on awareness and planning.

5. Benefiting from NGOs:

Aid-giving countries and governments are now under pressures to reassess the role of a state in social development and benefiting from the NGOs and giving them a role in creating and implementing social development activities. In this context, calling the NGOs and actuating their role may replace the governmental spending on social welfare in the U.S.A and the U.K. Besides, it is expected to overcome the dilemma of poverty in France and to reach the poorer categories in the developing countries. It is also expected that this will be an incentive to involve the masses in voluntary work (Salamon & Anhire, 1415AH:13). Such merits of the NGOs could be helpful to waqf in activating its role in social development.

The independence of NGOs enable them to develop initiatives which serve the social make up and provide a flexible atmosphere to put forward original projects and implement them. The experiences of the World Bank have proved that NGOs enjoy flexibility, maneuverability and creative thinking which enable them to find original projects which serve the targeted categories (World Bank,1998:10). In involving volunteers and mobilizing their efforts to undertake their activities, these institutions provide a wide spectrum of manpower which could be utilized in favour of waqf and its activities. At the same time, this will be less costly and highly effective in implementing projects (UNDP, 1997:52). For example, the society of AGHA Khan carried out a rural developmental project in the north of Pakistan based on creating a council for managing the village, building rural roads, developing financial services and other supportive services to market the products and train and improve production (World Development Report, 1995:70). Reflecting on these services, we find that all of them

provide for the needy with enough flexibility, in addition to being close to beneficiaries. These are not available to waqf whereas they are available to NGOs.

Involving NGOs open wide horizons before waqf to contribute to the numerous urgent problems which concern Moslems and assist other countries outside the country in which waqf is operating. Catastrophes facing humanity, mainly the Islamic nation created 26 million refugees, 80% of whom were Moslems in 1996 (Mousharji, 1418AH: 85). Being distributed in several countries, it was difficult for waqf to extend assistance and ease the tragedies of homelessness without resorting to the NGOs involved in relief. This is not strange if we know that international agencies like the UN resort to the NGOs and made a special department for them which belong to the UNHCR (United Nations High Commission for Refugees) whose seat is in Switzerland.

NGOs can also approach the masses and popularize waqf among them in a way that improves relations with beneficiaries. Experiences at the international level show that NGOs can render assistance to beneficiaries and show its distributive effect to beneficiaries (World Bank, 1990).

Utilizing NGOs, known for transparency and strict control, and cooperating with them will minimize moral hazards, whether these be corruption or breach of trust in distributing waqf proceeds.

6. Boosting Confidence in Waqf Governmental Authority:

Establishing a relation between waqf and NGOs will cause waqf to restore confidence, no matter if the latter falls within a governmental control. This will, no doubt, encourage the people to start giving and dedicating after a long period of cessation. It should be noted here that people did not have that sentiment for waqf as the case was in the past, which can be attributed to the following reasons:

Effecting the laws which restrict the types of waqf, in addition to the lack of appropriate facilities which caused people to shun it (Dunia, 1415AH: 144). Conversely, in western countries waqf flourished due to the flexibility of the law and tax exemptions.

Falling under the governmental control in most cases caused the public to distrust the performance of these organs in managing the waqf. Many believed that the collection of the proceeds of waqf and the distribution thereof were carried out by inefficient people (Dunia, 1415 AH:144). People shunned waqf because they were skeptical about the efficiency of the governmental departments in charge of managing it. Therefore, resorting to NGOs will cause the waqf activities to acquire more transparency and credibility.

Such being the state of affairs, governments should boost confidence in the governmental management through checking with the trustworthy non-governmental agencies. This is expected to establish confidence in waqf and its developmental role. This will create a sentiment on the part of the public and provide a chance for more transparency in dealing with waqf activities. Cooperation between waqf and NGOs will create a basis for more

confidence and credibility in dealing with other governmental agencies in behalf of the social make up.

7. Appropriate Administrative Structure:

The nature and type of the administrative structure, as we mentioned earlier, justifies communication between waqf and NGOs. The more flexible a structure is, the better its contribution will be in achieving this communication. Bureaucratic or inefficient structures hinder this communication and the NGOs will find it difficult to benefit from the waqf resources in view of the multiplicity of requirements to be met in this regard. At the same time, the waqf funds, like those established by Kuwait Awqaf Public Foundation, represent a flexible system for communication between waqf and NGOs.

8. Geographical Expansion:

Geographical expansion of a country entails communication between the two institutions because it will be difficult for the waqf institution to carry out its charitable programs due to high charges. Here the need arises to working with the NGOs, mainly those located nearer to beneficiaries or respective activities. In Britain, for example, community trusts were established to form a link between the field organizations dealing with beneficiaries and financiers (Joshi, 1417 AH:33).

Geographical expansion, if coupled with poor social services, will cause many to suffer and create a state of imbalance in the nature of services extended to the various regions of the country. The Ottoman Empire, during the last years of its life, failed to extend the educational services to the various regions of the empire. The waqf institutions undertook this responsibility apart from the governmental authority. This led to more independence to the educational institutions and created a balance among the various regions of the empire. The waqf proceeds were mostly earmarked to educational purposes wherever such a need arose (Al Dayekka, 1418AH:126).

9. Specialization and Nearness to Targeted Categories:

The Activities of waqf are based on earmarking the proceeds to be spent on general charities, otherwise they are directed to the poor. If the waqf is released indefinitely, it will become perpetual and conventionally directed to the poor (Al Zarqa, 1366 AH:54-55). Thus most of the awqaf are considered general awqaf which cover an ample time duration which makes it difficult to apportion the proceeds to definite categories or bodies. NGOs are mostly established to meet a definite purpose, serve a specific category or a geographical location. This makes it close to the beneficiaries and abler to meet their needs and identify their problems. They undertake specific activities which waqf fail to assume, for example small projects and settling disputes among beneficiaries. By virtue of this nearness to beneficiaries, NGOs are usually well aware of the nature of the local projects. This enables the waqf to design those projects which cope with the needs of beneficiaries in the light of

the circumstances. Moreover, partnership with the NGOs provide participatory development frequently utilized to encourage the public to exercise their influence and thereby to affect the projects and activities expected to affect their life (World Bank, 1991:16).

10. Integration between Waqf and NGOs:

Waqf and NGOs share common objectives in terms of extending assistance to poorer categories through means of fighting poverty and obliterating it. To achieve equality in distributing the proceeds, such integration can be viewed as motive for communication between them. Another aspect of such integration is shown in the nature of spending made by the waqf and the NGOs. Waqf plays a role in spending in the sense that it combines the capital spending related to the dedicated asset and the current spending in the sense that proceeds are spent. Therefore, the nature of waqf and NGOs are integrated. The nature of waqf emphasizes capital investment through building fixed assets, for example hospitals and other buildings. Charitable societies, on the other hand, may provide current expenditures required for managing such an establishment and render other appropriate services. For example, the Islamic Bank of Development and out of the waqf proceeds built and equipped clinics and medical centers for the needy in Somalia. At the same time, the International Charitable Organization, in addition to other relief agencies, managed these clinics and provided them with the necessary equipment. This stands as an example of the fruitful cooperation within the aforementioned axis.

Another type of cooperation between both institutions is that a waqf proceeds recipients may undertake the responsibility for managing their respective waqf. For example, in case of educational waqf, this waqf could take charge of it, whereas managing, maintaining and developing the proceeds could be entrusted to the actual body to which such proceeds are directed. It is believed that such a body is usually keener to develop and invest those proceeds to ensure their continuity.

11. Expanding Popular Participation:

Public participation and all beneficiaries constitute a basic factor in making a project a success and ensuring its continuity (World Bank, 1995:20). Therefore, NGOs can be regarded as important tools in expanding the popular basis and spreading awareness about projects and urging people to be involved therein (Hasan, 1418AH:134). NGOs, by virtue of being nearer to beneficiaries, may amass public support to some waqf projects and strengthen the feeling of belongingness to maintain such projects (Assaf, 1988AD: 26). Involving NGOs in waqf activities at the local level may enhance waqf in that specific society. In case waqf wishes to cooperate with NGOs in a certain village or a group of villages to build a school, many of the inhabitants may dedicate money once they feel that this will serve their locality, whereas the case would be different if the school was to be built in different place. As early as the seventies of the 20th century, western countries grasped this point of community trusts

concentrate on specific geographical area to satisfy the local needs through establishing local community trusts (Joshi, 1417 AH).

12. State's Withdrawal and Supporting Disadvantaged Categories:

Open economy and free trade caused the state's role in extending services to recede and thereby leave a gap to be filled by the NGOs. Such recession brought about great suffering to the disadvantaged categories. This represented a favourable atmosphere for the prosperity of the NGOs (World Bank, 1998:3) and waqf institutions. Among the factors that require the cooperation of waqf and NGOs was the increasing numbers of foreign societies in the hit areas of the Islamic countries. (Ghanim, 1418AH: 19). This created an opportunity for competition, taking into consideration their immense financial capabilities.

Withdrawal of the state from extending social services, in addition and overpowering market factors deprived people of the services they actually need. Naturally, extending such services at suitable prices will not be possible. Withdrawing from extending health services will deprive great number of the poor of the health services due to the costly expenses of the private sector. Therefore, cooperation between waqf and NGOs in extending health services at reasonable prices maintains the balance upset by the state's withdrawal from extending those services. The state's intervention in securing a good part of the social services will release a great part of the social surplus and direct it to cope with certain basic social needs.

4-6: Shortcomings of Communicating with NGOs:

Taking for granted the advantages of communicating with the NGOs and benefiting from their potentials, there remains several shortcomings which should be taken into due consideration when communicating with them while trying to draw up the strategies and techniques to overcome such shortcomings. These shortcomings, if not handled, will be more extortionate and less effective as far as the developmental role of the waqf is concerned. This seems to clash with the aim underlying the communication between waqf and NGOs. Such shortcomings in respect of this communication can be put down as follows:

1. Institutional Weakness:

Depending mostly on voluntary efforts, NGOs are often restricted by what members give in terms of time and effort (Assaf, 1988:125). Their ability to execute major projects or new activities in case of cooperating with waqf is simple and limited. This phenomenon looks more serious with the NGOs in Islamic countries because such NGOs, including community trusts in the West, are getting more professional (Joshi, 1417AH: 20). This requires more efforts to be mustered for building the institutional capacity of some NGOs nominated for cooperating with waqf in carrying out the task entrusted to it in the area of distributing waqf proceeds.

2. Lack of Awareness of Comprehensive Social Development:

Being mostly specialized, NGOs often assimilate a limited sector of social development, for example attending to the disabled. Other sides, for example fighting poverty or health prevention are not covered by these institutions. This lack of awareness of the integrity of social development will make the role of waqf rather difficult when executing a project of integrated social development to extend services to a particular category in a specific area shared by several specialized bodies. This throws a burden on waqf in coordinating the activities of these institutions or causes it to concentrate on some aspects and ignore others.

3. Paucity of Financial and Human Resources:

The paucity of financial and human resources pose a problem for waqf when it means to communicate with NGOs. Therefore, NGOs will depend mainly on waqf to secure their financial resources. Most NGOs' financial resources come from subscriptions or occasional donations which cannot be relied on in the long run. Thus waqf will extend considerable support to NGOs, nevertheless this support should be scheduled to recede gradually so that such institutions should be encouraged to procure financial resources from other channels in behalf of joint projects.

4. Limited Experience and Expertise:

In view of the limited financial resources, our NGOs in the Islamic countries have limited experience and expertise which do not rise to the expectations. Most of them are newly formed and their cadres are inexperienced. Working as part timers with low remuneration fall short of securing the required experience to highlight the role of waqf in social development. Such limited experience of the NGOs in the Islamic world is not so strange in view of its short life and doing away with developing the experience of personnel. Nevertheless, this financial and administrative experience is expected to get impetus through establishing relation with waqf. In Britain, for example, marketing techniques were introduced to the NGOs, in addition to management techniques, effectiveness and productivity methods, increasing training and qualification for the respective cadres. This came after they had been permitted to compete in public sector services contracts (Joshi, 1417:20).

Summary:

Similarities between waqf and NGOs are numerous. Both of them enjoy the juridical personality, financial Zemma (patrimoine), falling under the control of law, transparency, public service, similar assistance requirements, and non governmental initiatives, all of which provide a favourable atmosphere for communication. Nevertheless there are some differences, especially in respect of the reasons underlying the establishment thereof, relevant licensing, means of management, duration, amassing financial resources, control, distribution policies, and tax exemption. Communication between the two institutions may

expand with the existence of certain environmental, economic and political conditions, for example having a system of ruling being supportive to waqf and an international trend backing NGOs, and the identical activities being financed. Communication between these two institutions may be influenced by the weaknesses of NGOs, for example poor institutional capacity, lack of awareness of social development, limited financial resources, limited experience and expertise of the NGOs..

The chapter reveals the basic factors for this communication between waqf and NGOs, improving the economic impact of waqf and intensifying the distributive effect thereof, optimal utilization of waqf and expanding participation therein on the part of Moslems, benefiting from the NGOs and boosting confidence in the governmental authority in charge of managing the waqf affairs, creating the suitable administrative structure and the geographical expansion of the state. The motives for such communication are represented in their specialization and nearness to the targeted categories, their integration and expanding popular participation, in addition to the withdrawal of the state from extending social services.

This participation and communication between waqf and NGOs manifests cohesion between them in many areas and the possibility of patching the differences is an attempt to provide a basis for effective communication which is helpful to both parties based on the assumption that incentives of communication between both of them are basic and numerous.

In the previous chapter, similarities and differences between the NGOs and waqf have been tackled, in addition to the means of separation and communication between them. It has been made clear that similarities in the mechanisms of work between both institutions are more than the differences. Besides, there are several environmental, economic and social factors which push both institutions towards communication and integration. Thus, it is important, after manifesting the positive side of this communication, to consider the ways of organizing and developing the relations between them in favour of local and regional development which will appear in this chapter.



Chapter Five

Organizing and Developing Relation Between NGOs and Waqf to Serve Local and Regional Development



5.1: Introduction:

The wave of democracy and open door policy which the world witnesses nowadays contributed to the development of NGOs and presenting them as necessary tools for extending services (Miranda, and Lerner, 1995:19). It is believed that there are more than one million NGOs in the industrial countries. In Philippines only, there are 19000 NGOs (UNDP, 193:80) compared with 734 in Jordan in 1999⁽³⁵⁾, 138 in Bahrain in 1998 (UNDP, 1998), taking into consideration the gap in the number of population between Philippines and some Islamic countries. The limited number of NGOs in the Islamic countries reflect a decline in the NGOs sector if compared with the advanced or developing countries. This fact encourages us to establish more NGOs in the Islamic countries to consolidate developmental purposes, yet it justifies the limited options available to waqf to choose the best NGOs.

The interest in the civil society and its institutions has become an important part of the philosophy of governments during the awareness epoch in the industrial countries. In Britain, for example, the first charitable law was enacted in 1601 AD, followed by the charitable Bequests Law in 1853. The latter provides for the establishment of a central authority in charge of the accounts of the charitable society (Al Mutairi, 1415AH: 12-13). The Charitable Societies Law issued in 1960 boosted the powers of the commissariat (central authority) and caused them to include non-trust societies. It also provided for registering charitable societies. As a result, more than 172000 charitable societies were registered in the Central Register. These societies managed to rake in more than 4.1% of the GNP (Al Mutairi, 1415AH:78)

In the United States, a law was enacted under Number 1906 through which tax authorities were empowered to give exemptions to charitable societies. This, of course, raised the number of societies to more than 320 000 holding USD 137.5 billion and spending USD 9 billion annually (Birzinji, 1414AH: 141).

NGOs in the advanced countries aim to meet the developmental needs, in addition to acting as means for distributing human resources to secure the required services. Studies show that one third of the NGOs resources come from governments to extend social services. In some cases, these services may account for 80% of the resources as it is the case in Italy and Belgium (UNDP, 1993:88). Utilizing NGOs in extending basic services through governmental funding contributed to the growth of such NGOs and their continued giving.

In Islamic countries, there are numerous NGOs which have been established for developmental purposes, for example Jordan and Bahrain. NGOs in Kuwait received due attention as early as 1331AH / 1939 AD when the Arab Charitable Society was established to carry out an array of social, cultural, health and educational purposes which constitute the fundamentals of social development. Dedications were made to this society to carry out their activities and purposes (Al Mutairi, 1418AH: 86). With all this development of the NGOs

(35) *The General Association of Charities in Jordan, 1999.*

in the Islamic countries, they are still lagging behind. In view of the role of NGOs in social development and their potential to cooperate with waqf, it is important to study this relation to organize and develop it. This will be the center of interest in the current chapter.

Among the important issues which encourage communication between both institutions is the fact that the role of waqf in social development has not been made clear yet. This entails combining joint efforts to draw the outlines of the reaction between both of them. With the verification of reaction between waqf and NGOs, it is expected that the nature and role of waqf will be defined. Moreover, the points of waqf convergence and divergence with other institutions, its internal fabric, statutes and its relation with the governmental, private and joint sector will also be outlined. Without highlighting such aspects in a sophisticated world, it would be difficult for people in charge and policymakers to assimilate the actual role of waqf and its institutions in social development.

In addition to the direct effect of waqf in social development through utilizing its proceeds in social services, waqf projects can be directed towards establishing profitable waqf projects while having an outstanding impact on social development. This includes those projects in which human resources are the center of interest and at the same time provide work opportunities. There are different attitudes towards the criteria to be utilized in choosing a suitable waqf project, though such criteria may be worked out to achieve a higher social impact, in addition to the economic one required for waqf continuity. Within this context, some newly formed charities, for example King Faisal Charity, do not take profit as the sole criterion for investing its monies in waqf projects but it contributes to fighting unemployment, raise the standard of human resources and create an economic growth even if the financial impact was lower than other institutions ⁽³⁶⁾.

5-2: Shari'a Principles of Waqf in Establishing Relations with NGOs:

To activate the relation between waqf and NGOs, it is important to get an idea about the basic sharia principles governing waqf in its relation with NGOs. Admittedly, a relation based on sharia principles is deemed to survive and hold out. Reflecting on the conditions of the waqf, we find that they indicate two basic issues:

Defining beneficiaries and channels of spending
Governance and maintenance of waqf

Looking through fiqh books, especially those published recently, we can determine the basic sharia principles governing the relation between waqf and NGOs as follows:

Proceeds go to a Charitable Body and Qurba

Among the conditions of the waqf is that a beneficiary must be a charitable body (Ibn Taimia, 1398 AH: 31/35,51/58). A Qurba is something which brings us nearer to Allah through

(36) *King Faisal Foundation: Objectives and Achievements*

the prescribed services or deeds (Al Zarqa, 1361AH: 52) Therefore, waqf must confine its cooperation to the NGOs involved in Public good and carry them out within their objectives. Other activities should not be approached by waqf because they are not included in the charitable proceeds and qurbas.

1. Incessant Beneficiary

Waqf stipulates that a beneficiary should be an incessant charitable body (Al Zarqa, 1366AH: 54). Such perpetuity is determined by the nature of the beneficiary as indicated in the aim of waqf. If the nature of waqf is terminable, waqf comes to an end and is shifted to a similar activity. Therefore, it is better for waqf to be unbounded by a legal time duration and legally unconfiscatable as it is the case with some NGOs. It should be incessant. Therefore the relation of waqf with NGOs must be linked with the prescribed beneficiary so that money spent out the waqf proceeds are earmarked for a special purpose outside the general revenues of an NGO. In case waqf agreed to communicate with an NGO specialized in extending services to the disabled, spending must be made outside the domain of this NGO so that monies must be treated as a separate waqf. This will safeguard it against confiscation or being directed to any other NGO of similar activities on dissolution. In this respect, the Algerian waqf law stipulates that “movable and immovable property shall inure to the authority in charge of waqf on dissolution or on the termination of the task assigned therefor if a waqif (dedicator) did not assign the body to which his waqf shall pass”.⁽³⁷⁾

It is also an acknowledged sharia principle that waqf is a charity to be distributed to the poor and the needy if the spending of the proceeds thereof is not determined. What proves that waqf proceeds should go to the poor and the needy in case a waqf is made absolute, i.e., without defining a specific body, as it is in the opinion of the school of Abu Yousef, such a waqf becomes perpetual and the proceeds thereof shall go the poor, i.e., a general channel, in the absence of a definite one (Al Zarqa, 1366 AH: 54). Therefore, if a waqif means to dedicate a waqf in the name of an NGO or in behalf of one of its projects, he has to define a general channel for spending the proceeds thereof in case of dissolution or termination. The waqif must also ensure that such projects are outside the financial zemma of such NGO to secure continuity and perpetuity.

2. Security:

A nazir of waqf is originally in charge of waqf and is held responsible for the monies held in trust with him. He is under no liability in connection with the money under his custody in case of negligence or default (Abu Zahra, 1391 AH: 397). Nevertheless, a nazir promises discreet spending and keeping away from encroaching on the waqf monies outside the channels specified therefor (Ateeqi et al, 1417:166).

⁽³⁷⁾ Article 33 of the Algerian Waqf Law: *Islamic Economic Studies*, Vol 5, Issue 2 Muharram 1419AH, P 127.

Hence, in his relation with NGOs, a waqif must see to it that an NGO should not direct waqf proceeds to any channels other than those sharia channels specified therefor. Security here does not indicate a bank guarantee, but rather a contractual proviso involving an NGO to secure the waqf proceeds under its custody in case a default might occur. This is expected to act as a deterrent to those who are likely to abuse the waqf proceeds.

3. Welaya (authority) on Waqf:

Like all other financial institutions, waqf must be cared for and its proceeds must receive due attention. For this reason, Islam recommends the appointment of a nazir to maintain waqf and attend to its affairs, collect its proceeds and spend them as recommended by the waqif (Al Hanbali, 1348 AH:39). The freedom of a nazir is restricted to what is lawful by the sharia and the recommendation of a waqif as long as this is a guarantee for the proper management of a waqf and its perpetuity.

Welaya in waqf is assigned to efficient beneficiaries. In case a waqif does not appoint a mutawelli, the judge is empowered to nominate one (Al Zarqa, 1366 AH: 119). Most modern waqf laws grant this right to the ministries of awqaf because such ministries are held as lawful as mutawellis for each waqf without a mutawelli.

4. Welaya has several functions, for example:

Maintaining and restoring waqf.

Preparing it for investment.

Controlling its proceeds and expenditures and collecting its revenues.

Spending the proceeds on proper waqf channels.

The domains of cooperation between waqf and NGOs in terms of welaya, especially maintaining and restoring waqf, or preparing it for investment, apparently limited nowadays, constitute an ample chance for charity and well-doing, taking into consideration the wide spectrum of welaya on waqf and its branches. In the following paragraphs, we shall try to concentrate on inviting NGOs to benefit therefrom in managing waqf and spending its proceeds.

Among the formulas submitted to establish this cooperation between waqf and NGOs is to entrust NGOs to act for waqf, which is permitted by sharia and law because a waqf mutawelli is empowered to delegate and authorize whoever he likes to act in respect of his powers or part thereof. It is acknowledged that delegation means giving a power to another person to act on one's behalf (Abu Zahra, 1391 AH: 348), whereas authorization means entrusting welaya to some other person and vesting this person with all powers to act in his stead (Abu Zahra, 1391 AH: 349).

Thus, a waqf mutawelli, who could be a governmental authority, may entrust NGOs to take

charge of the waqf affairs and manage its proceeds, invest them or all these things together in the light of the waqf needs and the potential of that specific NGO.

Delegation or authorization entrusted to NGOs in managing waqf may ensue from special circumstances, for example remote geographical areas which make it difficult for a mutawelli to carry out his task properly, or that waqf is of poor proceeds or of insignificant size, or designating a particular agency or an NGO to take charge thereof to reduce the costs, distribute the proceeds and involve the civil society in its management.

The basis on which the relation between waqf and NGOs is established is that waqf, as it is now, is under a governmental management. We do not agree what some researchers suggest in respect of bringing waqf outside the governmental authority so that its administrative structure would be nearer to a termed local familial management. This management is usually put under governmental and popular financial and administrative control, while getting support in the areas of planning, financing and consultation (Qahf, 1418 AH: 83).

5-3: Parameters of the Relation Between Waqf and NGOs:

Boosting relations with NGOs requires approaching the civil society institutions involved in articulating the general policies and executing projects for the poorer categories. This, no doubt, helps in locating the points of weakness and strength in managing these institutions and setting the restrictions that determine the relation between them in order for this relation to serve a sustainable partnership in favour of social development.

The aforementioned advantages of NGOs are rather theoretical and their unconditional realization is not certain if they do not reward the active, punish the lazy and seek to realize the objectives of waqf. The proposed checks are fundamental for an active communication nowadays, among which are the following:

1. Setting Priorities and Agreement on a Clear Vision:

In determining relations with NGOS, there should be a clear prioritization through developing a work plan which combines waqf and these NGOs. In the advanced countries, priorities are determined between waqf institutions and those of the NGOs in a way that reflects the objectives and axes of social development. Such priorities should keep abreast with the needs of the civil society in which they exist. A study carried out in Britain on 172 trusts show that medical researches' organizations accounted for 48% of the overall financing grants from trusts because they came first in the prioritization ladder. On the other hand, education, research and social service organizations accounted for 17% and 11% respectively (Al Mutairi, 1415AH: 126). Therefore, it is important for waqf to determine its priorities in terms of distributing its proceeds in the light of the actual societal needs so that it may conduct a dialogue on the joint priorities for extending the needed services.

Another important factor in the partnership between waqf and NGOs is having a unified vision of the services which realize social development. The question that yields itself to be asked is what determines the priorities of social development in communities. This can be decided by the local communities themselves, no matter if these communities be tribal or local, or based on economic grounds, for example craftsmen and farmers. Through dialogue with such communities exemplified in NGOS, waqf may get acquainted with such priorities at the local level. Furthermore, waqf may cooperate with NGOs in extending advice to the governmental authorities in connection with the governmental policies of social development and the priorities at the local and regional levels. In this way, governmental and non-governmental activities are expected to be integrated.

2. Wages and Salaries:

One problem, which might arise from the relation between waqf and NGOs, is how to determine the benefits of NGOs for managing and implementing the waqf policies of spending its proceeds. In this respect, Al Khassaf (1332AH:345) says that 'by analogy, receiving a salary is permitted in conformance with what Omar Ibn el Khattab did when he allowed the person in charge to take a salary'. In the same context, Yaken (1388AH:311) maintains that "a person in charge of waqf is allowed to receive a consideration commensurate with his work". A mutawelli is also permitted to deduct from the waqf proceeds an amount equivalent to what he spends in behalf of waqf, for example legal fees, keeping charges, stationery etc. A mutawelli or an undertaker or whom he authorizes is entitled to receive a reasonable salary or wages for the work he carries out. With reference to wages, they should be decided in the light of the standard wages or more as a waqif might decide from time to time. If the salary of a nazir is less than the standard one, a nazir has the right to claim the standard salary or submit the case to the judge.

A salary in waqf is given to a jobholder for the type of work he does and this was called Jamkia (a monthly grant) or an annuity (annual grant) received regularly (Ateeqi et al, 1417:209). Jamkia is a jurisprudential term used solely by the late Hanafis (Hammad, 1414 AH: 114) during the Ottoman era to indicate monthly salaries and wages for those who care for waqf, to be deducted from the proceeds thereof.

Some NGOs are expected to start distributing waqf proceeds voluntarily and without claiming any charges therefor. Others depend on part of the proceeds as a means to fund the waqf projects and to cover the current expenses required by such projects. Charges may be estimated according to the fixed expenditures of the NGOs. This is quite acceptable and applicable in the world of business. Wages may also be estimated at a definite percentage of the proceeds, which is nearer to the Hanafi School of Thought. It is a relative amount of money added to the waqf proceeds, for example when it is said that someone has one eighth of the proceeds (Abu Zahra, 1391AH: 371). The percentage to be given to an NGO for the

services it extends is governed by relevant conventions in this respect.

Some modern faqihs criticized some of the Awqaf ministries for the percentage of charges they claim for their administrative services which could amount to 15% of the total proceeds (Abu Zahra, 1391AH: 376). This issue seems to differ from case to case, as it is not possible to set a limit applicable to all projects. Nevertheless, setting a maximal limit for the expenses sounds reasonable and logical.

3. Waqf and NGOs' Contractual Relation:

Establishing a contractual relation between waqf and NGOs is important for deciding the rights and obligations of each party and the powers of the NGOs in distributing the proceeds of awqaf. Furthermore, this relation entitles waqf to sue an NGO in case of default or breach of trust. Contracting also confirms acceptance of both sides. This agrees with the fiqhi attitude which stipulates that if waqf was dedicated to a specific body, for example a specific charity or an NGO, it is important to get the approval of that specific body, i.e., the NGO (Ateeqi et al, 1417 AH: 122). If the dedication was made to an indefinite body, for example the poor, or to a body from which no approval can be obtained, for example a mosque, then approval is not needed here. Utilizing contractual relations in establishing a relation between waqf and NGOs will, no doubt, consolidate the relation between them and create the transparency and control required for that.

Contractual relation, when utilized, will allow waqf to cooperate with NGOs in unprecedented areas. In Britain, for example, there has been a specific shift in the work of the NGOs when the government reviewed its approach to such NGOs and replaced the granting policy by contractual agreements. This expanded the process through which all services were entrusted to these NGOs (Al Mutairi, 1415 AH: 104).

4. Financial and Comptroller systems on Works and Activities:

Having a financial and controlling system is important for coping with the challenges which faced awqaf in the past and came as a result of the weak financial control. This state of affairs, once becoming prevalent, caused the decline of awqaf and their value with the progress of time (Abu Zahra, 1391 AH: 391). A basic axis in this control is the accountability of a nazir to the extent that a judge should request a statement of the expenditures and other channels of spending. If the judge is in doubt about such expenses, he may request a detailed statement in case cheating is feared. A judge may also change or remove an inefficient mutawelli or even an efficient one in case of violating religious teachings (Al Hanbali, 1348 AH: 44).

Involving NGOs, usually having their own administrative and financial regulations different from those of waqf, could, in the absence of a proper control on the part of waqf, direct the monies of waqf to irrelevant channels or be lost in undue expenses. Thus, regular control over such institutions is one of the basics of the continued relation between both of them. At

the same time, it is an important role to be assigned to the waqf mutawelli regardless of his qualifications. Waqf institution should establish accountancy and auditing systems to ensure that things are going smoothly and properly. This issue is permitted for those in charge, as stated in 'Kashf Al Qina'a' as 'a special department should be established for auditing the waqf monies whenever required' (quoted from Abu Zahra: 1391 AH: 394). This control could be regular or annual as required by necessity and the nature of activity.

Control over NGOs may involve several aspects, including financial and administrative control. Giving anything to beneficiaries should be made through a written declaration and all expenses out of the waqf proceeds should be properly documented (Abu Zahra, 1391AH: 388). The importance of such control stems from defining the responsibility of a waqf nazir for any loss or damage of the waqf funds in case of default or encroachment. This extends to the improper expenses outside those pre-defined channels. Control therefore checks any encroachment on the waqf monies or directing them to channels other than those specified therefor (Ateeqi et al: 1417 AH: 166). In view of the inefficient accountancy and auditing systems with respect to waqf monies, some people suggested introducing the applied and practical systems in accountancy and control to mesh with the nature of waqf. At the same time, financial control may be shifted to the legislature accountancy department (Al Shafie, 1998 AD: 13).

Within this context, the relation of waqf with NGOs rests in charging an NGO with the distribution of the waqf proceeds, while waqf continues to oversee the NGOs to ensure that services are extended according to the quality and criteria set therefor.

5. NGOs Incentives and Efficient Distribution:

In addition to the fixed benefits extended to an NGO out of the waqf proceeds for the process of distribution, it is important to give incentives to the NGOs as an encouragement to raise their efficiency in distributing the proceeds and augmenting the benefits thereof. Among the benefits which can be extended in this area is that waqf proceeds should be transferred to the NGO to form a fixed waqf therefor directed to specific charity channels as long as these NGOs advocate efficiency in spending the proceeds. Among the remarkable experiences in this respect is that one executed by the Islamic Development Bank in respect of scholarships.

The IDB program of scholarships is different from the conventional program in the sense that it does not only give direct financial assistance to the needy students but it also approaches the socio-economic conditions of the Islamic societies as a whole. This means that it is a program of scholarships and development at the same time. A scholarship is a type of a no-interest-bearing loan advanced to the beneficiary and a grant to the Islamic society to which the student belongs. The number of students who benefited from this program reached 4323

students from 51 countries⁽³⁸⁾.

Pursuant to this program, beneficiaries, who are usually students, are requested to pay back the loan after finishing their studies and getting a job by reasonable installments. Amounts are then paid to an educational waqf established by the bank in the respective countries. In this way, students are requested to contribute to the development of their countries through paying a part of their salaries to form a permanent and viable waqf which provides for other students in the Islamic society. This effort comes complementary to the efforts of IDB in the area of scholarships to secure its permanence in the long run, meanwhile graduates are busy serving their countries by pushing the wheel of development.

One of the advantages of this program is that a scholarship is held as a loan to assist a student get a university degree on the one hand, and a grant made to Islamic societies on the other. Repayment of a loan may be regarded as a basis of finance which takes the form of a money waqf for a program complementary to the scholarships in the respective countries. Another advantage is the local implementation of the program by the civil society organizations in the form of local authorities and awqaf funds. This encourages the process of dedication in favour of the local communities. The interest in providing education to the students in their countries and extending the required developmental services to their societies after finishing their studies constitute the interrelated and integrated aspects of the major concepts of the IDB program on scholarships as a program directed towards developing Islamic societies through forming financial awqaf which grow with the progress of time.

In order to have a sustainable program in the long run, special waqf funds were established for education in 16 countries to approach the issue of repaying the scholarships' loans and create local programs to benefit from the repaid loans and to ensure that the graduates are assisting in extending developmental services to their societies. A board of trustees is elected from among the respective bodies and personalities, while the members are appointed from among the people involved in the local authorities.

6. NGOs: Proper Selection, Diversification and Diversion:

The process of selecting a suitable NGO is important for establishing an effective relation between waqf and NGOs. The multiplicity of NGOs makes such a process rather difficult and cooperation therewith tiring and demanding. Hence the necessity arises for a suitable approach to choose the proper NGOs and to entrust it with the task specified by waqf. This process of selecting an NGO must take into account its economic effectiveness, viability and institutional potential in case likely passive complications might affect waqf in the future.

NGOs, for the sake of the proper distribution of waqf proceeds and in the light of its experience in extending human assistance, could be contracted to take up this role. The

⁽³⁸⁾ *Islamic Bank of Development Report, 1418AH, p 144*

diversity of the NGOs, apart from being limited to a particular body, gives flexibility to waqf in nominating other bodies in case the contracted body commits an infringement. For example, if waqf contracted with a particular body interested in extending assistance to the disabled to direct part of their monies to them, and this body failed to carry out the said task efficiently, then waqf is entitled to entrust this task to another body with reasonable experience in this area. Term contracts make agencies very careful about their performance to win a renewal on the expiry of the contract. This entails preparing proper records on the achievements and being on the alert to improve services and raise practical efficiency.

Proper selection of an NGO requires disregarding those which have particular political commitments or those whose activities might clash with the governmental authorities or pose a threat to public security. Similarly, waqf should keep away from those agencies which advocate a particular social class and make of the services extended to this category a part of their mission. This state of affairs is likely to induce disintegration and schism in a society. In this case, though waqf could have fulfilled its mission in part through extending assistance to a specific disadvantaged category, the social balance could be toppled through this unfair distribution of the waqf proceeds.

Among the axes of selection is the ability to identify the potential of the NGO within the locality and its representation thereof, its relations with the respective government and the areas in which an NGO will be involved in, for example designing a project, executing a project or executing a part of the project, and the capacity for doing that, in addition to the institutional systems with adequate transparency.

Jurisprudential books abound with the conditions related to the appointment of a nazir, for example Islam, sound mind, maturity, justice and efficiency. No reference is made to NGOs in this respect. Therefore, it is important to put forward some conditions relevant to the management of awqaf by an NGO. The last two conditions mentioned above, justice, (i.e., handing over a trust, good treatment and non-breach of trust) and efficiency, (i.e., the ability to deal with and manage a waqf efficiently) may be amended to suit the nature of NGOs.

To select an NGO, the following criteria should be taken into account:

Technical ability: This ability indicates the availability of human resources and other administrative abilities to manage the likely activities and to get acquainted with their previous history.

Specialization: This involves to what extent this establishment is specialized in the work required, for example knowing the local conditions in terms of relevant rules and regulations. This includes also its acquisition of specialized skills commensurate with the project's objectives and components. This point is so essential that in the UK it is important for any Charity, in order to win a contract, to be specialized in a certain area (Al Mutairy, 1415AH: 105).

Reputation: This includes the reputation of the establishment in the areas it carries out its activities and the approval thereof by the beneficiaries, in addition to its interest in social development. This point is important because many NGOs are established for personal reputation without being involved in the details of assistance, the execution of projects or getting nearer to the local community. This could also involve, though indirectly, the legal status of the NGO and its relation to the state and transparency of actions and transactions.

Institutional Ability: This includes the availability of the buildings and equipment required by the activity, in addition to the qualified cadres, the administrative organization required for the project or the activity and last a suitable accountancy and financial organization.

Representation: If an establishment carries out its activities within a geographical domain or related to specific needy categories, for example, the disabled, this establishment should represent these categories rather than reflect the wishes of one person or more.

7. The Role of Waqf in Selecting Efficient People to Manage its Activities:

It is important for waqf to choose the administrative staff expected to implement the works to be entrusted to the NGOs. It should assess the staff employed by the NGO from many sides, for example efficiency and trust. Faqihs highly esteemed those qualities and gave them proper heed. Ignoring any of them will invalidate welaya (Abu Zahra 1391 AH: 331). Therefore, it essential for waqf to ensure that the aforesaid qualities are existent in the person entrusted with the distribution of waqf proceeds.

Reflecting on the current state of affairs, especially with relevance to the companies seeking the support of consultative companies or contractors for the constructional works, we find that such companies are keen to appoint qualified persons in the tasks entrusted to them. This role offers the contacted person a better opportunity to get a premium experience. At the same time, he secures a definite amount of skill which he acquires for the amount of money he pays. Waqf, therefore, may request an NGO, as part of its supervisory role, to submit a list of the names of the managers and those in charge of overseeing the process of the proceeds' distribution.

What stresses this fact is that in Britain, in the course of changing the relation between the state and the voluntary sector, the state began to consider those employed by the voluntary sector as professionals who can carry out work effectively and through an administrative method at a low cost by using advanced technological means (Al Mutairi, 1415 AH: 105). This means that a state has the final word in choosing who to execute a project from among the NGOs.

8. Follow-up and Evaluation:

In assuming its responsibility, waqf should see to it that a project is properly executed by the respective NGO. This can be done through a modern evaluation system. Among

those systems is the importance of field visits or reports made by experts to ensure that a project is executed to the highest specifications. Among those evaluation techniques are the future prospects of the project and assessing the realized objectives submitted at the time of requesting the finance thereof from waqf. Thereafter comes the satisfaction of the beneficiaries and to what extent the project satisfied their needs.

Dismissal of an NGO and Contract Termination:

The relation between waqf and NGOs is a contractual one which allows waqf to terminate the contract in time of necessity. Waqf literature does not indicate the removal of a nazir in case the latter belongs to an NGO, but if he is an individual, he can be dismissed for flagrant default and the judge may relieve him of his office.

In the interest of waqf, there should be an item in the contract which allows for the dismissal of the NGO just as it is the case with the nazir. This is applicable in the case of infringement on the part of the NGO, for example acting contrarily to the waqf conditions or its interests (Al Hanbali, 1348AH: 55-56).

5-4: Summary:

The challenge embodied in the waqf-NGOs relation touches upon the nature of this relation, the institutional structure, and the criteria of choice or acceptance which govern the nature of this relation. The nature of this relation should be that of an agent or an authorization made by the nazir. There should be an efficiency in the process of distributing the waqf proceeds to their proper channels and to safeguard it against negligence and wastage or being directed to purposes other than those specified therefor.

In addition to the sharia basic principles which govern the relation between waqf and NGOs, there should be practical checks to control the effective relation between both of them in order to ensure the sustainability of this relation. Among these controls are the prioritization of work, contractual relation, joint vision, defining salaries and wages, having a supervisory and financial system to oversee the works and activities, incentives extended to NGOs and their distribution and rotation, giving a role to waqf in selecting efficient people to manage its activities and setting the items required for following up and evaluating the project. The last check was the dismissal of an NGO and terminating the contract with it.



Chapter Six

Activating Relations Between Waqf and NGOs In Favour of Social Development



6-1. Introduction:

Analyzing the basics of relation between waqf and NGOS throughout the previous chapters showed a possibility of establishing a sustainable relation between both of them in the interest of social development and cementing the social fabric. At the same time, this relation is expected to realize the objectives of both of them. In view of the importance of this relation, and in order to activate it by scientific means, this chapter tries to put forward specific suggestions in the hope of activating this relation in respect of distributing the waqf proceeds to serve social development. Other aspects may be delayed for some time in the future.

As we mentioned earlier the need for the NGOs stems from our definition of social development as a means to satisfy the individual needs which can be satisfied through extending the required services through NGOs (Hasan, 1418 AH: 104-105). In addition to extending services to individuals, such institutions play an important role in getting nearer to the disadvantaged categories to get acquainted with their needs which the state cannot satisfy, in addition to familiarizing relevant departments, for example waqf, with such needs (UNDP, 1997: 43). This, no doubt, assists in satisfying such needs through the proper distribution of waqf proceeds. Besides, the need for the NGOs derives from their role in showing efficiency when requesting their assistance in carrying out the waqf activities.

On the other hand, the need of the NGOs to the waqf resources stems from the need for sustainable resources in order to expand their activities in the area of social development, and to achieve their objectives in extending assistance to the poorer categories. Therefore, the activities of both waqf and NGOs are complementary and each one stands in need of the other. In order for the relation to be effective, it should realize a joint glorious objective for both the waqf and the NGOs on which they agree and center their efforts, for example, on realizing social development. Generally Speaking, social development is realized through creating joint and specific programs for this end.

Social development programs can be realized through two means:

1. Extending public services to achieve a reasonable amount of welfare to a society, for example health and educational services.
2. Developing local communities which aims to combine local efforts to achieve social development through extending consultation, experience, expertise and the enactment of suitable laws to achieve this effort. Reflecting on the nature of waqf and its activities, we find that the realization of social development can be realized through cooperating with the NGOs via the two previous approaches.

6-2. Suggestions

Getting acquainted with the mutual need of both waqf and the NGOs to achieve social development and the possibility of communication between both of them leads us to put forward some suggestions to boost this communication and maintain its sustainability. Such suggestions cover most of the required points:

1. Providing a favourable atmosphere for the NGOs works

Providing a favourable atmosphere is essential for boosting the relation between waqf and NGOs in the interest of achieving the sought development, whether this be in the legislation domain, activity or effectiveness. A favourable atmosphere can be created through initiatives and creativity required for carrying out charitable works by such institutions. On the same lines, it is important to extend such advice and technical assistance required for performing their duties. It also embraces training and qualification. Waqf, in this respect, can extend technical assistance for conducting an integrated study which touches upon the obstacles and hindrances which refrain the NGOs from developing their services to optimally benefiting from waqf proceeds. Likewise, advice and consultation can extend to involve the state, in which waqf is operating, in respect of laws and regulations, administrative and practical procedures required for providing a favourable atmosphere in which waqf and NGOs react and cooperate.

Providing a favourable atmosphere for the NGOs is a major prerequisite for the waqf to be able to communicate with them. Without this atmosphere, the development of the NGOs works could be limited due to the inflexibility provided by the local law in most of the Islamic countries in connection with cooperating and communicating with waqf. The importance of providing this favourable atmosphere emanates from the fact that NGOs' laws differ greatly from one country to another. This requires a special attention (to create the suitable atmosphere throughout Arab and Islamic states World Bank, 1998: 13). Waqf may cooperate with international organizations interested in such issues, for example the IDB and the World Bank on how to familiarize the Islamic countries with the suitable legislation in effect in other countries. Thereafter, they can get that legislation and the best practices of other countries to encourage the NGOs' initiatives and vitalize their activities in boosting social development.

2. Institutional Framework of Cooperation:

Establishing an institutional framework is one of the guarantees for a continued cooperation between waqf activities and the NGOs and their joint interests and strategies. Creating a framework for cooperation will convert the efforts exerted from both parties to be institutional and well planned, away from being involuntary or taking the form of a reaction. This structure could belong to the waqf or to the NGO or both. The nature of this institutional framework

differs from one country to another according to the legislative, legal and administrative environment. It could be a joint establishment, a regular annual meeting or a consultative committee for a waqf fund.

Waqf can get into contact with the NGOs whose activities fall within its priorities by preparing a list of the relevant NGOs in the light of their posted activities and responses. Waqf may declare its priorities through the available media and request the concerned NGOs to contact the waqf institution.

Within this framework, waqf may form a consultative committee involving waqf institutions and the NGOs interested in waqf and hold regular meetings (biannually for example) to discuss the practical challenges to reach better cooperation and coordination in the various areas. This dialogue in the regular meetings is expected to better define the activities of waqf in social development from the beneficiaries' point of view and those involved in developmental activities. The consultative committees may draw up the next work plan and the priorities of work. Consulting NGOs in connection with the details of future projects and annual plans is recommended in this respect.

Moreover, waqf institution may establish a technical administrative unit to activate cooperation with the NGOs to achieve positive and continued partnership. The World Bank, for example, while getting into partnerships with the NGO, managed only to succeed after establishing a special unit for dealing with them and through which its trained and efficient staff could deal with such institutions and respond to them (Nelson, 1995:178). This unit contributed to the success of the NGOs and their activities targeting social development financed by the Bank. Therefore, once waqf is certain of benefiting from NGOs, it has to form a special unit to deal with it intrinsically and extrinsically in order to establish a link with it.

3. Identifying the distinguished areas of NGOs:

Waqf must get acquainted with the NGOs wishing to cooperate with it in order to boost this relation. It should start by studying the needs of the NGOs while probing deeply into the activities of such NGOs and their effectiveness. In this context, waqf must conduct field studies or applied researches to ensure that NGOs are efficient enough. This will be followed by the step of investigation. Waqf must identify three areas in which NGOs performance is outstanding and where waqf may cooperate with them. Thereafter, a dialogue is open between both sides concerning the possibility on the part of the NGOs to specialize in one of the areas needed by the waqf to serve as a basis for a real partnership. This is expected to involve the local community through the NGO in defining the needs and priorities, after which practical steps follow towards entering into any agreements, spending the required monies, execution methods and other technical matters.

4. Forming Waqf Funds combining Waqf and NGOs:

As we mentioned earlier, in order to establish an effective relation between waqf and the NGOs, there should be a structural framework to organize the relation between both of them. Examples of waqf experiences related to this experience with NGOs are plentiful. Among the successful experiences is that of the Waqf Funds introduced by KAPF which represents a fusion between waqf and NGOs. In view of the importance of this type, we shall analyze the major components of such Funds in the following paragraphs:

Among the effective components of a waqf fund is that it allows NGOs to be involved in the various stages of distributing the waqf proceeds, as early as the designing of the project of distribution, its execution and the evaluation of its impact. This causes waqf to secure an ever increasing effect of such distribution. This style can be applied to other work areas or waqf projects which require grass roots participation. An NGO does not usually have this institutional potentiality or, in case of its presence, it is usually insignificant.

Waqf, as viewed through a fund, can provide a basis for popular and institutional work to serve social development. Kuwait Autistic Center established by Kuwait Awqaf Public Foundation came to embody this fact in the absence of a particular body to attend to this difficult disability. The center managed, through its multiple activities, to extend services to numerous families inside and outside Kuwait. The center is run by the Ministry of Education and some specialists from the public.

Once these funds are established, they will form a coordinative framework for an umbrella of NGOs involved in the same activity with no coordination among them. In this way, waqf is acts as a neutral framework for this coordination. This is an example of what KAPF did when it established the Waqf Fund for the Disabled and the Persons with Special Needs. KAPF brought together five governmental bodies interested in the disabled domain, in addition to four authorities from the NGOs, under one umbrella having a system of priorities and clear-cut coordinative objectives. Regardless of the multiplicity of funds and their activities before the establishment of the Disabled fund, there was not an organizational framework for all those bodies interested in the disabled domain at the governmental or the popular level. It was possible through this entity to carry out numerous coordinative activities which contributed to raise the standard of services extended to the disabled, for example issuing a harmonized directory for the services extended to the disabled, in addition to conducting awareness campaigns related to other disabilities.

5. Supporting the Structure of NGOs:

For the reasons mentioned above and in the light of the flimsy structure of the NGOs in the Arab and Islamic countries, the need arises for extending support to the NGOs in order to be able to undertake their roles in assisting waqf. This can be achieved through extending support to their administrative efforts and establishing their institutional potential to enable them to

discharge their responsibilities in the best possible way to achieve the purposes of the waqf. Such institutional support could embrace establishing the organizational structures, raising the technical efficiency for managing works and putting the financial and administrative by laws. The training of manpower in social development, namely fighting poverty, could play a major role in promoting the institutional potential. Training could involve beneficiaries to safeguard the project and instruct them to maximally benefit from it. This could also extend to the projects to maintain them after their execution. Taking into consideration this great progress in technology, assistance could be extended to provide information systems and data bases to secure the suitable institutional potential. To put this into effect, waqf may establish a financial fund which offers grants to NGOs, which express readiness to cooperate with waqf, to consolidate their institutional potential. This fund may be managed by waqf or any specialized financial institutions. The fund may accept donations from other institutions, specifically for the purposes it was established for. It may also advance simple grants not exceeding \$30,000 to raise the institutional potential of an NGO, whether this be by training human cadres, setting down systems and styles, promoting organizational management or providing the required tools and equipment.

6. Consolidating the institutional structure of waqf to cooperate with NGOs:

To boost cooperation between waqf institution and NGOs, waqf must have an institutional potential suitable enough to deal with NGOs and be equipped with the qualifications required to communicate with such institutions. The requirements of an institutional structure of waqf include creating an organizational unit related to NGOs to take charge of their affairs. There should always be a structural and organizational change which contributes to the flexibility of waqf procedures to help such NGOs benefit from waqf. In this respect, waqf procedures and policies should be developed in respect of distributing the proceeds in order to reach a stage of integration between the activities of both institutions.

The experience of the World Bank, for example, in cooperating with NGOs reflected a need for having a human investment by waqf through allocating a definite budget to boost Waqf ability to cooperate and train human cadres to carry out what is required in this domain. Cooperation between waqf and NGOs require waqf to revise fully its bureaucratic procedures to make them more flexible to mesh with the dynamic nature of the NGOs and to avoid being an impediment in the way of extending assistance to beneficiaries.

7. Providing Guarantees to some Activities:

In addition to directing waqf to charitable areas, it can act as a security for some activities directed to the poor and the needy. Waqf may play a role in giving small projects to the poor through securing the loans advanced to them to set up such projects. The process of guaranteeing the debts of the poor is obligatory on an Islamic state in execution of the Prophetic tradition (PBUH): *“I care for the Moslems more than they care for themselves;*

he whoever dies leaving a debt behind him has to pay it off and he who leaves a fortune, it is for his successors (40) ⁽³⁹⁾. The prophet also allowed a Moslem who goes under a stress (for example a debt) to solicit assistance until things are put right. The Prophet also says, ***“and a man hit by poverty until three men possessed of mind and discretion say: X is hit by poverty and he is entitled to soliciting assistance until he is provided for”***⁽⁴⁰⁾.

Many NGOs find it difficult to get a bank credit to finance those projects which serve the needy, especially those projects which make of the poor owners of production tools in case there are no securities to pay back these loans. Consequently, waqf may enable an NGO to go ahead with advancing loans to the needy to augment their income through offering credit facilities through which they can afford to fight poverty.

Securities, at the first glance, could be mistaken for wasting waqf proceeds though the international financial institutions which undertook to guarantee those poor people proved that the poor are more punctual in paying off their debts, even better than common customers. Loan re-payment rate of the poor could reach 90% of the total loans already extended (UNDP, 1994). This means that guaranteeing loans by waqf in favour of productive projects will not impinge on waqf spending in other areas, but rather it will double the funds available to the poor in favour of productive projects.

8. Familiarization with the Successful Examples of Cooperation and Coordination:

To activate the relation between waqf and NGOs, it is essential to get acquainted with the successful experiences of cooperation and coordination between them and to circulate such experiences at all levels. Emphasis should be laid on those examples of cooperation targeting the needy. It is also helpful to get acquainted with some of the practical activities and creative methods of utilizing the waqf proceeds for social development purposes.

Successful examples can be realized through holding conferences for discussing such examples and encouraging dialogue on the policies being implemented in respective institutions, in addition to exchanging information and assessing those recommendations outside the boundaries of that specific institution which issued them. Networks can be utilized to encourage the process of exchanging information among the NGOs personnel, mainly those related to waqf.

Successful examples can also be circulated directly through waqf beneficiaries to finance the small projects and introduce the best techniques to popularize such experiences. The next step could be selecting a successful model implemented by one of the institutions, followed by extending the financial support to be part of the institutional structure of other

(39) Narrated by Al Bukhari:5371

(40) A part of Muslim's Hadith:568.

NGOs. Field visits may be conducted and booklets on waqf may be published.

Regarding the exchange of information about successful examples, it is important to get acquainted with other experiences to reach at numerous models of waqf institutions which suit different Islamic and non-Islamic societies. Among the outstanding models in the United States is SAR which was established in 1983 and developed the concept of the universality of charitable work instead of restricting it. It followed the American model of charitable societies (Berzinji, 1414AH:149-150). This model can be generalized in many Islamic countries with similar circumstances.

Among the factors which contribute to the popularization of the successful examples and call for well doing in execution of the Holy Quranic verse ***“Let those aspire who have aspiration”***⁽⁴¹⁾ is popularizing those successful examples through competitions and rewards or to the best techniques in realizing social development through waqf. A conference to which respective NGOs are invited may be held in connection with the best efforts or projects set up for the poor by the NGOs and supported by waqf, together with highlighting the structure of the project and means of its success. Successful examples in this respect are embodied in the Arab Gulf Program established to extend support to UNDP's. The reward of 1999 aims to encourage initiatives in the following domains:

Fighting poverty through training and advancing small loans. This is related to the International and Regional organizations in developing societies.

Training countrywomen to be self-dependent. This is related to the project of the NGOs which extend services to the local communities and developing countries.

Rehabilitating homeless children to help them fit in their societies. This is related to the individual projects in the developing countries.

9. Expanding on the Exchange of Information and Benefiting therefrom:

To raise the level of communication, it is important to expand on the exchange of information between waqf and NGOs and the optimal utilization thereof in the area of IT database and networking. Participation through information and maximally benefiting therefrom can be realized through providing databases on various waqf activities, in addition to providing information about NGOs, their activities and projects so that both parties may benefit from them. An informal network may be established for the exchange of information between the personnel of both institutions regarding the appropriate use of the IT, for example establishing websites or dialogue through the Internet (Chat-Spaces) in order to raise the level of dialogue between the personnel of both institutions.

Waqf may, through making small grants, support networking activities among colleagues in favour of exchanging technical information among the NGOs about the best techniques in managing projects or the latest innovations in IT. By colleagues, we mean the NGOs

to which support may be extended to connect databases among them and contribute to the flow of information. Hence, a volunteer in any organization may inquire about the best techniques in managing a water project in an outlying village through talking to a specialist in this area at an NGO.

10. Tax Exemptions for NGO-Waqf Projects

Tax laws in most of the advanced countries show an interest in stressing the importance of the principle of giving for the sake of public good, mainly public utilities bodies. Towards this end, tax exemptions to NGOs interested in public utilities is functional. These exemptions have become a major source for financing the activities of those institutions and the success in realizing development in the advanced countries. The way taxation is made encourages financing to be directed to such NGOs through offering tax exemptions to those who dedicate monies to charitable purposes. Though regulations in some Islamic countries do not allow tax exemptions to waqf, it would be convenient to encourage joint projects between waqf and NGOs so that such tax exemptions could higher to boost communication between them.

11. Interest in Small Projects:

Among the modern developments in social development is the increasing importance of micro-projects, mainly those which create job opportunities. Micro-projects are those projects which require a small investment not exceeding \$15,000.00 targeting poor categories in an attempt to enable them to provide for themselves or to create a permanent source of livelihood. In this context, many financial resources were directed to these projects through the policies of support advocated by international development institutions. This did not only mean to fight poverty but also meant to realize socio-economic development. In this framework, the International Conference for offering credit to small projects held in Washington in February, 1997 declared an ambitious project to approach 100,000 poor families to enable them reach self dependence by 2005. This Summit aimed to collect an amount of \$21.6 billion to extend the credit required for such projects.

The fruits of such projects are encouraging to the international investment institutions in view of the improvement in the living conditions of the poor. About 20% improved and sometimes improvement embraced 100% (UNDP, 1994:40). Therefore, this will constitute a fertile soil for the waqf to achieve tangible results in social development, especially in poverty-wrung Islamic countries suffering from unemployment and many other social problems.

The increasing interest in the small projects under the umbrella of the traditional banking system caused the poor to be ignored and fail to reach the material required for raising their standard of living in the absence of sufficient security, in addition to the high risk of investment as far as the traditional banks are concerned. To change this state of affairs to the better, a new interest emerged to activate the role of the poor in economic development because

developmental studies attributed the poor's inability to improve their means of livelihood to their failure in getting the money required for investment. In the light of this failure to get the money they need, they failed to create job opportunities or means to find new sources of income. This accounts for their failure to fight poverty.

Implementation of small projects reveal an essential difference between such projects and the ordinary projects as the former do not require any bank security in the traditional sense. Besides, they constitute a means to encourage the poor to take part in the collective responsibility and thereby push them to repay the money. At the same time, these projects cause these people to be self-sufficient and proved that those societies can solve their problems. Consequently, financing such projects has become an essential tool in realizing an ongoing economic progress. The need for such projects emerged because they reach to one fifth of the world population who live in destitute poverty.

Small projects require a person to take up a profession under his own supervision. Similarly, waqf may play a part in this context based on the concept of Islam in respect of urging a Moslem to depend on himself in earning a living as recommended by the Prophet (PBUH) in the hadith which states that ***"Nobody has ever eaten a better meal than that which one has earned by working with his own hands. The Messenger of Allah David used to eat from the earnings of his manual labour."***⁽⁴¹⁾ The Prophet (PBUH) recommended caring for sheep because this is a type of small projects and made this a distinctive feature of a Moslem in later times. The hadith states that ***"There will come a time when the best property of a man will be sheep which he will graze on the tops of mountains and the places where rain falls (i.e. pastures) escaping to protect his religion from afflictions"***⁽⁴²⁾.

Islam also recommended a Moslem to have a craft which complies with the objectives of the small projects on which waqf focuses its interest in connection with social development. This makes a man the owner of the production tools and the work. We all know the story of the Prophet when he gave a rope and an axe to a man and requested him to log and gather wood for sale. The respective hadith states that "No doubt, one had better take a rope and cut and tie a bundle of wood and sell it whereby Allah will keep his face away (from hell-fire) rather than ask others who may give him or not."⁽⁴³⁾

Throughout Islamic history, waqf did not ignore the importance of small projects in fighting poverty. Turkish cash waqf, starting from the 15th century, played a distinctive role in this area. In a study conducted on 1563 on cash waqfs in Bursa city in Turkey during the period from 1697-1805, we find that such awqaf played a prominent social role through advancing loans to the needy Moslems to start a profession or to buy production tools (Cizakca, 1998:19). In Fez, Morocco, a thousand ounces of gold were made waqf to advance loans to people,

(41) Narrated by Al Bukhari:2027

(42) Narrated by Al Bukhari:19.

(43) Ibid: 1427

the result of which was the activation of farming, commerce and other means of assistance extended to the poor and workers (Al Kitabi, 1/409-410).

Nothing can evidence the importance of the waqf projects than the high amounts the poor have to pay to financial institutions to get the funds required to admit them into the process of production and work. A study conducted by the UNDP shows that small institutions and poor individuals pay large amounts which could reach 25% of the loan in some Asian countries to get the necessary funding. This percentage reaches 38% in some Islamic countries (UNDP, 1993: 40). Therefore, a poor person may find himself unable to pay the amounts payable due to the high interest rates. Only projects with high profit potential are likely to benefit from such services.

6.3: Summary:

Several suggestions were put forward in this chapter to activate the relation between waqf and NGOs in favour of the joint projects in the area of social development. These suggestions concentrated on providing favourable atmosphere to the NGOs and creating an institutional framework for cooperation between them. The chapter also dealt with the importance of setting up waqf funds and a structural framework to organize the relation between waqf and NGOs and to revitalize the relation between both of them. The suggestions also concentrated on popularizing and circulating the successful examples of cooperation and coordination, in addition to utilizing IT in the exchange of information. There has also been a reference to the tax exemptions on the joint projects between waqf and NGOs and attending to the small projects through facilitating the securities as a modern means for fighting poverty.

We have dwelt on the reasons of communication between waqf and NGOs and the influence this has on social development, yet we have to admit that such partnership has limits and restrictions. The advantages of NGOs which we mentioned earlier by no means indicate that such NGOs are devoid of negative aspects, neither does this mean that all the advantages of the NGOs are existent in one specific organization. Therefore, waqf has to be selective in the light of the approved criteria. Many researchers believe that although the advantages of the NGOs are numerous, in practice many of them have not been realized. They are more of common impressions (Nelson, 1995:38-39 than anything else. Thus, waqf has to revise regularly and comprehensively its relation with the NGOs, in addition to revising this relation with each single organization in order to assess the benefits acquired by such a relation.



Chapter Seven

Summary and Conclusions



Following the lengthy chapters and the detailed, and sometimes laconic, analyses on the role of waqf and its contribution to the effective communication with the NGOs in the areas of social development, it has become clear how important the role of waqf is in achieving communication with NGOs at the present time. The previous chapters have also shown the major steps which waqf may take to assist the NGOs to reach this end. We have also stressed the importance of restoring the role of the waqf in social development through a sound communication with the NGOs by indicating the major techniques to be utilized. After this detailed study, I think it is convenient to conclude this study with a summary and a conclusion, as follows:

1. The aim underlying the enforcement of waqf is to realize social multi-dimensional development pro bono publico

Throughout the history of Islam, waqf responded to the social developmental requirements in the light of the social circumstances and it managed to address individual and societal needs in a way that realizes social development. During the Crusades, waqf witnessed a remarkable increase as a result of the call for jihad (holy war) against the Crusaders. There was also an increasing interest in learning (Al Doori, 1417 AH:86). Waqf also managed to accommodate with the various social needs which entitled it to become an effective and stable means of social development. The current conditions of social development in the Islamic countries require a revision and activation of the waqf role in realizing social development through communicating with the civil society organizations and the NGOs.

2. Waqf as a permanent tool of social development and its future prospects:

Waqf has always been an affluent spring of giving and plenty to the Islamic umma throughout its history. Despite occasional fiascoes, it used to recover soon. Nothing can evidence this fact better than its revival through the last two decades in many Islamic countries, for example Turkey (Cizakca, 1998). The process of reviving waqf and encouraging waqifs bear witness not only to the remarkable role of waqf but also to its ongoing role in development through its interaction with both the public and the governmental authority.

Among the important factors in the perpetuity of waqf which, hopefully, will bring about a better future for it, are the sharia flexibility and the wide spectrum of services. This entails revolutionizing its social functions through creativity and finding new activities which go abreast with the changes in social development. A study by the UNDP revealed the role of waqf in building a civil society in the light of its effectiveness, flexibility and exemption from restrictions (UNDP, 1957:51).

3. Shaky status of waqf during the 19th and the 20th centuries:

The state's interference and the colonial powers affected the role of waqf and its role in realizing social development. Consequently, people lost confidence in waqf and the

number of waqfs receded remarkably. This state of affairs led us to revise the waqf laws and legislation and its relation with the government, on the one hand, and the NGOs, the private sector and the joint sector on the other. This is meant to help waqf restore its previous role in developing Moslem societies. This, no doubt, requires exerting intensified efforts to bring waqf nearer to the developments of this age. This development should involve the mechanisms of managing a waqf institution in a flexible way so that waqf may be able to implement social development programs singly or in partnership with other institutions, for example the NGOs.

4. Convenient conditions for the growth of waqf:

The financial changes worldwide, the states' withdrawal from extending social services and the emerging role of the NGOs, along with the growing religious factor and interest in advocating the sharia principles indicate a convenient environment for the growth and the development of waqf. It is not surprising, therefore, to find the UNDP plans to fight poverty through reviving the role of waqf and the zakat in favour of the poor and social development (UNDP, 1997:51).

Easy communication among the countries of the world and the international awareness of the importance of NGOs created a favourable atmosphere for more communication between waqf and NGOs at the regional, Arab, Islamic and international levels. This is expected to enable waqf to grow and develop its activities continuously even outside the geographical borders.

5. Eligibility of NGOs to communicate with waqf:

NGOs constitute a convenient framework for cooperation and communication with waqf in the areas targeting social development in the Islamic countries. Jurisprudential principles of waqf in terms of specifying beneficiaries do not contradict with those of the NGOs in respect of distributing the waqf proceeds as long as the major conditions are spelled out by these NGOs. Analyzing the reasons of communication and disconnection between waqf and NGOs shows those reasons of communication to be weightier, which requires considerable efforts to harmonize the work, structures and priorities of both institutions for better communication and cooperation. Utilizing NGOs emanates from the fact that the da'wa of Islam and the concept of development favour exploiting the potentials existent in a society in behalf of comprehensive development, particularly social development in implementation of the Quranic verse ***"Help ye one another in righteousness and piety, but not help ye one another in sin and rancour"***⁽⁴⁴⁾. Utilizing NGOs outside the boundaries of the country within which waqf is operating will allow waqf to heighten its caliber, bring it nearer to poorer Moslems and consolidate the spirit of social solidarity.

(44) Al Maeda Sura: Verse 2.

6. Communicating with institutions other than NGOs:

It is not only through cooperation and coordination with NGOs that social development can be realized, but rather waqf should cooperate with other bodies through which it can realize development. Institutions like the World Bank and the Islamic Bank of Development are interested in developing awqaf projects, mainly those which contribute to social development. In an interview with the chairman of the World Bank, he mentions that “some religious groups have the best means of circulating learning, which justifies cooperating therewith” (Business Week, 8/2/1999).

Therefore, waqf can approach many other institutions other than NGOs as long as such an integration assists both in realizing their activities. Waqf may also cooperate with these institutions outside the boundaries of spending the proceeds, for example investing waqf funds. Within this context, it is possible to establish a waqf investment portfolio which mobilizes the waqf resources in the waqf institutions to be invested in a selected group of assets with high profitability and low risk.

7. Waqf and creating job opportunities:

Waqf may contribute to the social development through manifesting an interest in the social perspective connected with the investment transactions of waqf. When studying any waqf investment project, the awqaf department must see to it that the project has its social dimension and developmental impact, in addition to the investment revenues and the sharia point of view. An interest in employing the waqf funds in the said projects will facilitate the process of finding solutions the existent social problems (Al Zumai, 1414AH,61).

Waqf may also contribute to the projects which create job opportunities because creating permanent jobs for a productive work is regarded one of the most important and difficult social roles. Within this context, we have to lay emphasis on education and vocational training as a means conducive to promoting manpower skills and preparing them for the work market. Creating jobs for the needy by giving them assets, for example agricultural lands, equipment or workshops, and providing the necessary finance will certainly provide a favourable atmosphere for sustainable productive jobs. Waqf may also finance technological industries which require a condensed manpower to cater for the jobless manpower in the Islamic countries.

The size and number of awqaf, as revealed in the history of Islam, go in tandem with their role in creating jobs for the manpower. In Turkey, for example, the percentage of the manpower employed in awqaf at the beginning of the 20th century was 8.23% of the manpower, then rose to 12.68% in 1931, then went down to 5.76% in 1990 because the state stood against the waqf activities in activating the national income and finding jobs (Cizakca, 1998:7).

The study showed that financing projects out of the waqf funds can be realized through providing financial services, credit and other financial services to create job opportunities and productive projects in behalf of the poorer categories. This is expected to enable them establish productive assets, own them and increase them with the passage of time. This could also be available through extending the required consultation relevant to the policies of resolving the problem of unemployment. It can also be helpful in training human cadres and providing finance for the necessary productive projects.

8. Selective NGOs, Waqf related-Bodies and boosting Self-control

Selecting the NGO with which waqf will cooperate is essential for activating the relation between both of them. In addition to the legality of establishment, an NGO must have a successful record in the activities picked for mutual cooperation. At the same time, an NGO's plans must be clear and workable, with an income sufficient enough to cover its expenses to secure its continuity.

The sanctity of the waqf funds and the observance of the waqifs' wishes entail self-control over expenditures in order to avoid embezzlement or breach of trust. NGOs may establish a body for self-control to ensure that waqf monies are directed to the proper channels, without any surcharges or unreasonable expenses. Waqf may contribute to such self-control body through providing the required legal assistance and supporting the control activities thereof.

9. Extending Support to NGOs programs targeting poorer categories

In this context, waqf institutions may pitch in with the NGOs to draw the institutional frameworks in order to extend assistance to the poorer categories through sustainable mechanisms with inexhaustible resources. Such a program may highlight to the well-off people the importance of productive projects to the poor. They can popularize successful techniques among the parties in charge of executing the micro-finance projects, in addition to boosting cooperation and coordination among the NGOs. Some NGOs, reputed for high performance in productive projects, may be highlighted and given sustainable finance after the first stage. Programs may also include provision of training to human cadres to deal with the productive projects and means of making them more effective.

10. Encouraging initiatives, creativity and participation:

Waqf resources may be directed towards encouraging creative projects and quality tools of development leaving high impact on the society. Waqf, as a channel of charitable giving looking forward to cooperating with other NGOs by virtue of being a link between governmental authority and public initiatives, may introduce creative ideas for developing a society. Therefore, the future objectives of waqf must give priority to financing new and creative projects in the field of social development, mainly those highly advanced projects

or those which utilize creative ideas. At the same time, financial resources may be provided to pilot projects in the area of social development which ought to be popularized in case of success.

NGOs, known for their vitality and their attempts to cope with the social needs (World Bank, 1995, 45), can embark on their initiatives and techniques in the area of social development more effectively due to their nearness to beneficiaries and understanding their needs. In Britain, the government is planning to give a better role to charitable organizations in soliciting funds for social development because they provide more flexibility to the public in selecting the charitable purposes which appeal to them (Al Mutairi, 1415AH, 104). This is expected to affect positively their charitable giving.

In connection with cooperation and solidarity among the individuals of the a Moslem society, waqf, known for its prestige, may offer a simple financial assistance through which other financial resources may be mobilized. In Britain, for example, two trusts in Britain allocated one million sterling pounds for three selective charitable organizations if they managed to raise twice the amount (Joshi, 1417 AH: 5). This meant to motivate NGOs to raise more funds. Thereafter, waqf monies were utilized to mobilize more resources to the project and thereby to realize a higher social income. Thus, waqf, through offering a financial grant to some serious projects in the area of social development and the strategic usage of human and technological resources can guarantee others to participate in financing productive and developmental projects in favour of other categories. In this respect, it is possible to establish an organization for attending to the disabled or making donations thereto. In Kuwait, for example, Kuwait Awqaf Public Foundation expressed its readiness to donate to any waqf fund an amount equivalent to that raised for the objectives of the fund. Waqf organizations may bring together all concerned parties and help them reach an understanding over particular issues, for example a specific vision related to a pilot project, for example rehabilitation of the productive families.

Waqf may also be a center of interest for the NGOs and other organizations concerned with extending services to human beings to conduct dialogues on achieving a partnership among them in behalf of social development as it is the case with the UN agencies while studying social problems and fighting poverty.

11. Defining Cooperation Areas in the light of an NGO's potential:

Cooperation with the NGOs should not be an absolute issue because it is determined by the ability of an NGO to execute the waqf activities as reflected in the process of overall evaluation. Some NGOs may provide an added value or a new value if they contribute to the formulation of the policies of extending charitable assistance or assisted in assessing a charitable project, while they fail to add anything to the work in respect of executing the project due to their technical inability. Therefore, it is essential to identify the points of strength

in an NGO and identify its involvement in waqf activities according to the various stages and as a result of the assessment and selection policies mentioned above.

Within this context, the involvement of an NGO can be identified according to the nature thereof (setting the policies or checks), the phases of the project (getting acquainted with the project, designing, planning, financial resources, execution, commissioning, maintenance and final evaluation) or the components of the project, for example training, recruitment consultative services etc.)

If we have laid emphasis in this study on the cooperation of waqf with the NGOs in the distribution of the proceeds in area of social development, there remains other ample opportunities for the NGOs to communicate with waqf, for example welaya on waqf or participation therein, especially if there are circumstances that require waqf to be in a geographically remote area or if it requires a specialized board to maintain it.

12. Reviewing the Familial (Al Ahli) waqf:

Most criticisms raised against waqf concentrate on the familial waqf and how it is used crookedly by some to evade inheritance or forming fiefdoms. Criticisms were raised against the management of the familial waqf, malpractice and disputes among beneficiaries. Justifications for removing it relied on the insignificant proceeds thereof with the passage of time, bringing more and more beneficiaries. These facts together manifest the need for reforming Al Ahli waqf through revising the current legislation to bridge the gaps which cropped up through the application of modern management techniques to the Trust by a board of directors instead of a specific mutawelli. Instead of criticizing the familial waqf, there should have been an attempt at developing the role of waqf in getting a person nearer to Allah and urging people to dedicate in favour of their religion and society. There should also be more flexibility granted to those in charge of waqf to develop its investment resources through hunting for good investment opportunities.

13. Awareness and applied researches on waqf and its role in social development:

Conducting academic researches to boost awareness among the Islamic countries on the role of waqf in social development and in communicating with NGOs have been made clear through these researches and studies. In view of the state's control over the waqf management, people became reluctant and so this was reflected in its diminishing role in social development. Naturally, there is an urgent need for creating an awareness of waqf role and to encourage people to dedicate and give, especially at the local communities level which unfold the impact of waqf on social development and facilitate the contribution of the public thereto.

Encouraging academic researches includes extending support to researches and studies

which the pinpoint the location of need in a civil society to reach specific policies directed to the important sides in the areas of social development. This is also possible through making grants and other facilities to researchers, together with defining the areas of research in social development and approaching the poorer categories in a society.

Finally, thanks are due to Allah the Almighty who enabled us to handle this subject according to our ijtihad, though we recognize that this effort is scanty and the time is limited. If it is a success, then it by the blessings of Allah who conferred upon the researcher the means of this success, and if it is otherwise, it is due to our inborn human weakness, may Allah protect us against it. Our last note is directed to the reader who is kindly requested to provide us with his valuable remarks and sound advice, while not forgetting us with his goodly and sincere prayers.



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(Footnotes)

1. Real estate wealth as it is the USA.

A list of books and studies published by Kuwait Awqaf Public Foundation in the area of Waqf and Voluntary Work

First: Winners of Kuwait International Waqf Contest

1. The Contribution of Waqf to non-Governmental Work and Social Development, by Dr. Fuad el Omar, (1421 AH / 2000 AD),
Second Edition (1431 AH – 2010 AD) .
2. Modern Trends in Developing Waqf Investment, by Dr. Ahmad M. Al Saad and Mohammad Ali Al Omari, (1421 AH / 2000 AD).
3. Waqf and non-Governmental Work in Modern Islamic Society -Jordan Case, by Dr. Yasser Abdul Karim El Hourani, (1422 AH / 2001 AD).
4. Waqf Regulations and the Codification Movement in the Modern Islamic World -The Case of the Arab Republic of Egypt By Attia Fat'hi Al Weishi, (1423 AH / 2002 AD).
5. The Movement of Codifying Waqf Regulations in Modern Egypt, by Ali Abdul Fattah Jebri (1424 AH / 2003 AD).
6. Waqf and its Role in Supporting Education and Culture in the Kingdom of Saudi Arabia during the last hundred years.. by Khaled bin Suleiman al Khuwaiter, (1424 AH / 2003 AD) Edition II (1432 AH – 2011 AD).
7. The Role of Waqf in Culture and Education in the Arab and Islamic Communities - Malaysia as an example, by Sami M. Al Salahat, (1424 AH / 2003 AD).
8. Institutional Development of Waqf Sector in Islamic Communities - The Case of the Arab Republic of Egypt, by Meliha M. Rizq, (1427 AH / 2006 AD).
9. Institutional development of Waqf Sectors in Islamic Communities - A Case Study of the Kingdom of Saudi Arabia by Mohammad Ahmad Al Akash, (1427 AH / 2006 AD).
10. Waqf Media - The Role of Mass Communication Media in Supporting and Developing the Performance of Waqf Institutions, By Sami Mohammed Al Salahat (1427 AH / 2006 AD).
11. Development of the Waqf institution in the light of the western experience - A case study, by Osama Omar el Ashqar , (1428 AH /2007 AD)
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12. Investing Waqf Monies - Economic conditions and development requirements, by Dr, Fuad Abdullah Al Omar (1428 AH / 2007 AD).
13. Economics of the Waqf System in the Light of Economic Reform in the Arab and Islamic

- Countries - A case study of Algeria, by Miloud Zenkri and Samira Saeedani , (1432 AH / 2011AD).
14. The Role of Waqf in Managing Water Resources and maintaining the Environment in the Kingdom of Saudi Arabia, by Dr. Noobi Mohammad Husain Abdul Rahim, (1432 AH / 2011 AD).
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 16. Economic Reform and its Effect on the Waqf System in the Sudan -Sudan as a case study, by Al Rasheed Ali Sangour, (1432 AH / 2011 AD).
 17. Documentation of Awqaf in Bahrain, is a protection of awqaf - Sunni waqf deeds in the Kingdom of Bahrain by Habib Namleeti (1435 AH – 2013 AD).
 18. Documentation of Awqaf in Bahrain - A Protection of Waqf and History by Ahmad Mubarak Salem (in print).

Second: Dissertations

1. The Role of Islamic Waqf in Developing Technological Potentials - MA thesis by Abdul Latif Mohammad Al Suraikh, (1425 AH / 2004 AD), Second Edition (1431 AH -2010 AD).
2. Waqf Nazara - PhD Thesis, by Dr. Khaled Abdullah Shuaib, (1427 AH / 2006 AD).
3. The Role of Waqf in Boosting Civil Society - KAPF as an Example, by Dr. Ibrahim Abdul Baqi (1427 AH / 2006 AD).
4. Assessment of Waqf Investment Efficiency in Kuwait - MA Thesis, by Abdullah Saad Al Hajery (1427 AH / 2006 AD).
5. Islamic Waqf in Lebanon (1943 – 2000) Methods of Management and Investment - Al Biqu'a Governorate as an example - PhD Thesis, by Mohammad Qasem Al Shoom, (1428 AH / 2007 AD).
6. A Documentary Study of the Voluntary Work in the State of Kuwait - A Legal Approach and Historical Survey - PhD Thesis, by Dr. Khaled Yousef Al Shatti (1428 AH /2007 AD), second edition 1431 AH /2010).
7. Fiqh of Investing and Financing Waqf in Islam - A Practical Study of the Algerian waqf - PhD thesis, by Dr. Abdul Qader Bin Azzouz (1429 AH /2008 AD).
8. The Role of Waqf in Education in Egypt (1250-1798) - MA Thesis, by Isam Gamal Selim Ghanim, (1429 AH – 2008 AD).
9. The Role of Philanthropic Organizations in the Study of Politics in the USA - A case study

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10. Awqaf Nazara in Islamic Fiqh and Modern Applications - Moroccan waqf as an example, by Dr. Mohammad Al Mahdi, (1432 AH / 2010 AD).
 11. The Contribution of Waqf to the Educational and Cultural Institutions in Morocco in the 20th century - Analytical Study - MA thesis, by Abdul Karim Al Ayouni, (1431 AH / 2010 AD).
 12. Funding and Investing Awqaf between Theory and Practice - with reference to the case of the awqaf in Algeria and some western and Islamic countries, by Dr. Faris Masdoor (1432 AH / 2011 AD).
 13. The Waqf Fund of Insurance by Haifa Ahmad Al Hajji Al Kurdi, MA Thesis, (1432 AH / 2011 AD).
 14. The Legal Organization of the Waqf Department in Iraq, MA Thesis, by Ziad Khaled Al Mefreji, (1432 AH / 2011 AD).
 15. Administrative Reform of Waqf Sector Institutions - A Case study of Algeria, by Dr. Kamal Mansouri, (1432 AH / 2011AD).
 16. Al Jerbi Waqf in Egypt and its Role in Economic and Social Development from the 10th-14th Centuries AH - Al Jamoos Agency as an example, by Ahmad Bin Mehanni Bin Said Misleh, (1432 AH /2011 AD).
 17. Cooperative Insurance through Islamic Waqf - Problems and Solutions in the Light of my Experience in Pakistan and South Africa- MA thesis, by Mostafa Basam Najm, (1435 AH -2013 AD).
 18. Waqf of Intellectual Property - A Comparative Fiqhi study - PhD Thesis, by Dr. Mohammad Mostafa Al, Shuqairy (in Print).

Third: Books

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2. Waqf System in Modern Applications - A Set of Experiences Undertaken by States and Communities, by Mahmoud Ahmad Mahdi in cooperation with the Islamic Institution for Research and Training, (1423 AH – 2003 AD).
3. Polling Citizens about Charitable Spending in Kuwait,
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4. Le Waqf en Algerie a L'Epoque Ottomane XVIIe-XIX by Nacereddin Saeedouni, edition II (1430 AH – 2009 AD).
5. Zionist Encroachments on Awqaf and Islamic and Christian places in Palestine, by Ibrahim Abdul Karim (1433 AH – 2012 AD).

Fourth: Seminars

1. Waqf System and Civil Society in the Arab World, Beirut 8 - 11/10/2011 by a group of researchers and academicians, organized by KAPF in cooperation with Arab Unity Studies' Centre.
2. Les fondations Pieuses (waqf) en mediterranee: Enjeux de societe, enjeux de pouvoir (In English and French), by a group of thinkers, 2004, edition II, (1430 AH - 2010 AD)
3. Seminar of Waqf and Globalization organized by KAPF in collaboration with the Islamic Institution for Training and Research and Zayed University during the period from 13-15 April, 2008, (2010AD).

Fifth: Booklets

1. An Outline of Waqf Regulations, Jumada al Akhera, by Dr. Issa Zaki (1415 AH – 1994 AD), Second edition (1416 AH – 1995 AD).
2. Islamic Waqf System - Developing Methods of work and analyzing the conclusions of some modern studies by Dr. Ahmad Abu Zaid in collaboration with the ISESCO, (1421 AH – 2000 AD).
3. Islamic Waqf: Areas and Dimensions, in collaboration with the Islamic Organization for Education, Sciences and Culture (ISESCO), Rabat, Morocco, by Dr. Ahmad Al Raisouni (1422 AH – 2001 AD).

Sixth: Awqaf Journal

1. A biannual journal interested in waqf and Charitable work. So far 25 issues were published up to November, 2013 AD.

Seventh: Translation on Voluntary and Philanthropic Work

1. British Philanthropic Work, by Kalpana Joshi translated by Bader Al Mutairi, (1417 AH - 1996 AD).
2. Fund Raising for Non-Profit Organizations, by Ann L. New and Wilson C. Levis, translated by: Motie Y. Hallaq, (1997).
3. Foreign Organizations for Outside Assistance - British experience, by Mark Robinson, Translation and introduction by Bader Al Mutairi, (1419 AH – 1998 AH).

4. British Experience in Charitable and Voluntary Work , by Bader Al Mutairi 1415 AH /1994
5. Philanthropic Organizations in the USA , by Elizabeth Boris, translated by KAPF (1417 AH – 1996 AD).
6. Accountancy of Charitable Organizations- Charity Commissioners of England and Wales, (1998 AD)
7. Charitable and Voluntary Work and Development- Strategies of the Third Generation
NOG - An Approach to Development Based on Human Beings,
by David Corten, translated by Bader Al Mutairi (1421 AH - 2001 AD)
8. Make a Difference: An Outline for Volunteering Strategies for the UK
Author: Home Office UK, translated by KAPF (Time Waqf Project), (1424 AH / 2003 AD).
9. Kuwait Awqaf Public Foundation: An Overview, (2004 AD).
10. Islamic Waqf Endowment,(2001 AD).
11. A Summary of Waqf Regulations- translated into English, (1427 AH – 2006) Second
Edition (1431 AH / 2010 AD).
12. Women and Waqf, Translated into English, 0Author : Iman Mohammad Al Humaidan
(1428 AH , 2007 AD).
13. A Guide book to the Projects of the Waqf Coordinating State in the Islamic World , (2007
AD).
14. The Contribution of Waqf to non-Governmental Work and Soccial Development by Dr.
Fuad el Omar, (1435 AH -2013 AD).

Eighth: Publications of Waqf Jurisprudential Issues' Seminars

1. Activities of the first waqf jurisprudential seminar: Researches and discussions of the
seminar which was organized in Kuwait during the period from 15-17 Shaaban, 1424 AH
/ 11-13 October, 2003, in collaboration with the Islamic Bank of Development in Jeddah.
(1425 AH / 2004 AD)
2. Activities of the second waqf jurisprudential seminar Researches and discussions of the
second waqf jurisprudential seminar held in Kuwait during the period from 29 Rabie Awal
to 2 Rabie Thani, corresponding to 8-10 May, 2005 AD, (1427 AH – 2006 AD).
3. Activities of the second waqf jurisprudential seminar, The seminar included the researches
and discussions of the seminar organized in the State of Kuwait during the period from
11-13 Rabie Thani, 1428 AH / 28-30 April 2007. The seminar was organized by KAPF in
collaboration with the IBD, (1428 AH – 2007 AD).

4. Activities of the fourth waqf jurisprudential seminar The book falls in 409 pages of medium format The seminar included researches and discussions which were conducted in Rabat in Morocco during the period from 3-5 Rabie Thani, 1430 AH / 30/3 – 1/4/ 2009. The seminar was organized by KAPF in collaboration with the Ministry of Awqaf and Islamic Affairs in Morocco, (1432 AH – 2011 AD).
5. Activities of the fifth waqf jurisprudential seminar 1431 AH /2010
The book falls in about 500 pages of medium format
Contents; The seminar was organized by KAPF in Istanbul in collaboration with the Department of Religious Affairs and the Directorate of Awqaf in Turkey and the IBD during the period from 10-12 Jumada el Ula, 1432 AH / 13-15 May, 2011
6. Activities of the Sixth waqf Jurisprudential issues was held in the State of Qatar in collaboration with IDB during the period from 3-4 Rajab 1434, corresponding to May, (1435 AH- 2013 AD).

Ninth: Waqf Bibliography

- Kuwait index 1999
- The Index of the Hashemite Kingdom of Jordan and Palestine 1999
- The Index of the Islamic Republic of Iran 1999
- The index of the Kingdom of Saudi Arabia 2000
- The index of the Arab Republic of Egypt 2000
- The index of Morocco 2001
- The index of Turkey 2002
- The index of India 2003

Tenth: Media Publications:

1. Guide book on the Projects of the Coordinating State in the Area of Waqf, 2007, edition II, 1433/2012
2. Guide book on the Projects of the Coordinating State in the Area of Waqf, 2007

Deposited at KAPF Information and Documentation Center on 2/1/2014 under number 3



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