



Refereed Biannual Journal Specialized in Waqf and Charitable activities

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AWQAF is based on a conviction that waqf – as concept and an experience – has a great developmental potential which entitles it to contribute effectively to the Muslim communities and cope with the challenges which confront the Umma .WAQF also reflects the history of Islamic world through its rich experience which embraces the various types of life and helps in finding solutions for emerging problems. During the decline of the Umma, WAQF maintained a major part of the heritage of the Islamic civilization and caused it to continue and pass from one generation to another. Nowadays, the Islamic world is witnessing a governmental and popular orientation towards mobilizing its materialistic capacity and investing its genuine cultural components in a spirit of innovative thinking leading to comprehensive developmental models conducive to the values of justice and right.

Based on this conviction, AWQAF comes up with a keen interest to give waqf the actual prestige in terms of thinking at the Arab and Islamic levels. It centers on waqf as a specialty and attracts waqf interested people from all domains and adopts a scientific approach in dealing with waqf and relating it to comprehensive community development. Waqf is originally known to be a voluntary activity which requires AWQAF journal to approach the social domains directly related to community life, along with other relevant social and economic behaviors. This might bring about a controversy resulting from the society – state interaction and a balanced participation aiming to reach a decision touching the future of the community life and the role of NGO's .

Objectives of AWQAF

- * Reviving the culture of waqf through familiarizing the reader with its history, developmental role, jurisprudence, and achievements which Islamic civilization had witnessed up to date.
- * Intensifying the discussions on the actual potential of waqf in modern societies through emphasis on its modern instruments.
- * Investing the current waqf projects and transforming them into an intellectual product in order to be exposed to specialists. This is hopefully expected to induce dynamism among researchers and establish a link between theory and practice.
- * Promoting reliance on the civilizational repertoire in terms of civil potential resulting from a deep and inherent tendency towards charitable deeds at the individuals and nation's levels.
- * Strengthening ties between the waqf on the one hand, and voluntary work and NGO's on the other.
- * Linking waqf to the areas of other social activities within an integrated framework to create a well-balanced society.
- * Enriching the Arab library with articles and books on this newly approached topic, i.e. waqf and charitable activities.

Publication regulations

AWQAF journal publishes original waqf-related researches in Arabic, English and French.

It also accepts summaries of approved M.A's and Ph.D's and reports on conferences, and seminars dealing with the field of waqf.

Materials meant for publication in AWQAF Journal should abide by the following :

- * The material should not have been published or meant for publishing in any other magazine .
- * The material should abide by the academic ethics in connection with documenting the sources and references, together with the academic processing.
- * A research should fall between 4000- 10.000 words, to which a 150-word summary must be attached .
- * A research should be typed on A4 paper and it is preferable to send an electronic copy on CD (word),
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- * AWQAF journal shall not assume the least responsibility for the attitudes of the authors reflected in AWQAF journal. All Submissions should be sent to:

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Editorial



Investing Waqf Real Estates & Revenues Problem: Developing Funds and Financing Development

After gaining their political independence, the Islamic world countries faced a chain of economic and social problems resulting from western imperialism. Since the middle of twentieth century, Arab and Islamic states made various trials to realize “development”, whether such experiments were made under the titles of capitalism or socialism. But after nearly three decades, such experiments did not succeed in achieving their sought targets. In many cases, such experiments culminated in adding serious economic and social distortions to Islamic societies such as discrimination between bodies, concentration on brittle economic activities and widening the enlarged services sector vis-a-vis the other productive sectors. It was necessary, in this concern, to criticize development based on quantitative dimensions, economic indicators and production and productivity ratios determined by some schools. There was a trial to “humanize” development by inserting new dimensions. This is why at the end of the eighties of the twentieth century people stressed “sustainable development”, “human development”, etc. The critical vision of the prevailing development theories stressed the basic defect deducted from its strategies. Such development does not take place except through external factors because its philosophical base, European centered, considers economically under developed peoples as peoples who are culturally, behaviorally under developed. Consequently, such peoples cannot participate in making development because they lack the qualified environment. Therefore, such peoples have no alternative





but rely on external factors to reach the target “development” and to make use of the fruits of development. On the contrary, various development institutions stress the importance of using the societies self factors as lunching point so that the development programs may succeed and have clear effect on the life of individual and peoples. Such self components include economic and social institutions that contributed to making Islamic civilization and develop its performance. Waqf institution is one of the most important development mechanisms that form sustainment, and serve individuals. Waqf constitute one of the most important self abilities that can be used to serve development.

There is no doubt that the person who follows Waqf affairs realized the great expansion of Waqf during the past three decades and the appearance of various governmental and non-governmental Waqf institutions as well as the relative spread of litarature works concerning this subject. We believe that the re-emergence of Waqf to the social work domain in many Islamic countries needs a qualitative new stage to pass through. Such stage is more developed and ready to face the basic challenges that face Islamic societies. Today, people who are interested in Waqf as well as decision makers and economists and people working in civil society institutions should view Waqf an excellent development mechanism that springs from local capabilities and depend on raising the sense of social responsibility of people and institutions regarding developing and enriching the group in the different fields of work. It is necessary that understanding Waqf and dealing with it should exceed the idea of providing financial source to be made use of for the service of individuals or one segment, though such work is important enough.

It is important to notice in this context that Waqf investments issue appears as the main means through which Waqf contributes to developing the social and economic movement. It is also important to mention that the relation between Waqf and investment is an organic relation because its concept springs from its being an investment for the other world. Regarding its Fiqh and legal nature, investment is a genuine part of Waqf institution as a result of rational

management (superintendence) and the tasks related to maintaining Waqf assets, and developing and distributing the revenues to people who really deserve them. Our previous and subsequent jurists did their best and showed various Fiqh capabilities for such development, when they posed contracts and transactions suitable to the nature of Waqf on one side and the level of economy on the other side. In agricultural economy, which depends basically on land as the main capital for economic projects, we find the lease contract with its various derivatives, together with various Fiqh innovations of up to date economic cases that arise in time of need or disaster.

Today we face economy with various activities in industrial and service sectors, in addition to the fact that the challenges which Islamic societies face are basically due to the absence of social and economic programs that benefit from self capabilities. Therefore, the Waqf institutions of today should develop their means to contribute greatly to a sustainable and comprehensive development.

Investments of Waqf should be targeted at development and this is the main requirement at this historical moment in which we live. It is natural that we have different visions regarding Waqf investments issues from the point of view of Fiqh considerations and social and economic considerations, but there is a link between them which is enhancing the role of Waqf in building integrated development models which enjoy sustainable feature and high social revenues. This is in addition to strengthening the Waqf institution in itself through developing its assets. We believe that the visions that can be the outcome of discussing such issues are the priority of the present stage. It is one of the most important challenges that face promoting the performance of these institutions.

The relation between developing Waqf funds (developing investments) on one hand and financing development (stressing projects of social revenues) on the other hand, is a development equalization even if it is considered as something easy, but inaccessible. Such relation was always a source of worry for economists and experts of development, in particular. It is clear, theoretically at least, that Waqf carries the properties that qualify it to achieve success and pose real instances

that achieve such equalization and has breakthrough in sustainable development models. In this context, Waqf institutions need practical limits and a strategy for their financial policy trends so that they respond to the parties of equalization in a manner that allows opening the door before social investment which does not contradict development of Waqf real estates and service at the same time, the interests of the group concerning its basic needs. While it stresses the principle of equal opportunity between geographical boundaries (the countryside and the city) it also maintains environment because it is the natural place for man existence.

The posing of such trends is not a new matter regarding the inquiries given to the employees in the field of development. But such trends may be new regarding the employees working in the field of endowments and particularly in the field of developing the efficiency of their institutions and places of their activity. We really face an important diversion in Waqf work which necessitates shifting Waqf from serving individuals and social segments, isolated islands, to serving the issues of societies. This is done through expansion the area of “Waqf positive side effects”.

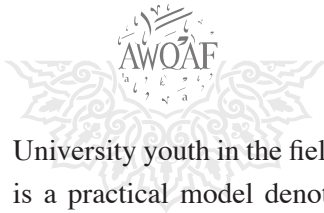
Economists use the concept of side effects “externality” to show the effects resulting from the economic activities of companies. Each investment has its side effects that may be positive and negative. In this respect, we can talk about the side effects of Waqf investments which have direct and easily seen results in developing Waqf assets and entering in partnerships with financial or service institutions and which made indirect results of great importance through widening the area of development in places not chosen by investors, though there are important proposed revenues, due to the absence of motivation and multiple administrative obstacles or may be far from the prosperity of civilized areas or taking care of projects of modest material revenues which represent social priority or contributing to general commodities, as economists call them, which are not usually provided by the private sector due to the long term needed to gain profit from them.

The experiment of Waqf sector in the Islamic world during the last few

decades proved that Waqf institution are viable and can be developed. Such experience goes with the world of reality and its updates. It is not strange that many concerned people deem it necessary to reconsider the methods of using Waqf investment in a manner that serves social priorities and open discussion regarding the possibility of having a real investment substitute depending on strategic partnership between Waqf investments and the needs of Islamic world. It is necessary to state the objective conditions that help establishing such strategic partnership and its continuity and the effect of all this in supporting the rally of Islamic world counties in a manner that realizes the progress of their human capital and making use of their material wealth. This is the responsibility of various parties. But the responsibility lies, in the first place, on those who work in Waqf sector and related institutions which realize the accumulation that takes place in Waqf work and the possibility to widen it and link it with the social development problems. This is important for the progress of Muslim peoples and realize sustainable development. It is natural to consider the people working in this sector as responsible for realizing the conditions of the success of such partnership from the strategic point of view and the effect of this on Waqf sector contribution to bringing Waqf back to the right track.

You will find reflection of the issues mentioned in the previous paragraphs in the 26th issue of *Awqaf*. Dr. Yaser AlHorani, poses Waqf investment issue through a case study of investment models of some Waqf assets in Macca AlMukarama. In his research entitled “the Role of Waqf in the Cultural and Scientific Renaissance in the History of the Far Maghreb”, Dr. Mohammad Bin Zain Alabedeen analyzed the role of endowments and their effect on mosques and social phenomena under the history of endowments in Almaghreb.

Both Dr. Kamal Mansouri and Entesar Magoog, on the other hand, discuss two related matters: Timing of Waqf and the necessity of Waqf. These are issues that necessitate legislations by the temporary endowments of special interest that may result in practical effects giving solutions that facilitate the life of people. In his research, Mansouri tackles (temporary Waqf for Activating the Role of



University youth in the field of voluntary services in time of Haj and Omra). This is a practical model denoting the importance of some temporary endowments in our contemporary life such as “Effort Waqf” and its important in directing university youth towards dedicating time to serve the needs of society.

Magoog, on the other hand, analyses the issue of “Waqf necessity” in Algerian legislation. The importance of this issue emanates from its being a manner that can be used in forming contemporary legislations for endowments that help to solve some problems occurred to the person who makes Waqf during his life. The person who makes Waqf may face some urgent matters which make him in dire need of Waqf premises so as to resolve his dilemma or resist great embarrassment to him. In the field of manuscripts, the researcher specialized in Balkan countries, Mohammad Muwafaq Al Arnaut reviews “Essa Bey Waqf, Founder of Sarajevo” expressing its social dimensions and historical recitals. This issue of the magazine also includes addition to Waqf activity coverage and presentation by Dr. Mahmoud Alzewaid of the book “Islamic Waqf, arts of management of reaching God” by the author Dr. Essa Alqadomi.

God grants us success,,,

Editorial of Awqaf magazine issue No.(26)

Researches



WAQF INVESTMENT METHODOLOGY AND PRIORITIES

Dr. Yaser Abdul Karim El Hourani ⁽¹⁾

Summ

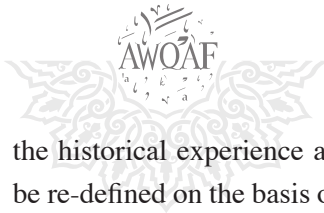
Praise belongs to Allah, the Lord of all beings and peace and blessings be upon His Prophet who was sent as a mercy to the whole world and upon his companions.

Nobody can deny that role played by waqf in achieving the modern civilizational progress and how the nation is still taking this tract through integrating waqf in the social organization. This is easily noticed when a comparison is conducted between the dependent and the independent countries. Hence the Western society, especially the American society, comes at the top of those countries which advocated the charitable work⁽²⁾.

The importance of the research is embodied in featuring that big gap between

(1) Associate professor - Faculty of Financial and Administrative Sciences - Al Baha University - Kingdom of Saudi Arabi

(2) It should be noticed here that western societies use the term 'trust' which is equivalent to 'Irsad' when dealing with waqf. Irsad is a waqf but validating the ownership of a property is ignored in it. Therefore this falls in the category of charitable works.



the historical experience and the standard case through which the concept may be re-defined on the basis of the 'entire waqf institution'. It is part of a whole and contributes to the general social system.

The research falls in three tracts: the first revolves round the conceptual significance of waqf investment through approaching the concept and handling each item separately, together with clarifying the nature of overlapping among the parts; the second tract deals with the status quo of waqf investment in Mecca el Mukarrama; the third tract includes discussions about the possibility of activating and developing waqf investment in Mecca el Mukarrama.

The research comes to the important conclusion related to saving the waqf in its current form and to concentrate on the historical experience, while the western experience is highlighted to benefit from it in the current experience.

First Tract

Waqf Investment: Conceptual Approach

Waqf investment embraces four major components; waqf, investement, waqf investment and waqf investment receptacle. The general meaning can be discussed as a whole.

First: Meaning of waqf

The meaning of waqf was elicited from the concept of an 'ongoing charity'. There are, however, other definitions revolving round the same meaning ,i.e., whatever is directed to charitable channels and acquiring perpetuity. The definition cited by the Hanbalis seem comprehensive as implied by the meaning. In this respect, Ibn Qudama defined waqf as ' withholding an asset and releasing the proceeds⁽¹⁾.

It is not the aim here to count the meanings related to this issue or compiling what the jurists said in this regard to reach an all-inclusive definition in the light

(1)Abdullah Ibn Ahmad Al Maqdesi Ibn Qudama, Al Mughni, Edition 1, Dar el Fikr, Beirut, 1405,6/185



of the current researchers' attitudes. Intensive remarks handled in this respect will not bring about the desired meaning ,i.e., the concept of ' a comprehensive waqf institution ' which needs much care in formulating the construction and the meaning. Utilizing the transparent and clear inductive approach here , the basic definition of waqf will generate from the research process because induction means moving from the specific to the general. The researcher is expected to have a definite framework for waqf through which it can be used to understand what is going on.

The concept of an 'ongoing charity', though utilized to understand the idea underlying waqf, the idea of the 'ongoing' may acquire an extensive connotations because 'ongoing' addresses both the charity and the reward all together. This does exist in all ongoing charitable acts, which are undoubtedly great deeds integrated into the essence of the social system. Imam Al Sayouti traced those deeds and found them eleven in number, all of which take the form of flowing and ongoingness. The jurist Ibn El Imad preceded Al Sayouti and showed more attention in calculating and clarifying those deeds which he estimated them at thirteen, together with citing the ahadith (Plural of Hadith or Prophetic saying) related to them ⁽¹⁾.

Efforts exerted in this domain can be utilized in clarifying the meaning of waqf in order to reach those interwoven relations between the components in the general system ,i.e., the parts which align with the idea of waqf. Here it is necessary to distinguish between two things: fixed things and ancillary things. Zakat , for example is a changeable element acting within the same system, but its peculiarities and specifications are independent and fixed. Jihad (fighting against the infidels), held by the Prophet in high esteem, is among the outstanding deeds which enjoy this nature of 'ongoingness' ⁽²⁾ . It is an ancillary changeable element forged according to the nature of the situation. It is clear that the mechanism of Jihad in the system appears through its role in reviving religion and fighting the

(1) Al Azim Abadi Abul Tayyeb, Awn el Ma'aboud, Dar el Fikr, 8/80

(2) In the Hadith, we read the following: 'four with rewards ongoing after death: a man died in the way of Allah, See Mustanad Ahmad, Hadith # 21943

enemies as defined in Tuhfatul al Ahwathi⁽¹⁾. A Moslem fighter (Murabit) forgoes his time and work in the way of Allah. This behaviour, no doubt, strengthens a society and secures its interests and brings about an incessant reward as indicated in the Hadith. Within this reciprocal relation between waqf and Jihad against the infidels as integrated units in one system, the role of waqf is assimilated in fighting and securing the ports of the country. It is narrated that the Prophet (PBUH) said, ‘Concerning Khaled, you are wronging him. He dedicated his weapons in the way of Allah⁽²⁾ and this was a fact. Waqf at that time went to Jihad affairs, for example buying horses⁽³⁾ and establishing markets for ammunitions and military equipment⁽⁴⁾. There were also awqaf in favour of the captives⁽⁵⁾ which introduce waqf as an effective vehicle in the system in the area of investment, for example the expansion of the state and the increase in the economic activities which resort to mass production, cancellation of taxes, realizing the relative merits in the commercial relations and benefiting from the new experiences. This principle strengthens the relation between the parts of system in a better way in dealing with formulating the theory of investment from an overall perspective.

Unlike Zakat, waqf is unlimited and its rules and regulations are highly flexible. It is not recommendable to approach it constrictively as maintained by the attitudes of some ancient jurists who stood against dedicating the movables, especially money and the like. Those attitudes were the by-product of different environments having their own backgrounds. Moreover, the ancillary elements, for example Jihad, was integrated into the general system in the absolute sense. Waqf, being a changeable ancillary element in connection with its relation to the changeability of the location, conditions and environment, added to its inflexibility, acted effectively so much so that it was an outstanding feature of

(1) Al Munarakfuri: Tuhfatul Al Ahwathi, 5/199

(2) Sahih el Bukhari, Kitabul Zakat, Al Uroudh Section

(3) Yaqut el Hamawi, Mujam el Udaba’a< Beirut, Dar el Mustashreq, 16/20

(4) Abdul Qader Bin Mohammad Al Naimi, Al Daris fi Tarikh el Madaris, Edition 1, Beirut, Dar el Kutub el Elmia, 1990, 1/132-133

(5) Abdul Hai Ibn el Imad Al Hanbali: Shazaratul Dhahab fi Akhbar man thahb, Beirut, Dar el Afaq el Jadida, 4/243

the society. What is more important is that waqf-related issues are more of an Ijtihadi nature with no details respecting them. Consequently, it is easy to locate the position of waqf in the social equilibrium viewing it as an 'entire institution' which can be regarded as a mobile equilibrium. The general system in this state consists of changeable ancillaries, acting flexibly and observing environmental conditions and priorities. Such changeable elements may exceed in multiples what Ibn el Imad Al Hanbali mentioned. This may be attributed to the influence of the universal factors such as globalization. All parts therefore, separate as well as ancillary, behave within a balanced equilibrium which observes the general objectives and priorities which are likely to bring about spontaneous accommodation and change to maintain this balance.

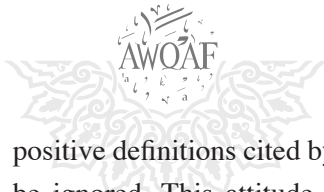
The concept of waqf in the fiqh books cannot be discussed in the light of the other factors. Theoretically speaking, this is reasonable because we should deal with previous hypotheses which detach all the changeable factors which are likely to impinge on the subject at stake. Discussions among the jurists in respect of defining the waqf are not without objection and criticism, ahead of which is that the meanings being submitted do not lead to the unity of the concept within the arrangement because they are subject to the teachings of the same fiqhi school, with the exception of the school of the opinion, i.e., rejecting the concept of waqf adopted by Abu Hanifa. This objection is justifiable not in defense of those outstanding jurists to whom we are indebted, but due to the paucity of texts on waqf. Therefore, all jurisprudential explanations tend to resort to Ijtihad (discretionary science). Abu Yusef revoked his attitude towards the concept of waqf, then he turned back to decide on the validity of waqf⁽¹⁾. On being informed about the saying of the Prophet (PBUH) 'to spend in charity but the corpus remains unsalable'⁽²⁾, he said that Abu Hanifa could have changed his attitude towards the invalidity of waqf if he had seen those awqaf⁽³⁾.

It is not possible to undervalue waqf by Abu Hanifa; on the other hand

(1) Al Sarkhasi: Al Mabsoot, 12/28

(2) Sahih el Bukhari, Kitab el Wasaya, Hadith #2803

(3) Al Sana'ie, Subul el Salalam 3/115



positive definitions cited by the Malikis concerning the definition of waqf cannot be ignored. This attitude allows in respect of investment a waqif to partially revoke (at a definite time)the ownership of the (mawqoof⁽¹⁾) asset. Such concepts consolidate the relation of waqf with the other ancillary systems, and its role in bridging any likely gaps, especially in the economic and developmental areas.

Thus the definition of waqf is no more than a secondary vehicle which operates with other vehicles. This concept includes a delicate methodology integrating major items which achieve the sought objectives, ahead of which are the following:

1. A formulation of the concept of waqf represents a cumulative entity consisting of joint work dealing with modern research and the ijthihad of the ancient jurists whose works have been incorporated mainly into the present works.
2. The concept is based on setting hypotheses and raising inquiries in a regular manner which entails an understanding of the Tafseer (explanation), rather than prognostication because Tafseer is the core of a deductive science.
3. The priority in setting priorities for defining the objectives of a concept in any modern work is confined to the attempt at creating a developmental theory for the waqf which should be applicable within a limited space of data elicited from statistical surveys and other relevant documents and waqf deeds
4. Utilizing the data in a way that provides flexible objectives which define the concept, for example the waqif's (dedicator's) behaviour, the flow of the waqf momentum from one generation to another or for other unseen factors relevant to the waqf relations inside a society.
5. Islamic Shari'a , no doubt, assists in building the theoretical concept of waqf in a better way. The obstacles being encountered from time to time are treated as a given fact, though they are in fact completely obscure but they can be

(1) Al Sana'ie, Subul El salam, 3/115

solved or changed into tiny problems. The reason underlying this are the teachings of the shari'a which support the waqif's behaviour through joint levels of acceptable deeds based on faith.

6. Faith, as a phenomenon, may initially substitute spending more time on analyzing the dynamics of the waqif's deeds in respect of raising logical inquiries, for example 'Is the waqif's behaviour affected by the interests or the values?'. Nevertheless, the reactions of waqf within the social context cannot be ignored. They are in fact too solid to be sensed extensively.
7. The concept of waqf is based on the meaning of the 'ongoing charity', which means the ongoingness of both the sadaqa(charity) and the reward (Thawab). This extends along a lengthy period of time because it is of the same nature of the reward which goes incessantly in the beneficial works which contribute to the concept of flowing and sustainability.

Second: Meaning of Investment

This Term in its Arabic meaning indicates 'fruit' or multiplicity of wealth, which includes gold and silver⁽¹⁾. As a verb it means that a person is requesting the fruit of something⁽²⁾.

The term 'Istithmar' acquired a deep meaning for the linguists according to the linguistic methodology related to the meanings of vocabulary items. This term is rarely used but it gained ground with the Usoulis (those who study methods of eliciting rules and regulations). Then it re-occurred in respect of deduction. It is believed that the first to link this term with deduction (Istinbat) was Al Imam Al Ghazali⁽³⁾ (450-505 AH). In his book 'Al Mustasfi' he maintained that this lexical item reveals the ability of an Usouli scholar to formulate shari'a regulations. He added that 'regulations are fruits, and each fruit has its own intrinsic merits. It also has three aspects: its essence as a fruit, then the

(1) See Yaser el Hourani, *Mujam el Alfaz el iqtisadia fi Lisan el Arab*, Edition 1, Dar Majdalawi 2002, PP 85-86

(2) Mohammad Bin Yaqoob Al Fairuz Abadi, *Al Qamus el Muhit*, 1993,

(3) *Al Mustasfi fi Elm el Usoul*, Edition 1, Bairut, Dar el Kutub el Elmiah, 1413 AH, 1/7 -, 324



person investing it and then the method of investment being implemented. Al Muthammar means the evidence which falls in three categories: The Book, the Sunnah and the Consensus; Istithmar indicates the significance of the evidence; the investor (Mustathmir) indicates al Mujtahed. Later Al Ghazali laid emphasis on the attitude of the Usoulist while using the concept of ‘ the means of investing regulation’ at a large scale..

Thereafter he was followed by Al Amdī⁽¹⁾ (551-631 AH) in his book Al Ahkam in which he benefited from Al Ghazali in utilizing the meaning of Istithmar in the Usouli thought. Al Zarkashi came afterwards (745-794 AH) in his book Al Burhan in which he followed the meaning as assimilated by the Usouli methodology. In this respect he said that ‘ it is essential to understand the principles (Usoul) of fiqh because it is one of the major ways in investing the regulations out of the Quranic signs’⁽²⁾. It is clear that the Usoulists were the first to use the term ‘investment’ or ‘Istithmar’ in the Islamic thought to indicate the meaning of deduction. This meaning , however, is subject to many restrictions in the exquisite science of the Principles of Fiqh.

Third: Definition of Waqf investment

The attempt at integrating the concept of investment into waqf creates a new property, i.e., putting this concept under the control of the waqf conditions. It is known that waqf has its own rules and regulation which are subject to strict criteria which determine its validity and correctness. It is also subject to the conditions of the ‘waqif’ (dedicator) whose conditions are crucial in validating a waqf. It is universally acknowledged that a waqif’s condition is as valid as a law-maker’s condition. Given the importance of such a condition in regulating waqf, especially the Ahli (Familial) waqf, there were many difficulties which stood in the way of waqf throughout the historical experience due to circumvention. Nevertheless, we have to cast a look on the conditions of a waqif

(1) Ali Bin Mohammad Al Amdī: Al Ihkam fi Usoul el Ahkam, Edition 1, Dar el Kitab el Arabi. 1404 AH, 1/23,308, 4/227,228

(2) Mohammad Bin Bahader Al Zarkashi, Al Burhan fi Uloum el Quran, Dar El Maarifa, Beirut, 2/6

and other conditions of waqf through a magnifying lens when connecting waqf question with investment activities, i.e., waqf investment.

At this point, it is essential to analyze investment within the framework of waqf or vice versa through setting a perspective for consulting the current social life. The concept of waqf investment in this case emerges from a social philosophy based on fundamental principles, ahead of which come realism as a criterion for the concept, ethics of care and social solidarity and the sense of responsibility.

The attempt at building a theory in this respect may approach the basic views of the jurists which revolve round waqf questions, and builds in a special way a new concept relevant to the waqf-society relation or the social behaviour. Here there are reasonable questions which are likely to be raised in respect of building the perspective, for example : Is the investment behaviour of the waqif, i.e., the waqf institution motivated by the interest of a waqif or by the social interests? Is there a difference between religious beliefs and national values while conducting the investment?

What is the nature of the instruments being used in designing the perspective? Do we apply specific instruments at the local level or use those instruments which mesh with the universal message of Islam and take man as its subject? To what extent do we observe environmental factors in organizing waqf?

Providing answers to many questions could make the meaning understandable. It is clear that directing a research towards development will remove the idea of 'stuffing' meanings in statements because there is a difference between necessary activities directed towards development and those directed towards 'promotion'. In addition, dealing with the universal waqf institution may be promoted as to be raised from the lower level in its status quo to the prosperous experience witnessed by waqf throughout history.

Within this context, some major ideas may be cited to illustrate the concept of waqf investment :



A waqf institution is a human by-product and directing it towards investmental objective is an attempt to shrug off the entire fact integrated in the meaning. Thus, the concept must be directed towards serving humans.

The interest in connecting waqf project with the material return or the so-called ‘augmenting profit’⁽¹⁾ is an unfair attempt to justify the capitalist concept by wedging it into the Islamic concept, without paying the least attention to the nature of waqf in general, besides the disregard to the particularity of the Islamic perspective discussed earlier which maintains that investment in waqf is directed towards the converge of costs, not augmenting a profit.

In our attempt to coin a concept for waqf investment, we should deal with waqf within the limits of the Islamic theory which aims to revive good deeds in an integrated and a universal manner. In this case, we can benefit from the human thought and experience in general, , in addition to laying emphasis on the intent of the shari’a and its entire principles.

We should also assimilate the shari’a fiqh without ignoring the fiqh of realism. Here we have to observe the difference in the environment and the factors impinging on it, identifying the priorities of investment which are contingent upon man’s needs and society’s requirements. We should not isolate waqf activities from the national planning set by the government, neither to work in isolation from the activities of the civil society institutions. Having a complete and comprehensive image of the waqf investment-environment concept will pave the way towards establishing a new meaning of “ integration and organization “ with the society as a whole.

Fourth: Receptacles of Waqf Investment

Waqf investment receptacles may encompass more formulas and instruments which keep up with the nature of development in terms of economic relations. Academic forums dealt with the best means for waqf investment through lengthy

(1) See Sami el Salahat , king Abdul Aziz University Magazine – Al Iqtisad el Islami, Volume 18, issue 2/2005, p.59.

discussions which focused firstly on the available formulas, for example Istisna'a contract, diminishing partnership contract (Sharaka Mutanaqesa) ending with ownership, waqf lease, , al Mudharaba through waqf funds, Muzara'a, Musaqat and waqf credit and lending⁽¹⁾.

There has been a growing interest in the comprehensive social development which led to holding more workshops, seminars and academic conferences which sought to address this problem⁽²⁾.

Kuwait Awqaf Public Foundation won a pioneering role in heightening the vision concerning the role of Waqf in the developmental process and laying emphasis on the modern trends in the area of waqf investment . This was a great asset which enriched the practical side of investment in the waqf resources and properties.

Fiqh academies played a prominent role in discussing the question of waqf investment and showing its various rules and regulations. There is the International Fiqh Academy which held several sessions to discuss this subject. In its fourth session, it discussed some of the financial instruments from which waqf can benefit, for example Muqaradha bonds and investment bonds. During this session the Academy's board adopted four formulas for benefiting from them in the area of reviving waqf and investing it , for example⁽³⁾ :

Setting up a partnership involving both waqf assets and capitalists whose aim is to restore waqf.

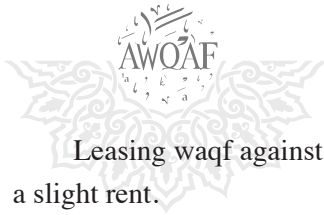
Appointing waqf assets, as fixed corpus, to whoever wishes to restore them out of his own monies against a rate of the profit.

Constructing waqf through Istisna'a contract with Islamic banks for a part of the proceeds.

(1) Development on Waqf Property seminar, Jeddah, 1984. See Muna el Husaini Ammar, Dawr el Waqf fi Tamweel el Tanmia el Basharia, Iqtisad Islami Magazine, July 2012, P 30

(2) Colloquium organized by Arab Unity Center in Beirut, 1988 under the title 'Towards the revival of waqf in Development; the seminar organized by the French Institute in Istanbul in 1992 and the seminar organized by the Ministry of Awqaf and Islamic Affairs in Kuwait in 1993

(3) Al Majma'a Magazine, Issue 4, Part 3, 1809



Leasing waqf against an inkind rent exemplified in building on it or against a slight rent.

In its 15th session, the conference issued important decisions and recommendations in the area of waqf investment, for example investing part of the proceeds of Al Khairy Waqf in augmenting the principal for the weighted interest, in addition to investing the surplus in augmenting the proceeds or the principal. Thereafter, comes the distributing of the proceeds among the beneficiaries and deducting the costs and provisions, in addition to investing the funds pooled out of the proceeds for maintenance and reconstruction and other lawful purposes⁽¹⁾. There should be emphasis on the investment controls, for example the variation of receptacles, guarantees conducting feasibility studies, avoiding high risks and adhering to the lawful formulas.

Second Tract

Mecca Waqf Investment: Historical Experience and Modern Experience

The concept of Mecca awqaf means all the awqaf within the boundaries of the Holy Mosque, without being confined to the Holy Mosques as some may believe. It includes all the sides⁽²⁾, starting by the boundaries of the Haram from each side. Talking about the Mecca Haram takes a broader range to include all the so-called Awqaf el Haramain which stretch out through other countries worldwide. Hence the waqf investments are taking importance in the sense that they are cross-country awqaf.

The importance of the Meccan awqaf is steeped in history as well as spacious in terms of location. It is known that Al Bait el Haram was erected by the Prophet Ibrahim (May Allah be pleased with Him). Each place of worship usually takes the form of waqf. Consequently, the Holy mosque is the oldest mosque meant for worship. This differs from dealing with waqf in a more concentrated way as

(1) See the same reference, Decision 140 (6/15)

(2) This includes the areas adjacent to the Haram known as the central area, then it expands until it reaches the boundaries of the Meccan Haram



suggested by jurists maintaining that Mukhairiq wall is the oldest waqf. It is known that the caliph Omar dedicated Quba'a mosque or the Prophetic mosque which indicates the awqaf dedicated as early as the rise of Islamic state. The difference over this issue is well known⁽¹⁾. The Meccan waqf acquires ultimate importance due to the first sanctity of the Bait al Haram. Historically speaking, waqf was restricted to mosques, schools, hospitals, harboring the needy and feeding the poor form among the pilgrims, students, orphans and widows. Sometimes waqf included buying oil for lighting and other facilities which are dedicated in favour of the servants of al Bait al Haram.

Meccan awqaf can be dealt with as follows;

1. Thurri (familial waqf)

Thurri waqf includes all familial and private waqf in the holy city of Mecca el Mukarrama. Given that these awqaf are confined to the members of the family or to the few generations to come, they can be utilized in investment projects. Thurri waqf on extinction inures to charity deeds as it was in the past when they were directed towards Ain Zubaida awqaf.

There are well known historical awqaf in Mecca which belong to awqaf al Ashraf, awqaf al Sanoosi, awqaf Al Sharif Ghalib and awqaf Sultan Mohammad Kojak. Generally speaking, al Ahli awqaf are uncountable and they were often managed by a nazir who was usually one the descendants or grandsons. However, the role of the Ministry cannot be ignored in terms of supervising such awqaf. At the same time, waqf culture was limited because most people took it as something which does not exceed a bequest after one's demise and it is limited to one third (thuluth). Sometimes the waqif doesn't hope to see his bequest observed by his successors and so such awqaf were liable for loss⁽²⁾. On the other hand, there are old awqaf which lost their existence in Mecca due to lack of organization, for example Dar Abi Sufian, Dar Al Arqam and the property of Bani Hashem,

(1) Abu Bakr Al Shaibani known as Al Khassaf: Ahkam el Awqaf, P 4

(2) See Sulaiman El Oda: Waqf: the most important institution in the Islamic history, 1429



all of which are not without a historical significance. On the same level, there are attempts to identify the unknown awqaf in Mecca by conducting surveys and coordinating with commercial chambers and serious academic researches⁽¹⁾. There Um al Qura University is conducting an applied study on Meccan awqaf, in addition to the role of the Supreme Waqf Board which encourages people to notify official departments of any unknown awqaf for a good reward which may reach 5 % of the waqf value⁽²⁾.

2. Ain Zubaida Awqaf.

Due to the geographical location of Mecca, the limited rainfall, the high temperature and dryness, water was caused to evaporate. This is the predominant phenomenon in the KSA, for example, al Rubu Al Khali, Al Nofouz Sahara, Al Dahnaa, al Ahqaf. Therefore a need has emerged for water as a strategic source to be added to the water of Zam Zam which is a gift of Allah. Awqaf of Ain Zubaida⁽³⁾ is among the greatest awqaf, especially when Zam Zam failed to secure the necessary water supplies for the pilgrims. This case was prevalent among the Quraish community which found great difficulty in providing water for the pilgrims . They used to bring water from far places to al Haram. This state of remained until Zubaida (wife of the caliph Harun El Rasheed) initiated the project of Ain Zubaida in 174 AH⁽⁴⁾. This work was followed up, reconstructed, expanded and maintained throughout the generations which followed, most important of which was the renewal of Ain Zubaida which was carried out by Khanum Sultan, the wife of Sultan Suleiman Khan in 965 AH. For 10 years work continued through which financial resources and technical abilities were utilized until Ain Zubaida was brought back to its glorious past in terms of providing water for more than 1200 years⁽⁵⁾.

(1) See the research submitted by Abdul Rahman Faqih: Awqaf in the KSA: Problems and Solutions, 18-19, Shawal 1420

(2) These efforts led to the finding numerous unknown awqaf, the last of which was in March 2009 (ribat Al Sharifa Um Hani Al Saqqaf) in Al Bab neighbourhood whose area is 785 square metres.

(3) Known now as Water and Sanitary Drainage Authority

(4) Adel Ghubashi, Water Installations in Mecca, MA thesis, Um el Qura University, 1410 AH, 784

(5) See Istithmar Ain Zubaida, Awaq Journal, Issue 9

3. Awqaf on education.

Waqf played a prominent role in organizing and developing the educational institution throughout Islamic history. Waqf deed represented the constitution which set down the educational process and its social and educational objectives. This process was subjected to the waqif's conditions which extended to the selection of teachers as based on certain rules and regulations, for example, learning, piety, Math'hab (school of thought), faith and ability to issue fatawa, in addition to other conditions related to the status of students, all of which should mesh with the objectives of waqf institutions, its financial resources and objectives⁽¹⁾

Here we know that waqf represented a solid historical depth in educational institution which extended throughout centuries and produced learned people and jurists. Among the great waqf schools was al Madrassa Al Nizamiyah in Baghdad⁽²⁾, al Madrassa al Azima in Damascus built by Sultan Saleem Khan to which he dedicated several awqaf⁽³⁾. Undoubtedly the waqf library abounded with myriads of books, but with the fall of the Abbasid caliphate in 656 AH at the hands of Hulagu, the treasures of books were thrown into the river. After three decades and in 694 AH al Madrassa al Waqfiya al Fazaliyah in Egypt was sold because of hunger and the high cost of living. Al Mekrizi said that a book in the library was sold for a loaf of bread⁽⁴⁾.

Waqf schools in Mecca Mukarrama were prevalent, for example there was madrassat Qaitbai which was established by Mohammad Qaitbai in the 9th century. It was one of the biggest schools which extended from Bab al Salam al Saghir to Bab al Nabi, followed by six other schools. Immediately after al Masa'a there were waqf residences for the students who usually received payments. In 973 AH Sultan Suleiman al Qanuni, the first Ottoman to rule Mecca ordered 4 schools to be built in line with the 4 Islamic schools of thought (Math'aheb) behind which

(1) Mohammad M. Amin, *Awaqf and the Social Life in Egypt (1250-1517 AH)* Dar El Nahda el Arabia, p242-254

(2) Ibn Jubair, *Rihlat ibn JJubair*, Beirut, P 205

(3) Ahmad Al Telmisani, *Naful Teeb min Ghosn el Anmdalus*, Ihsan Abbas, Beirut, 2/179

(4) Ahmad el MAqreezi, *Al Mawaiz wal Ikhtibar*, Bulaq P. Press, 1270, 2/366



students hostels were built known as Ribat al Suleimaniah. Moneys required for funding these schools were gathered from awqaf al Haramain in Bilad El Sham, Anatolia and Egypt. These schools continued till the end of the 11 century AH. Among these schools is the Madrassa of Mohammad Pasha at the entrance which remained active until the implementation of the project of expanding the Haram. This school provided integrated services, just like madrassat al Zemami which is situated between Bab al Ateeq and al Bab al Bassatiah which disappeared due to expansion. The same applies to al Madrassa al Dawudiah between Bab Ibrahim and Bab al Umrah. Waqf schools were spreading everywhere and plentiful with students and jurists. The author of al Aqd al Thamin⁽¹⁾ mentioned 11 schools in al Masjid al Haram, all of which had their characteristics and waqifs. Recently there was al Madrassa al Saulatiah which is located in al Bab neighborhood, and al Madrassa al Falah which is still existing in Mecca. These 2 schools (al Sawlatiah and alFalah) played great role in graduating scholars, judges, men of letters during the Hashimi and Saudi rule. In Mecca there were many other waqf schools for example al Madrassa al Rashidia⁽²⁾, madrassat Dar al Faizeen and many others. Unfortunately these schools have no traces now due to the expansion of the Haram and the tendency towards investment activities there..

Waqf libraries played an important role in the area of education, but now after the disappearance of schools, but libraries resulting from the ultimate changes there are no libraries in Mecca except the library of al Haram al Makki and the Public Library of Mecca.

Fourth: Real Estate Awqaf

In Mecca there are awqaf which cover the needs of the Haram, the biggest of which is that which belongs to King Abdul Aziz which have no match anywhere at the level of the Gulf countries. It lies 100 meters from the Gate of Abdul Aziz and overlooks the navel of the Haram. The area of the waqf is about 23,000

(1) Mohammad O. Rafie: Mecca in the 14th Century AH, 1981, p201-202

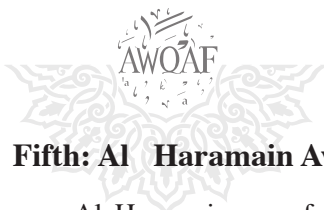
(2) Ibid, p203

square metres with a value of about SR 1 billion⁽¹⁾. The waqf was opened in December 2007 under the name of Zamzam Tower, which is one of five towers established by Munsha'at Company for Real Estate Projects.

A new method in investment is utilized in this waqf by adopting the principle of B.O.T (i.e., Build, Operate and Transfer). The designing of the building is commensurate with the architectural design which suits the environment of Mecca. It is a diversified environment which is witnessing accelerated changes. The area of the project is 91226 square meters, out of which 70,000 meters are dedicated to a developed market. The place of worship in this building caters for 50,000 worshippers. The project includes also 1310 suites with international specifications. All the suites are linked with the Haram to relay the prayers live. Moreover developed technology was used in the various relevant facilities. There are 36 lifts driven by a smart system. A ring road is there to link the complex with a network of roads covering the whole of Mecca. Due to the immense area of the building and the numerous facilities belonging to it, its management is entrusted to the French Accor company.

With respect to the investment aspect of the project, it realizes the material revenue through renting the suites and the other facilities. The idea of renting the suites is employed on the basis of 'timed rent', i.e., renting for numbered dates which extends for 33 Hijri years. Renting is carried out through 'Sukuk Intifa'a' which represent documents to validate the evidence of a right in general. It entitles its holder to utilize the hotel suites according to the timed period each year. The most important point is that each beneficiary should pay the amount in advance, in addition to other expenses related to maintenance and management annually. The lease contract offers certain advantages to the beneficiaries, for example the right of usufruct or leasing, delegating this right to others for a year or more, and the conveyance of the right of the usufruct for the coming years. In case of death during the term of the contract (33 years) the right inures to the successors.

(1) Mussaed Ibn Ibrahim Al Hadithi: Efforts of the Custodian of the Two Holy Mosques Fahad Bin Abdul Aziz in Caring for Awqaf research, Riyadh, 2002, P 48



Fifth: Al Haramain Awqaf (Awqaf of the two Holy Mosques

Al Haramain awqaf were created during the heyday of the Islamic state which extended extensively throughout the whole world. The term indicates those awqaf dedicated in favour of Al Haramain Al Sharifain in Mecca and Medina from the other territories, in addition to those awqaf dedicated for this purpose in Hijaz during the Omayyad period. They were created during the early period of the Omayyad rule. Caliph Hisham Ibn Abdul Malik established a special diwan⁽¹⁾ (office) for those places. At that time, the Islamic state with all its territories and zones was in harmony with the decisions of the Caliph, but the social conditions were integrated with each other. Consequently an event in any part of the empire would surely have its effect on the other parts of the state, Wars, seditions, riots and disasters had their effect on the awqaf dedicated in favour of al Haramain Al Sharifain. Most of those awqaf were humanitarian in nature, for example those awqaf in Mecca showed an interest in building schools, libraries and bimaristans (hospitals). In this regard, Ain Zubaida was the most important. In other territories awqaf cared for providing security for pilgrims which covered all individuals.

Undoubtedly there were awqaf which used to generate revenues during the Mamluki era. Sultan Ashraf dedicated 10 whole villages in Jordan, Palestine and Syria as indicated in the relevant waqf deeds⁽²⁾. Due to negligence throughout the ages and the specific social political circumstances, they were looted regardless of the fact that they were dedicated to Al Haramain al Sharifain. Similarly several awqaf were usurped, for example Nafisa awqaf in Egypt which the sultans raced to dedicate to al Haramain, for example sultan Salahuddin al Ayoubi, sultan Mohammad Ibn Qalawun and sultan Qaitbai⁽³⁾ and others. All the awqaf of the sultans are historically documented through waqf deeds. During the Ottoman era waqf (al deshaisha) emerged and it was concerned with providing a specific type

(1) Fuad al Omar: Contribution of Awqaf to non-Governmental Work and Social Development, KAPF, 1999, P 13

(2) Rashed Al Qahtani, Awqa al Sultan Al Ashraf Shaaban ala el Haramain, Riyadh, King Fahad Library, 1994, p 65.66

(3) Some of these documents are kept several relevant departments in Egypt

of soup to the residents of al Haramain. This waqf was believed to be the best at that time because about 50 villages were tasked to carry out this responsibility in favour of Al Haramain Al Sharifain⁽¹⁾. Furthermore, there are numerous awqaf in favour of al Haramain in most of the Arab countries, including al Maghreb despite the distance which separates these countries from al Haramain. This type of waqf constituted a prevalent culture which took into consideration the public good of the Islamic world, especially the holy places.

Third Tract

Real Estate Investment in Mecca

The process of reviving waqf and restoring its civilizational role through investment embraces several criteria which, for being integrated into the dynamic social movement, cannot be discussed in detail. It is affected by the global factors and this gives it an ample space for discussion and analysis.

Several integrated issues, however, can be approached in the context of talking about the revival of the civilizational role of waqf and developing its investments.

First issue: Human Investment

The specific quality in Mecca el Mukarrama entails observing the religious peculiarity of the city in which the Holy Mosque is located. It is the sole country to which the hearts of all Moslems cleave to perform their religious rites, past and present. It used to be a place for worshippers and students of learning as well. At that time, the waqf decisions responded positively to the activities included in the surrounding environment, including waqf activities themselves. The awqaf of Mecca were diverse and consistent so that they were designed to fulfill the required needs. There were the awqaf of hotels, residential buildings, the teaching of the Quran, and Shari'a sciences with their different schools of thought. There were awqaf for entertaining pilgrims, awqaf for supporting the worshippers

(1) Mohammad Ali Bayoumi: Mukhassasat el Haramain El Sharifain fi Mis fil Asr el Mamluki, Cairo, Dar el Qahera lil Kitab, PP68-73



visited by afflictions, awqaf for the burial of the dead and awqaf in favour of the abandoned visitors and many others.

It should be noticed that all such awqaf and the like of them may fall under the title “human investment” because they seek to provide the favourable atmosphere for fulfilling the basic needs, ahead of which comes the quest for learning. This point is noteworthy because the historical experience of waqf indicates an intensive existence of the learning centers inside the Haram, though this image does not feature properly now because those centers were discontinued throughout the generations. This saying may be rejected once we see the Quran memorizing circles or attending to lectures in the Haram after the prayers. Nevertheless, these practices do not take the form of an entire waqf institution because they do not take an organized tract commensurate with the Sacred City of Mecca. This means clearly that the sons of Moslems do not have the opportunity to receive the shari’a sciences which take the image of a waqf institution in the Sacred City. Waqf investments nowadays are detached from observing such concepts. The towers erected there are solely for profit. We have to take into consideration that some of these practices are imposed by the dynamism of change (demographic environment), especially the outside expansion of the yards to accommodate the largest number of worshippers during the seasons and to cover the operational expenses. The output of waqf investment in this case seem insignificant at the human level from a comprehensive perspective. Moreover, such a trend may aggravate the problem of Mecca characterized by the soaring prices in terms of services, mainly residence in hotels and residential buildings irrespective of the fatawa which hold renting houses in Mecca as a taboo.

Second Issue: Waqf Investment and the Western Experience

The funding facilities available at the sacred City are unique, either at the local or outside level. This state of affairs can be compared to the waqf in the foreign countries to consolidate the concept and confirm that a big gap does really exist.

In the USA, a recent study⁽¹⁾ about waqf and charitable work has revealed stunning results at the waqf work level in the human investment for the year 2005. This covered the religious, educational, medical, and other institutions. Churches, for example in the USA,, numbering 161141 are treated as religious waqf and regarded as major religious institutions in the USA. The study tried to identify the volume of the charitable (waqf) work extended to the churches as a whole. Churches which responded to this study were 6390, i.e., 4% which is an insignificant percentage. Furthermore those churches could be the least effective in terms of distributing waqf. This insignificant percentage has raked in waqf donations amounting to USD 79 billion, which means that each one of the majority of churches gets waqf donations which exceed those extended to the Sacred Mosque, the first Qibla of the Moslems.

Human investment in the USA, as exemplified in the case of Harvard University in the USA and Cambridge in the UK represents a top priority as it is mainly employed in favour of education. A study carried out in 2002 revealed that waqf contributed USD 770 million for funding the university's budget amounting to USD 2, 4 billion⁽²⁾. This means that the awqaf in this university pay 32% for education. In this case, awqaf is a chief financier of the operational expenses of the American universities. The volume of the waqf assets of Harvard in 2005 reached USD 25,5 billion and this entitles it to occupy the first place in terms of establishing awqaf among the American universities. Waqf assets of other universities are highly important, for example Yale University waqf assets reach 15,23 billion; Stanford University waqf assets are estimated at USD 12, 2 billion. Chicago University ranks last in connection with the waqf assets amounting to USD 4,14 billion⁽³⁾.

(1)It is the study carried out by the Urban Institute, National Center for Charitable Statistics and lasted for two years up to 2005. It covered all non-p-profit organizations amounting to 1,413,708. Only 40% responded to the study and the results came surprising in all sectors. See website nccdataweb.urban.org

(2)Harvard website www.news.harvard.edu/gazette

(3)National Association of College and University Business Officers Endowment, 2005



With respect to Cambridge waqf investment, it takes a different way through Bill and Melinda Gates Waqf Foundation, the biggest waqf worldwide. The waqf capital of this Foundation⁽¹⁾ amounted to USD 28 billion in 2005. What distinguishes this foundation is the educational programme based on specific foundations, for example scholarships extended to poor talented students at Cambridge University from the poor countries, mainly African countries. Here we find a direct reference to human investment in the field of the talented people. There are other undeclared strategies in which such talents are prepared to lead the forthcoming generations. Moreover, Gates Waqf carries out several other activities at the level of waqf human investment. It is in the process of establishing 2000 secondary schools with a cost of USD 177 million, in addition to ‘re-developing the American secondary schools and preparing all the students for taking up jobs and citizenship’.

Meditating over the aforementioned bits of information, we can easily understand the nature of the elements at work through which waqf operates, taking into account the issue at stake, i.e., Mecca El Mukarrama. The components of the system are not integrated, non-functional or ineffective, which shows that the whole system is disfigured even the Zakat, which represents one component of the system. It is not in a better case than the waqf. In most cases the Zakat is not paid voluntarily. This causes the state to interfere by forcing all companies to pay the Zakat due from the shareholders. This behaviour is sound and discreet because the state is acting towards rehabilitating the disintegration affecting solidarity.

Third Issue: Awqaf el Haramain

Awqaf el Haramain represent a tremendous treasury which can be utilized, especially the outside awqaf, but the return is insignificant due to negligence, looting and encroachment. Here it is important to highlight the role of reform through changing the waqf systems and old-fashioned laws. A legal waqf centre may be established in the Kingdom of Saudi Arabia, supported by the government, to count those awqaf and restore those falling under encroachment and to activate their role. King Abdul Aziz (may his soul rest in peace), while unifying

(1)See website: www.gates-foundation.org. Bill and Melinda Gates Foundation

the country showed firmness towards maintaining and following up the awqaf. He takes credit for his call for establishing a society to claim the awqaf of the Haramain located outside⁽¹⁾. The Custodian of the two Holy Mosques has recently declared that all the governmental lands in Mecca and Medina are immune and inviolable waqf lands. This attitude is worthy of praise ⁽²⁾, because it confirms the role of the state to settle the waqf pending issues with all relevant obligations. Undoubtedly, the current international circumstances assist in restoring the rights or claiming them. The process of seizing the Haramain awqaf in any country does not constitute a violation of the rights of the territorial state because there are other mechanisms that preserve this sovereignty. Thus the important point here is the transfer of ownership to Awqaf al Haramain as a juridical personality.

Fourth Issue: Laws and Management:

There are steady efforts to restore the waqf property, but, generally speaking, Arab countries failed to reform waqf and activate the required investment, though with few exceptions due the absence of autonomy and free will. Sometimes, and due to restrictions in matters related to waqf, and adopting old and unfashionable techniques, we find that waqf projects lack enlightened planning and fail to fulfill the least requirements. The State of Kuwait is an exception in this regard in view of its pioneering role undertaken by Kuwait Awqaf Public Foundation.

In Mecca, there are vacant waqf lands and other lands dedicated to Ain Zubaida whose revenues are insignificant, and other property with no revenues, not to mention those unknown lands.

On the other hand, the role of management can be boosted and the laws can be activated to benefit from the awqaf in favour of the Meccan Haram in any place outside through steps which need reforms at the level of the waqf and administrative laws. It goes without saying that the organization of waqf requires

(1) Abdul Rahman Faqih: Awqaf el Haramain Al Sharifain. A research submitted to the 1st Waqf Conference in mecca, Um el Qura University, 1422 AH

(2) Website: www.islamtoday, Salman el Ouda: waqf tme mont important institution in Islamic history, 1429 AH



adequate flexibility in registering the awqaf outside the borders of the Kingdom. This trend is worthy of attention because waqf laws in some Arab countries are complicated. Therefore, a waqif is always searching for the convenient measures and this applies to the neighboring locations and nothing is more respectable and revered than the Sacred City.

With respect to the waqf and administrative laws, Mecca awqaf are still subject to the Organizational by-law of the Supreme Waqf Board issued in 1393 AH (The second part has not been issued yet). This system is still as it is and without any change. The lengthy time period (37 years) witnessed great developments in the societal environment, taking into consideration that interest in waqf investment was not adequate to keep abreast with the developments. In the absence of an independent management, there are many passive sides, for example poor performance, slowness, indifference and bureaucracy which hamper any development in management. This is different from the autonomous management adopted by some Arab countries. In this case waqf investment can be entrusted to an independent management, either through joining the private sector, the charitable sector or the governmental sector. This means that the khairy sector undertakes the responsibility for the activities of the waqf management. At the same time this will be subject to the state's control and supervision.

Fifth Issue: Islamic Financial Institutions:

There are popular forms for waqf investment, some of which are carried out through leasing; Hikr which means leasing waqf lands for lengthy periods for an insignificant rent. This is taken from some jurisprudential attitudes which allow for the waqf property to be leased against a petty rent. Which was prevalent at some time in the past. Some regard it as a protection against committing waqf embezzlement. In fact, this encourages innovation in the area of investment through expanding the investment basis outside the real estate property. Here

the emphasis is laid on partnership in joint ventures⁽¹⁾, or activating the waqf investment in utilizing the waqf lands or dealing with the waqf property without defining time duration for that.

In this regard, there are several waqf products which can be re-organized on the basis of the waqf investment. Some of these products, however, may be utilized through the formulas developed by the Islamic banks⁽²⁾. The role of the Islamic Bank of Development is remarkable in connection with coordinating between the various parties, in addition to its interest in waqf affairs and its financial support and adopting awqaf long time ago.

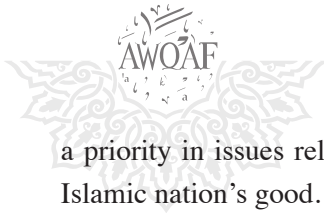
There are certain criteria for the waqf investment which are detached from the financial, material of prophet criteria⁽³⁾, for example:

1. Relative security criterion which means avoiding investments with high risk, together with maintaining the balance between security and profitability.
2. The criterion of realizing stable material revenue which allows for commitment towards providing for the beneficiaries, while keeping away from the investment activities with economic disturbances.
3. The criterion of matching the social and economic income which means directing the investment towards fulfilling the human needs, together with being interested in the economic income which secures coverage of the various spending channels.
4. The criterion of matching between the beneficiaries' interests in waqf proceeds.
5. The criterion of balancing and weighting between the public interests and the individual's interests, in which case public interests sometimes receive

(1) Mohammad Anas Al Zarqa: Financing in waqf Projects, Islamic Economic studies, Vol 1, Issue 2, 1994, P 66

(2) Mohammad Bu Jallal, Towards an Institutional Formulation of the Developmental Role of Waqf; Islamic Economic Studies, Volume 5, Issue 1, 1997, P 26.

(3) Husain Shehada, Investing Waqf Money, Awqaf Journal, Issue 6, 2004, PP 85-86, PP 91-92



a priority in issues related to investment directed at the public good or the Islamic nation's good.

6. The criterion of matching between the present generations and the future generations which means the possibility of forgoing some merits realized by the present generations in favour of relative merits to the future generations.
7. The criterion of partnership in social development.
8. The criterion of applying a reserve for urgencies through utilizing the system of estimative cash budget which depends on the principle of research in the areas of experience and expectations.

Here it is preferable to keep away from investment contradictory to the aforementioned criteria or some thereof, for example business in real estate property which could be exposed to recession and failure to realize cash money whenever required. The same applies to some banking formulas, for example Buyou el Salam and speculation which are known for their high risk.

Sixth Issue: Merger of Awqaf

On the other hand, waqf investment can be boosted through utilizing new vehicles which are likely to promote waqf performance and efficiency, for example creating big funds or resorting to the merger among the major companies such as small awqaf through means of replacement or any other means. This is decided by the weighted interests of waqf. In this regard, Ibn Abideen says, "In matters whereon scholars are at variance, the determinant will be which is more beneficial in order to preserve charities⁽¹⁾ and the Divine right".

In the case of Mecca, and around the Holy Mosque, there are 37 pieces of land whose total number amounts to 1500 square metres, i.e., less than 50 metres a piece ⁽²⁾. In this case, merger is necessary because the cost of a small waqf

(1) Mohammad Ibn Abideen: Rad el Mehtar ala el Durr el Mukhtar, Edition 2, Beirut, Dar el Fikr, 1386 AH, 4/344

(2) Mohammad Abdul Rahman Faqih, Awqaf in KSA, mushkilat wa Huloul, Seminar, 18-19/10/1420 AH, P 9

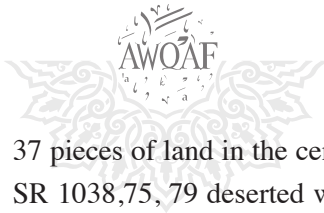
is usually high when compared with that of the big waqf. This will naturally lower the material income. Moreover, merger is known to realize additional economic advantages, for example the low operational expenses coupled with effectiveness through specialization and integration among small awqaf. This will naturally require sound studies. Any waqf survey must be followed by a feasibility study which takes into consideration the market value of the assets, the potential income and the operational and administrative expenses. Such elements are to be reckoned with on executing the merger. Here diversifying the receptacle of waqf should be observed in terms of various investment sectors which go in line with the surrounding environment.

In order to benefit by some of those opportunities and create new investment reforms, Mecca for Building and Construction Company was established in 1409 AH, with a capital of SR 1355 million. The capital of the company consists of small awqaf and some non-waqf shares. The waqf capital in 1427 AH was 12% of the whole capital. This percentage is distributed among non-governmental awqaf, Ain Zubaida Awqaf, in addition to 34 other awqaf. The value of such assets at the time of the merger did not exceed SR 169 million but through merger and development the value rocketed to SR1,23 billion⁽¹⁾, taking into account that they are small awqaf.

The company aims to construct the locations adjacent to the Holy Mosque (the central area), owning, developing, managing, investing and renting it. Among the projects of the company are Abraj Mecca, Hilton Mecca and Mecca Commercial Center. The major projects initiated by the company are the project of developing Jabal Omar which is located to the west of the Holy Mosque, with its strategic position.

Faqih Center for Research and Development, in cooperation with the Ministry of Awqaf and Islamic Affairs carried out a land survey for the awqaf in Mecca, including the central area and found the number at 521 real estate property, out of which there were 32 buildings whose value is estimated at SR78,4 million;

(1)Market value equals the dealing price multiplied by the number of shares, i.e., SR 1224,7 million.



37 pieces of land in the central area whose area is 1500 square meters valued at SR 1038,75, 79 deserted waqf (houses, shops and unrented lands)⁽¹⁾. The study came to the conclusion that these lands should be developed on the basis of a detailed feasibility study which takes into account the strategic location and the high market value.

The proceeds of Meccan awqaf(with the exception of the Holy Mosque) amounted to SR 6,2 billion in 1414 AH, but now the proceeds in 1425 AH soared to 220 million i.e., 733% increase. This is attributed to the effective investment and reviving the inert awqaf, for example Ain Zubaida which generated no proceeds. Its proceeds now amount to SR 18 million in the same year.

CONCLUSION

The major results and recommendations of the research can be put down as follows:

First: RESULTS

1. The discussions among the jurists concerning the definition of waqf are not without raising criticism, for example the meaning being submitted as a whole do not lead to the unity of the concept within the system because they are restricted to the teachings of one school of thought (Math'hab).
2. Islamic shari'a contributes to the theoretical definition of waqf in a better way because the problems we deal with as a given fact are actually completely obscure. They can be solved or converted into tiny problems because the shari'a teachings support the waqif's behaviour being based on deep faith.
3. The term 'investment' indicates 'deduction'. This meaning implies ijthihad and innovation. Therefore, ijthihad in the Usoul learning can be shifted to other social activities, including istithmar to realize the income of the waqf proceeds.

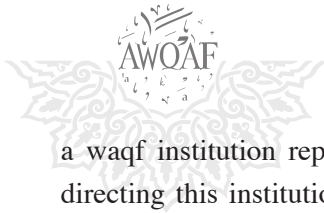
(1)Mohammad Abdul Rahman Faqih: Awqaf in KSA, P 9



4. There are criteria for the waqf investment which cannot be viewed from the materialistic perspective or the profit in an abstract way. It is the criterion of the relative security, the criterion of realizing a material stable income, the criterion of equilibrium and weighting between the individual's interests and the public good. Then there is the criterion of matching between the interests of the present generations and the future generations; the criterion of partnership in the social development and the criterion of matching between the interests of beneficiaries and the criterion of applying a reserve for the urgencies.
5. It is preferable not to carry out waqf investment solely on the basis of profit without turning to the advanced criteria, for example business in real estate property because this may fall into recession and the failure to realize money whenever required., for example some banking transactions such as Mudharabah, Buyou el Salam, Buyou el Murabaha because they are liable to face high risk.

Second: Recommendations

1. Priorities should be pinpointed in connection with any modern waqf activity if we want to set down a developmental theory for waqf, being applicable in the light of the data elicited from a statistical study and waqf deeds and documents.
2. Activating the components of the Khairy (charitable) waqf which takes the form of flowing and ongoingness and embraces a big human receptacle. The concept of waqf is based on the ongoing charity, together with the ongoing reward. This takes place along a lengthy period of time because it is of the same type that never discontinues.
3. Adopting the concept of the waqf investment on the basis of social philosophy founded on three principles: Factual experience, social solidarity and ethics and the sense of personal responsibility
4. The concept of waqf should be utilized in favour of human beings because



a waqf institution represents a human product. This does not mean that directing this institution towards investment is a departure from the entire fact integrated in the meaning of waqf and which implies the existence of a link between the waqf investment and the environment which may create a new meaning of integration and organization with the society as a whole.

5. Waqf investment should be directed to education in a broader sense as it is the case with Gates Foundation, Rockefeller Foundation and Ford Foundation as based on the Islamic experience which has a rich tradition in the area of education which extended along several centuries and produced outstanding scholars and jurists.
6. Building a legal waqf center in the KSA to take charge of the awqaf of the Haramain, assisted by the government to claim the usurped awqaf and activate their role.
7. There are several waqf products which can be re-arranged on the basis of the waqf concept. Most of these products can be utilized through the formulas developed by the Islamic banks. Here we should not ignore the role of the Islamic Bank of Development in this domain and its ability to coordinate among the various parties in respect of waqf issues, in addition to its specific duties represented in attending to waqf and its financial support and attending to awqaf long time ago.

References

1. Faqih, Mohammad Abdul Rahman, Awqaf el Haramain El Sharifain, A research submitted to the Fuirst aqf Conference in Mecca, Um el Qura University, 1422
2. Faqih, Mohammad Abdul Rahman, Awqaf in the KSA, Mushkilat wa Huloul. Kakanutul Waqf Seminar, 18-19/10/1420 AH
3. Al Fairuz Abady, Al Qamus el Muhit, Al Resala Institution, 1993
4. Al Qahtani, Rashed Saad: Awqaf el Sultan Al Ashraf alal Haramain, Riyadh, Hing Fahd Bookshop, 1994

5. Ibn Qudama Al Maqdesi, Al Mughni, Edition 1, Beirut, Dar El Fikr, 1405 Ah
6. Al Qarafi, Ahmad Bin Idris, EAl Farouk, Egypt, Albab el Halabii P. Press (no date)
7. Al Mubarakfuri, Abul Ula Mohammad Bin Abdul Rahman, Tuhfatul Al Ahwathi sharh Jamie Al Tarmathi, Beirut, Dar el Kutub el Elmia (no date)
8. Al Maqreezi, Ahmad Bin Ali: Al Mawaiz wal I'tibar bi thikr el Khitat wal Ather, Bulaq P. Press, 1270
9. Al Naimi, Abdul Qader Bin Mohammad: Al Daris fi Tarikh el Madaris< Edition 1, Beirut, Dar el Kutub el Elmiah, 1990
10. Natural Association of College and University Business Officers Endowment, 2005

Websites:

1. [www. Islamtoday.com](http://www.Islamtoday.com)
2. nccsdataweb.urban.org
3. www.gates foundation: Bill & Melinda Gates Foundation
4. www.news.havard.edu/gazette

Researches



Temporal Waqf (Endowment) to Activate University Youth's Role in The Field of Voluntary Services in Hajj and Umrah.

“Project of Temporal Waqf to Develop Civilized and Globally Used Models for Voluntary Work which Achieves the Civilizational Witness”

Dr. Kamal Mansouri ⁽¹⁾

Abstract

This research aims at consolidating the theoretical model of university voluntary work in the field of offering services for those who go to perform out the Hajj and Umrah rituals. Will be the base on launching a pilot and practical model combines the temporal endowment for benefits and volunteering, among university students, by identifying the concept of philanthropy and volunteerism and the statement of the importance and relationship between endowment by volunteering and foundations of volunteerism among universities youth students, as well its constraints. Finally, the study analyzes the role of the endowment

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in attracting and assimilating universities to volunteer in the areas of offering services in Hajj and Umrah. The research has come to the conclusion that the student who volunteers, through a temporal endowment, can contribute to the provision of quality voluntary services in the season of Hajj and Umrah in several areas. Including health, mental health, communication and information technology, administrative services, education and religious guidance, statistics and monitoring, the use of computers, and network management.

Introduction

Volunteering is a humanitarian practice which is closely associated with all the meanings of good. Good work through history of humanity and volunteering work has been considered as civilized and sublime behavior and a symbol of progress. The size of members' involvement of the society and the extent of their commitment to volunteering is a measure of the social effectiveness, which is the best indicator in predicting the economic growth expected in the future, since the existence of a strong tradition of civic for cooperation and social networks, trust and commitment to the social common good may help in promoting economic growth and stability and social cohesion and solidarity.

Voluntary work has become one of essential ingredients for the overall development. It has gained growing interest of governments and mass media in developed countries, where it occupies concerns of public, political, economic, and has constituted, according to "Laster M. Salamon", the Global Association Revolution" that was accompanied with the re-formulation of the developmental role of charitable and volunteering associations and organizations. It represents an important approach to problems and imbalances solving posed by the liberal capitalist system. The levels of time volunteering have increased throughout the world, and recorded high records in the developed world where more than 60 million Americans participated volunteering in charitable organizations in 2006.

One of the statistical reports showed that 44 % of adults in American society



have been involved in charitable work, and more than 3.3 million college students has participated in volunteering activities in 2005. In this sector, nearly 10 million employees regularly work on a permanent basis, as well as the 90 million volunteers who participate in all religious works, relief and humanitarian work, for 5 hours a week in volunteering work in all domains. This sector is the third largest employer in the U.S. In Canada, the number of people who volunteered their time was more than a quarter of the population of the community members. Additionally, 6.5 million Canadian representing 27% of the population aged over fifteen years practiced voluntary work through one of the association working in this sector. Meanwhile the rate of individuals voluntary work of time and effort was 162 hours of work per year, which represents ultimately what more than half a million hours were annually spent in this type of work.

In return for this wealth and the expansion of the volunteer experience in the West, generally Arab and Islamic societies suffering from weak voluntary activity as social behavior and human civilization culture, despite the considerable reservoir of human energy that we have. As well as the balance of the historical tradition of volunteer and social practice of philanthropy and volunteerism activity, but our Arab and Islamic considered, compared to other communities as sluggish one in the field of voluntariness activity, and that what has been achieved in this area is minimal in relation to what it should be, and what is needed to accomplish. Volunteering among university students is suffering from the reluctance of young people from participating in such activities and the lack of awareness of voluntariness in the university community.

Time volunteering or time endowment is a form people's benefits endowment of which they volunteer out of their time in charitable causes and in providing support and assistance, including the exerted efforts in the provision of services, expertise and guidance and counseling. The time endowment is one the best ways to take advantage of the time in directing capacities, self-building, developing knowledge, gaining experience and the blasting and crystallizing of latent potentials.

Moreover, it enhances sense of belonging and responsibilities shouldering, and so it represents an ideal model to accommodate young people, especially in universities and engage them to participate in voluntariness activities because this category of the community has the quantity and quality peculiarity which makes it more able to shoulder the responsibility for the implementation of qualitative voluntary work programs and activities in the field of offering Hajj and Umrah services.

The problem of the research

The Hajj and Umrah seasons have a universal character and attract large numbers of pilgrims who need a wide service coverage which requires the provision of considerable material and human capabilities, and exerted efforts offered by the state in this area that must be consolidated by communal effort and support which appears in the form of qualitative voluntary work to serve the pilgrims, since it is assumed that the university as a qualitative institution in the social fabric and it has human, material and organizational resources that qualify it to play this crucial role, therefore the problem that will be spotlighted in this research is as follows:

How can the role of young people in the university be activated in voluntary work services in Hajj and Umrah through the temporal endowment of benefits so that the university can develop a global voluntariness model that will be at the level of the State's efforts in improving and developing the Hajj and Umrah services?

The hypotheses of the research:

This research is based on two main hypotheses:

- Time endowment or temporal time endowment for benefits represent substantial tool that can contribute in activating the university youth's role in enhancing and developing voluntariness services in Hajj and Umrah.
- The volunteer university youth represents special category qualitatively and quantitatively that can be attracted and accommodated to participate in



providing qualitative voluntariness works and activities in the field of offering service in Hajj and Umrah seasons.

The significance of the research:

The importance of this research pours out of the following:

1. Voluntariness has become a pressing social demand, and developmentally a vital ingredient, and the basis for the building of civilization and given that the university is the interface and the beating heart of society, the revival of the volunteerism culture and establishment of values of solidarity should start from the university.
2. Voluntariness work and activities are linked with values of faith and spiritual longings inherited in the idea of endowment that provides it with mortal and spiritual strength necessary to motivate the individual to participate in such work and activities voluntarily.
3. That the enormous potentials which are allocated by the state for the development of Hajj and Umrah services should be supported by voluntary effort that is led by the university.
4. The importance of studying the relationship between endowment and a specific layer of the society represented in the university young students as a category of university youth.
5. The possibility of introducing applied models to activate and instill the culture of temporary endowment of benefits in the university young students.
6. The possibility of generalization of the proposed model with other categories of the society.

The goals of the research:

The research aims at achieving the following objectives:

- Establishing the origin of theoretical model for the university in the field of voluntariness in offering services pilgrims that form the base to launch a pilot

and practical guidance model which combines two basic ideas: endowment and volunteering.

- Instilling values of belonging and behavioral discipline among universities' students through making use of the symbolic value of the idea of the endowment.
- Disseminating the culture of voluntariness through an original idea that is represented in endowment which could contribute in encouraging young people in universities to volunteer, which works on creating new generations that have a clear vision and mission towards their homeland and community, consequently; their ideas at university state can crystallize and become a part of practical reality after graduation and enrollment in the labor market.
- Enhancing the sense of responsibility towards others since voluntariness is virtuous and deed activity that individuals seek for and it is appreciated by the community.
- Consolidating youth's sense of belonging and engagement in their community which provide them with opportunities to carry out services by themselves as well as their positive participation in the public affair.

Methodology of research :

In order to deal with the problem set forth and to analyze the domains of this topic, the following methodological issues can be used as guidance:

Chapter One: Concept and importance of charitable and voluntary work.

Chapter Two: Concept of endowment and its relation to voluntary work.

Chapter Three: The volunteering of the university's youth: Its basic pivots and barriers.

Chapter Four: The role of time endowment in attracting and accommodating universities' youth to participate in voluntariness domains pertain to Hajj and Umrah



Chapter One:

Concept and importance of charitable and voluntary work.

To define the concept of charitable and voluntary work we must deal with a series of interconnected and overlapping terms i.e. the volunteer work and charitable and voluntary sector and social capital.

The First Requirement:

the concept of voluntary work and charitable and volunteering sector

Linguistically, voluntary work is “what was donated by a person by himself, which he was not obliged to do”⁽¹⁾, while, idiomatically volunteering is “an effort that is exerted by anyone free of charge to the community who is internally motivated to participate in shouldering responsibility for the organization where he/she works to provide social welfare”⁽²⁾ Charitable and volunteering work is “a commitment to provide assistance through exerting time and effort for the benefit of the community, group, environment or individuals who do not belong to the family of volunteering with direct and close linkages, taking into account that such assistance does not require financial profit to volunteering,”⁽³⁾ and it is “an effort that is based on certain skills or experiences which are exerted voluntarily for the purpose of performing a social duty and without necessarily expect a financial reward”⁽⁴⁾.

(1) Gmal Al-ddeen Mohamad Makram – Iben Manthour, Arab Tongue, part eight, Dar Sader, Beirut, 1997

(2) Suliman Ben Ali Al-Ali, Development of Human & Financial Resource in Charitable Organization, Amana Foundation, 1st edition, Bletisfel, 1996, p. 67.

(3) Team of Excel, the general strategy for volunteer work in the United Kingdom, 1st edition, the Kuwait Awqaf Public Foundation, 2003, p 9.

(4) Mohamed Nageeb Tawfiq Al-Deeb, Volunteering: Its concept, dimensions, aims and relationship with social welfare work and public service, social integration and social relations and social service “An analytical and descriptive look,” Researches of First Scientific Conference on volunteering services in Saudi Arabia, Umm Al Qura University from 27 to 29, Jumada Al-Thani 1418, Makkah Al-Mukaram, p. 209.



A volunteer is “a person who enjoys a certain skill or experience that he/she uses to carry out social duty voluntarily and with expecting financial reward.”⁽¹⁾ and “voluntary work is considered a basic motivator of development with comprehensive concept economically, politically and culturally it is a vivid proof of vitality of the community and its individuals’ readiness to sacrifice and dedication”⁽²⁾

Socially; voluntariness is defined as “the effort, endowment or money that is exerted by an individual in serving the society voluntarily, and without expecting any financial in return”⁽³⁾. Voluntariness work is motivated by goodness motivations that are deeply instilled in the depths of the human psyche, and from the level of collective progress and consciousness.⁽⁴⁾

Social and voluntary work is the social and economic activity which is carried by individuals or actors in public social bodies, institutions and gatherings without any financial return in order to reduce the volume of problems and treat them either by spending money or exerting effort⁽⁵⁾

From the perspective of the United Nations related to volunteers, voluntary work is a not-for profit and it does not offer specific financial return, and it is non-functional/professional work that is carried out by individuals in order to help them develop the standard of living of others, mainly their neighbors or human societies as absolute. There are enormous forms and practices which comprise voluntary work such as the traditional participation of mutual benefit and helping others in times of stress and in the event of natural and social disasters and crises. All of these voluntary work activities are done by the individuals voluntarily and

(1)The previous reference, p. 209.

(2)Tawfiq Osseiran, motivation skills of volunteering work; research and workshop on “ Stimulation practices of volunteering work”, organized by the Association of Inheritance Charity in collaboration with UNDP, on the occasion of the volunteering year in 2001, in Beirut.

(3)Hassan Musa Al-Safar, Volunteering wok in the service of the community, publisher, the author himself, Al-Qateef, 2005, p. 16.

(4)The previous reference, p. 19.

(5)Abdullah Al-Ali Al-na’eem, Social volunteering work with a focus on the voluntariness work in the Kingdom of Saudi Arabia, Riyadh, 2005, p. 19.



as a normal reaction and without expecting any financial return but for satisfying their sense of happiness when helping injured people and gathering those in distress and stave off hunger and diseases of the poor and the needy.⁽¹⁾

As for the concept of the charitable sector through which the volunteer work has become literature on voluntary charitable work has become available on many different definitions and terminology for this sector, each of which stems from a different basis for discriminating third sector organizations. It describes the active sector outside the market sector and outside the government sector. The term voluntary sector focuses on one of the most important inputs to the sector i.e. voluntariness.⁽²⁾ Based on comparative research project of the non-profit sector at the University of "Jones Hopkins" in the United States of America, the structural - procedural definition has been selected which defines the sector as a (group of organizations in which comp arises five key ingredients, and it is official - in terms of legal status - and particular, does not distribute profits, govern itself and they volunteering organizations.)⁽³⁾

The Second Requirement

Voluntariness work in Islam: Properties and legitimacy of volunteering to serve the pilgrims in Hajj and Umrah.

The social values, especially religious ones that are rooted in the Arab and Muslim world helped in deepening and enriching the spirit of volunteerism⁽⁴⁾ since has Islamic law has called for to the practice of social voluntary work in all areas of life that achieve comprehensive and vital development for every human

(1) Ibraheem Hussein, Volunteering work from global perspective, The researches of the Second Conference on Volunteering in the developmental project in the civil institutions: priorities and challenges, Sharjah , on 23-24, January, 2001, on website address: www.saaaid.net, Date of visit: 18th July, 2011 at 19:00 p.m.

(2)Amani Qandel, The economical and social contribution of the civil institutions in the Arab countries, case study: Jordan, Egypt & Tunisia – The Arab Network for the NGOs, Cairo, 1999, p. 15.

(3)Lester M. Salamon & Helmut K. Anheier, The concept of charitable and voluntary work – comparative study on the non-profit sector: Objective, definition and classification – Translated by Naser Al-Mutari, Kuwait Awqaf Public Foundation, 1994, pp (18 – 20).

(4)Ibraheem Hussein, previous reference.

in the society, because there are many needs and desires are growing for every human but resources are unable to fulfill these needs and desires of humanity, so as to achieve development and the appoint of human as a successor on earth; therefore social volunteering work should be practiced in all domains of human life since individuals can't live without their friends to support and stand with them seeking for the satisfaction of Almighty Allah, and sacrificing their lives, monies and children in order to provide all needs to their brothers in humanity and even the animal has received considerable attention and care. Consequently; we find that there are many social areas of volunteering.⁽¹⁾

1. The legitimacy of the charitable and volunteering work

Charitable and volunteering work occupy as a social cult deep layer in the Muslim faith, as it represents an important resource for reward and remuneration, and in terms of its legitimacy there are ample evidence that mentioned the Holy Quran and the Sunnah, some of these evidences demonstrate this issue as a duty, and some of them consider charitable work and activities as desirable. Islamic law has called for volunteering and urged and promised to those who participate in such work and activities to achieve success and reward.⁽²⁾ The following are some of the manifestations of charitable and volunteering work and activities and the evidence of their legitimacy which are quoted briefly:

- in the Holly Quran several verses are mentioned which call to do good and, including the words of Allah in the story of Moses, peace be upon him: (*So he watered (their flocks for them, then he turned back to shade, and said” My Lord! truly, I am in need of whatever good the You bestow on me!)*)⁽³⁾ and the words of Allah: (*And whatever good you send before you for yourselves, you*

(1)Abullaziz Ben Mohammad Mesfer Al-Ghamidi, Social and voluntary work from the perspective of Islamic Education and it applications in the secondary schools, (Unpublished Master thesis), College of Education, Umm Al-Quara University, Makkah Al-Mukarma, 1429, p. 93.

(2)Gamal Qutop, Some Shariah aspects of the civil institutions, Researches symposium on the economical and social evaluation of civil societies in the Arab Republic of Egypt, Center of Saleh Abdullah Kamel for Islamic Economy, Al-Azhar University, Cario, Part III, 29 – 30 October, 1997, p.104.

(3)Al-Baqarah (The Cow); verse number 158.

certainly find it with Allah, better and greater in reward)⁽¹⁾ and the words of Allah: *(And they give food, in spite of their love for it to the poor, the orphans and the captive.)*⁽²⁾

- In the immaculate Sunnah Prophet peace be upon him reported the following words: *(Orphan and I like these two in Paradise, pointing to his two fingers: index and middle)*⁽³⁾. And He said: One who strives to help the widows and the poor is like the one who fights in the way of Allah.” The narrator said: I think that he (PBUH) added also: “I shall regard him as the one who stands up (for prayer) without rest and as the one who observes fasts continuously”⁽⁴⁾ and he also said: *((Allah will aid a servant [of His] so long as the servant aids his brother.))*⁽⁵⁾

For voluntary work in the season of Hajj and Umrah is evident and religious texts from the Quran and Sunnah such as when Allah says: *(And whoever does good voluntarily, then verily, Allah is All-Recognizer, All-Knower.)*⁽⁶⁾ indicating the legality of voluntary service, and this verse received in the context of mentioning an act of Hajj and Umrah. And He also says: *(O you who have believed! Bow down, and prostrate yourselves, and worship your Lord and do good that you may be successful.)*⁽⁷⁾ is a gentle reference to the importance of volunteering in the provision of services to pilgrims and Umrah performers, and alert to the importance of volunteering as one of the requirements and supplies to be successful in the life and the hereafter.⁽⁸⁾

(1)Sura Al-Muzzammil (The One wrapped in Garments) verse number 20.

(2)Sura Al-Insan or Ad-dahr (Man or Time) verse number 18.

(3)Narrated by Al-Bukhari

(4)Agreed upon

(5)Narrated by Muslim

(6)Sura Al-Baqarah (The Cow); verse number 158.

(7)Sura Al-Hajj (The Pilgrimage); Verse number 77

(8)Mohammad Hussein Sa'eed Bukhari, Voluntary services, in the Book and Suna: Concept, importance, and their domains, The Researches of the first scientific conference on the volunteering services in the Kingdom of Saudi Arabia, Umm Al-Qura University, 27 – 29 Jumada Al-Thani, 1418, Makkah Al-Mokrama, p. 94.

2. The characteristics of charitable and volunteering work in Islam

Charitable and volunteering work in Islam has characteristics that distinguish it from other acts of charity and volunteering in other religions and the most important of these characteristics include the following:⁽¹⁾

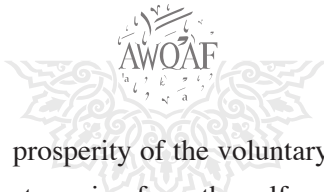
- **Comprehensiveness:** support and supply and good work are exerted and given to any needy individual whether a relative or non-relative; a friend or a foe; a Muslim or non-Muslim, a human or an animal.
- **Diversity:** charity work does not take one single stereotype image, but it rather has multiple forms and manifestations, according to the people's needs and demands, and according to the ability and potential of philanthropist, it might be good to provide money, allocate part of the time and effort of experienced and specialized individuals.
- **Continuity:** Islam has imposed upon Muslims to carry out charity work and activities and these actions represent a generous space to do good and race volunteering circle through doing good deeds seeking for reward even after departure from this world to the hereafter.
- **The strength of the motivation:** It is one of the greatest characteristics of charity work in Islam since volunteering result in strong incentives and motives of live conscience, entice its love, push and engage the Muslim, invite him/her to continue, race to accomplish and implement the charitable and volunteering actions.

The Third Requirement

The Importance and characteristics of volunteering activity

The indulgence of society in volunteering means that the community has taken the crucial initiative to get rid of the problems and obstacles that hinder the march towards achieving higher levels of growth and progress, and therefore the

(1) Mohammad Youssef Al-Qaradawi, The fundamentals of the voluntary work in light of texts and Shariah purposes, Dar Al-Shorouk, Cariro, 2008, pp (35 – 41).



prosperity of the voluntary work movement and spread makes it a driving force stemming from the self-powers of the community that motivates it to depend on the efforts of individuals to meet the requirements of its development.⁽¹⁾

According to the literature of philanthropy and volunteerism in the western countries that the voluntary sector gives citizens the opportunity to contribute their time, money and skills voluntarily to upgrade and improve some of the activities and services, also citizens are allowed to participate in decision-making.⁽²⁾ In the United States of America statistics for the year 2005 indicated that the charitable sector occupies a prominent status on the global level, where nearly 10 million employees on a permanent basis, in addition to the 90 million volunteers in all religious works and relief and humanitarian is organized in this sector for are organized by 5 hours of work per week volunteering in all domains and specializations. Furthermore, this sector is the third largest employer in the U.S.⁽³⁾

At the level of social services, tertiary non-profit institutions expanded in carrying out the roles of social charity in nature with the aim of contributing to alleviate the negative side effects of the policies of capitalism⁽⁴⁾, which offers services in several areas, including education and scientific development, health care and social welfare, and the third sector has hundreds of private hospitals, universities, research institutes, social service agencies, organizations of

(1)Mohamed Nageeb Tawfiq Al-Deeb, previous reference, p. 283.

(2)Martin Knapp, Eileen, Robertson & Corinne Thomasson. Public money voluntary action In third Sector Comparative studies of Nonprofit Organization. Editors: Helmut K. Anheier and Wolfgang Seibel, Water de Gruyter. Barlin, p. 209.

Fares Masdor, Financing and investment of Endowments – between theory and application, with reference to the Algeria's case. Unpublished Doctoral thesis – College of Economical, Commercial & Management Sciences, Algiers University, 2008, p. 144.

(3)Peter F. Drucker, Managing for the Future: The 1990s and Beyond, translated by Saleeb Botrus, International House of Publication & Distribution, of Cairo, 1998, p. 313 et seq.

(4)Reham Ahmad Khafaje, The role of the charitable organizations in studying politics in the United States of America – case study: Ford Firm (1950 – 2004), unpublished master thesis, College of Economy and Faculty of Economics and Political Science, Cairo University, 2006, p. 34.

social development, training and rehabilitation centers, zoos and business associations, and others.⁽¹⁾

As for what can be referred to here, spending on religious affairs takes more than one-third of the total value spent on volunteering and charitable work, and it can also be noticed that the charitable organizations in the United States of America focus education, since concentration on this sector can achieve outputs that in turn contribute to the development of society.⁽²⁾

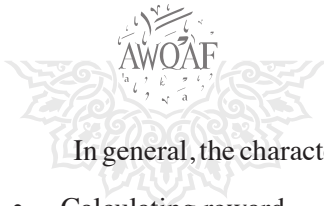
The importance of volunteering is attributed to the following factors:

- Identifying gaps in the system of services in each community.
- Supporting the effort and the government work for the benefit of the community by raising the level of service or expanding them, and the provision of services that may be difficult for the government administration to provide due to flexibility nature volunteering organization and institutions and their ability to move faster.
- Volunteering is an important phenomenon that refers to the vitality of the masses and their positiveness, and volunteering is used as an indicator to measure and judge the progress of peoples.
- Providing opportunities for citizens to perform the services themselves, which reduces the size of the social problems, and provide an opportunity for citizens to contribute to the training on participating in decisions that affect their lives and their community?
- Spotlighting the image of the humanitarian of community and strengthening solidarity between the people and the establishment of the human touch free of conflict and competition.⁽³⁾

(1)Laster M. Salmon, What is the Nonprofit Sector and Why Do We Have It? The Nature of Non-profit Sector, Edited by J. Steven Ott University of Utah, 2001, p 163.

(2)Fares Masdor, Financing and investment of Endowments – between theory and application, with reference to the Algeria's case. Unpublished Doctoral thesis – College of Economical, Commercial & Management Sciences, Algiers University, 2008, p. 144.

(3) Suliman Ben Ali Al-Ali, previous reference, p. 78



In general, the characteristics of volunteering can be summarized as follows:⁽¹⁾

- Calculating reward
- Decreasing the operational expenses in the volunteering organization.
- Providing volunteers with field and administrative experiences in charitable work.
- Directing human potentials and transforming to the benefit of the community.
- Performance enthusiasm that is missed in routine work.
- Volunteering work allows room for initiative and chooses the type of work.
- Filling changes in some rare specialties.
- The volunteers introduce the institution to the rest of society and thus the charity institution is linked to the society.
- Filling individuals' spare time useful activities which make them feel of their selves and have a feeling of happiness as a result of achievement.
- Through volunteering work we can obtain the full capabilities of the individual, and to avoid isolation and to keep away from the obsessions of fears and spiritual elevation and give meaning to human life.⁽²⁾

Chapter Two

Concept of Waqf (endowment) and its Relation with Voluntary Work

The First Requirement

Concept and types of Waqf (endowment)

Literally, the term waqf means “detention and prohibition”⁽³⁾. Conventionally; waqf differs because of jurists’ different viewpoints. Malikis defines waqf as “Making owner’s benefit even with wage or yield for a period of time that

(1) Suliman Ben Ali Al-Ali, previous reference, p. 78

(2) Atheem Gamal and Harvey MaChenon, the strength of giving, How can giving achieve richness for us – Translated by Jarer Library, Riyadh, 2010, p. 190.

(3) Ibrahim Al-Baiumi Ghanem, Endowment and Politics in Egypt, Dar Al-Shourk, Cairo, p.45.

is specified by the waqf giver”⁽¹⁾. Imam Muhammad Abu Zahra summarized the definitions of the jurists when he defined waqf as follows: (Waqf is the disposition in Al-Ain that can be benefited from and dedicating its proceeds to charitable institutions). It is seen that this definition is most honest and comprehensive for the forms of waqf by jurists who approved it.⁽²⁾

Waqf has many classifications which can be categorized according to many considerations; for example, according to its timeframe i.e. perpetual waqf and temporal one that is specified by a period of time that can include the following items:

1. Real estate endowment: Jurists agreed on the legitimacy of real-estate such as land, houses, stores or orchards.
2. Movable property endowment: it can be temporal waqf without any restrictions.
3. Benefits endowment: the benefit that can be gained from using Al-Ain and it can be a rich domain for temporal endowment according to those who permitted this type of endowment.
4. Money endowment: according to those jurists who permitted this type of endowment, money is very important that can be temporally and perpetually endowed based on reciprocity.
5. Rights endowment: Legally, money is defined as “an interest with a financial value that is protected by law”⁽³⁾ and it can take different forms such as financial and non-financial rights.⁽⁴⁾

(1) Al-Dader Ahmad, Brief explanation to the nearest approach of Imam Malek’s doctrine, Dar Al-Ma’ref, Cairo, 1986, pp (97 – 98).

(2) Mohammad Abu Zahra, Lectures on Endowments, Dar Al-Feker Al-Arabi, Cairo, 1972, p. 8. - Shaouk Ahmad Donya, New Endowment Domains: Benefits and Rights Endowment, Researches of the Second Conference on Endowments, Umm Al-Qura University, Makkah Al-Mukarama, 11 December, 2006, p. 131.

(3) Adullrazaq Al-Sanhouri, The source of right in Islamic Fiqh, Dar Al-Ma’ref Library, Cairo, 1967, Part 1, p. 5 – quoted from Shawqi Ahmad Doniya. Researches of the Second Conference on Endowments, Umm Al-Qura University, Makkah Al-Mukarama, 11 December, 2006, p. 129.

(4) Shaouk Ahmad Donya, New Endowment Domains: Benefits and Rights Endowment, Researches of the Second Conference on Endowments, Umm Al-Qura University, Makkah Al-Mukarama, 11 December, 2006, p. 131.



The Second Requirement

The relationship between waqf and social work.

Philanthropy and volunteerism deployed in developed countries today look like the idea of the Islamic Waqf but they do not resemble it. The idea of trust in the American charity system is the most suitable general framework which other forms of the western endowment from are list under and it is the nearest concept to the concept of Wqaf and detention⁽¹⁾, since the idea of trust revolves around the allocation of funds that some monies can be turned into immovable assets which generate revenue and some money is ready to invest⁽²⁾, suggesting the possibility of considering endowment as part of the components of the private sector or the third sector according to the following considerations:⁽³⁾

1. Before direct government intervention in the management of endowments, shouldering the responsibility of overseeing the endowment in terms of its investment or proceeds dispensing was assumed by waqf superintendents, and this position is held by best people and the elite of the local community such as judges, scholars, ministers and ascetics. For example, “Al-Maqreezi”, “Al-Hafez” Iben Rajab” assumed the position of trust management. In his time, “Iben Khadloun” assumed the responsibility of managing khanqa Baibars al-Jashnakir’s endowment”⁽⁴⁾
2. Endowment and voluntariness work or charity shared together since they are religiously motivated such as the desire have the reward, and to have sense of responsibility. Waqf givers establish their endowments seeking for doing good to get continuous reward, and the literature of charity work in the West suggest that the beginning of individuals’ tendency to spend their monies

(1)Osama Omar Al-Ashqar, Development of the Endowment Firm in light of the Western charity experience (case study), Kuwait Public Secretary for Endowments, Kuwait, 2007, p. 10.

(2)Abdullstar Abu Eda, The form of Monitoring and its contemporary application in light of trust image, Al-Baraka Magazine, Issue 3, November, 2001, Dalat Al-Baraka Group, Jeddah, p. 23.

(3) Kamal Mansouri, Partnership as a strategic choice to build the relationship between civil work institutions and endowments. The website of the International Center for Researches & Studies, Link: www.medadcenter.com – Date of visit: 24/07/2011 at 11:00 o’clock.

(4)Mohamad Benadullah, Waqf in the Islamic Intellect (Soft Copy), Part One, Fadalath Press, Al-Rebat, 1996, p. 268.

good and social assistance to their peers which was mainly due to religious and cultural factors.

3. The idea of voluntary work is based on commitment for others, and it reflects the free commitment by individuals, groups and organizations to implement various activities⁽¹⁾, as well as the idea of endowment is one of the most prominent forms of voluntary work, where represents the idea of ongoing charity represents essence of endowment⁽²⁾. It is the commitment of the waqf giver to offer money, time, benefit and experience desiring to volunteer in order to gain continuous reward.
4. Modern forms of voluntary work which belong to the independent third sector are similar a large extent with the endowment since it is based on communal and local initiatives and enjoy financial and administrative independence. The third sector is located between the market, the business sector, the public sector and outside the household sector⁽³⁾, where endowment can be considered a part of the third sector described in the social economy sector in order to the multiplicity of activities, work and projects with social nature such as (civil rights, environment protection, places in the workplace, child care and other social activities)⁽⁴⁾.
5. Charities have become the most important institutional forms of civil work with a variety of objectives and cover different social areas, since the objectives of the endowment meets within the a large and important common intersections with the charity's goals and mission of work through the private sector organizations and associations.⁽⁵⁾

(1)Jeffery L. Brudney, *Voluntarism*. In *the Nature of Nonprofit Sector*, edited by J. Steven Ott, University of Utah, 2001, p. 57.

(2)A group of authors, *Fiqh Encyclopedia*, part 44, 1st edition, Ministry of Awqaf and Islamic Affairs, 2006, p. 110.

(3)Laster M. Salmon, *What is the Nonprofit Sector and Why Do We Have It? The Nature of Non-profit Sector*, Edited by J. Steven Ott University of Utah, 2001, p 165.

Abdulsttar Bakar, *Charitable Work Culture: How instill it? , How to disseminate it?* Islam Today Foundation, Riyadh, 2011, p. 5.

(4)Jeffery L. Brudney, *Voluntraism*. Op. it, p 58.

(5)Kamal Mansour, *Administrative Reform of Awqaf Sector Organizations*, Case study of Algeria, Kuwait Awqaf Public Foundation, Kuwait, 2012, p. 215.



Chapter Three

The volunteering of the university's youth: Its basic pinots and barriers

In developed countries, universities are seeking to activate the role of the university academicians in the service of the community through voluntariness work, and they are not only concentrating on engaging their facility members in volunteer work, but also they are seeking to expand the circle of this work to include students, by making some of the volunteer work for the benefit of society a compulsory demanding to all bachelor students' graduation in different majors.⁽¹⁾ Statistical studies also indicate that 45% of Germans who are over fifteen engage in volunteering work, and that the 900 union and youth organizations which organize around a quarter of Germany's population, and help young people get involved in charity work.⁽²⁾

The First Requirement

The pillars of benefiting from the university students' voluntariness.

The benefit of society in general and the university in particular of university students' volunteering is based on a number of key pillars to achieve the benefit of volunteering of the university students, and these pillars are:

1. The quantitative strength of the university youth.

In general, the Arab and Islamic societies are characterized by its wide the base of the population pyramid, where the age group of the young is the most numerous among the population and decreasing whenever we rise to the top of the population pyramid, where the proportion of young people is about 70%, and the age group (20-29) represents the critical ratio of society and which can be considered young adulthood. This is the strength of the universities individuals, where the young had finished his/her secondary school and became involved in

(1) Omima Ahmad Al-Glahma, The university and its role in volunteering culture reinforcement on the following link. http://alwaei.com/topic/view/article_new.php?sdd=2898&issue=527

(2) Abdulstar Bakar, Charitable Work Culture: How instill it? , How to disseminate it? Islam Today Foundation, Riyadh, 2011, p. 5.



university life, and some of them have ended their study in the universities but they have not engaged in practical life yet.⁽¹⁾

2. The qualitative strength of the university youth: the characteristics of the age group

The youth in this age group is characterized by idealism, and response to the call of duty, the desire for excellence, achievement and self-assertion, and dedicated work in what principles and values they believe in, especially when focusing on stimulating latent of goodness in themselves, and this age group is characterized by energy, activity and enthusiasm to what young people want to achieve, so that they can invest their enthusiasm and motivation positively, since in this age group, the young have flowing energy that can be used by directing it towards fruitful and constructive work.⁽²⁾

The charity and volunteering work raise young people into the ranks of men and heroes, by directing their flowing and creative energy toward volunteer work and motivating desires of goodness in themselves, they exert their efforts and time and they satisfy their spirit of adventure and discovery. This stage is the stage of the adoption of roles in social life, where is the charity and volunteering work is a social role in the lives of young people. This psychological and social approach enable us make use of young adulthood through the university through integrating them into the life of volunteering at the university⁽³⁾ and the following benefits and advantages of social voluntary activity can be achieved:⁽⁴⁾

- Promoting young people's belonging and participation in their community.

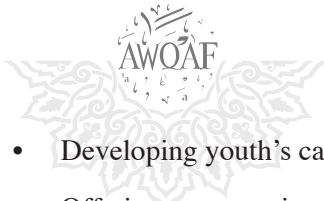
(1) Abdullah Naser Al-Sadhan, Future Vision towards benefiting from the youth – Model of Time Endowment – Awqaf Magazine, Issue no. 15, November, 2008, Kuwait Awqaf Public Foundation, Kuwait, p. 117 with disposition.

Tiflétois New Life Association, Youth and the social, developmental and volunteering work, on the following link: www.saaud.net. Date of visit: 18 June, 2011 at 19:00.

(2) The previous resource p. 117 with disposition.

(3) The previous resource p. 118 with disposition.

(4) Tiflétois New Life Association, Youth and the social, developmental and volunteering work, on the following link: www.saaud.net. Date of visit: 18 June, 2011 at 19:00.



- Developing youth's capabilities, personal scientific and practical skills.
- Offering opportunity to young people to identify gaps in the system of services in the community.
- Providing young people with the opportunity to express their views and ideas on issues of general interest in the community.
- Providing an opportunity for young people to perform services and acquiring problem-solving on their own.
- Providing youth with the opportunity to participate in setting priorities needed by the community, and participation in decision-making process.

3. Time, knowledge and skill: the young's added value

Young people in this stage of life has not yet reached to the rank of riches to take advantage of the richness, as well as youth has not yet achieved social status that can be benefited in the field of supporting charitable work, but what is owned by the youth is the abundance of time and enthusiasm to do good which is not owned by anyone else, either in regular days or holidays and weekends or summer. Studies suggest that spare time which is owned by the youth in the days of the study up to an average of 3 hours per day. This average rises to 8 hours per day in holidays and this is what can be devoted in the field of volunteerism and charity work and benefit can be maximized if coupled with enthusiasm and the desire to rush and achievement. In addition to the available time which is dedicated by volunteered students, they has acceptable storage of the knowledge gained in various fields of science through which they can develop their abilities and skills in providing voluntariness services.⁽¹⁾

4. The peculiarity of the community and the symbolic strength of endowment (Waqf)

The specifics of the community constitute a part of its culture and Islam religion also forms a basic components of culture in Muslim societies which

(1)The previous resource p. 119 with disposition.

specified its privacy, where the volunteering activities and charitable from one of the peculiarities that is dedicated by this culture, and embodied by the social practice over the decades. Therefore the success and effectiveness of voluntariness work in achieving objectives and its effectiveness depend on the extent of harmony and respect of the plans and programs of volunteer work of habits, values and specificities of Muslim community,⁽¹⁾ The symbolic value and moral enjoyed by the waqf system⁽²⁾ constitute a strong incentive to motivate young people to engaging in volunteering programs under the umbrella of the endowment (waqf).

The Second Requirement

The motives of charitable and volunteering work university students

In addition to the desire to get the reward as one of the most important motives of charity work, practical studies on voluntariness indicate in this domain that there are social and personal motives. Also, the motives that call for volunteerism by a number of international institutions and organizations that their work depend on the use of volunteers has been monitored, who generally have different motivations to volunteer⁽³⁾, and these motives can be highlighted as follows:⁽⁴⁾

- The desire to collect spiritual reward.
- The desire for self-realization and defend of the values and dissemination if principles that the volunteer believes in, as well as the prevalence and spread of volunteering and volunteer work is a vivid proof community's development.
- The desire to learn, acquire new knowledge and personal growth that motivates them to spend and exert times effort, and some of them may find that their jobs become monotonous and don't offer more knowledge or they become unchallenging and unexcited which appeals to young people and motivates their desires of goodness.

(1)The previous resource p. 119 with disposition.

(2)Ibrhaim Al-Baiumi Ghanem, previous reference, p. 53.

(3)Abdullah Naser Al-Sadhan, resource p. 122.

(4)The previous resource pp. 122 – 124.



- Youth age group is specifically characterized by the need to connect and communicate, since the volunteers can connect and communicate through relationships and friendships that they make.
- The desire to fill the leisure time, and many young people find a lot of spare time during their study which turns into a boring time, so that they find that the volunteering is best way to take advantage of the time.
- To form social relationships and investing to personal matters to get a job or a career.
- They volunteer to for the love of others which provides them with assistance.
- In order to gain new skills and experiences that they might need in their career in the future that may be available to them only through volunteer centers.
- To get feelings of complacency or psychological comfort because of helping others without expecting financial return, these feelings are not offered in official business.⁽¹⁾

The Third Requirement

Evaluation of the voluntary resources of the university youth

The success of voluntary social work depends heavily on human resource, as long as there is more human resource that is enthusiastic about the social issues and challenges and aware of social work and voluntary dimensions then volunteering work will result in positive and real results. The social work represents plenty of space for community members to practice their sense of loyalty and belongingness towards their communities, and it represents an important area to crystallize individuals' skills and building their capacities.

Based on the relationship between social and voluntariness work and human resource, it can be said that youth represents the cornerstone of human resource that practice social and volunteering work, especially in the young

(1) Saleh Ahmad Al-Twajeri, Activation of Charitable Work, A paper presented to the 7th International Conference: Management of civil and voluntary organizations in the contemporary services, 17 – 18 December, Sharja – United Arab Emirates on the following link: Date of visit: 6 May, 2009 at 10:00 o'clock.

communities, since the youth's enthusiasm and belonging to their community will guarantee the support and promotion of social and voluntary work. In addition social and voluntary work will pile up young people's experiences, capabilities and skills which they will desperately need, especially in the stage of enabling them to stage of exercising of their life career.⁽¹⁾ The maximization of the volunteer resources is a crucial issue in the university, because of the benefit they provide to the university and to the public interest, without expecting any financial reward, so that they must be viewed with a high degree of attention, where the importance of valuing this voluntariness resource can be carried out through:⁽²⁾

- They are valuable source for the university and the community, and must be worthwhile in any discussion relate to evaluation resources since volunteers are pillars of human resources evaluation in the community.
- Taking early steps and measures for the participation of volunteers in the activities of the university is a vital requirement that reflects the vitality and dynamicity of the university's voluntariness community in public work.
- They are influential factors in university's life, where the volunteering student has the credibility of work, and then they can carry out influential activities in the student community whether the field of providing services, protection and defense.
- They are source of valuable information and experience in the university, and with the diversity of individuals' varied experiences and diverse information, which will benefit the university in meeting the needs of the students' community or the needs of society as a whole.
- They work without expecting any financial return and they form value-added output of the university or the charitable organization.⁽³⁾

(1) Tiflétois New Life Association, Youth and the social, developmental and volunteering work, on the following link: www.saaud.net. Date of visit: 18 June, 2011 at 19:00.

(2) Suzan G. Alice, The role of the boards of directors of non-profit organization in maximizing voluntary resources, The Egyptian Society for the Dissemination of Universal Culture and Knowledge, Cairo, 1999, p. 5.

(3) Amani Qandeel, The development of civil community institutions, The Arab Network for the NGOs, Cairo, 2004, p.44 with disposition.



The Fourth Requirement

The problems and barriers of volunteering in the university

In general, the volunteering activity in Arab universities faces several problems, and volunteers face several difficulties which affect their contribution and results. These problems and difficulties can be spotlighted through the following paragraphs:

1. Problems of the charitable and voluntary work activities in the university.

The participation of university students in volunteer work is limited compared with volunteering indicators in other parts of the world even in other societal sectors. The lack of volunteers is a major problem for associations and organizations working in the field of philanthropy and volunteerism. Studies in the Arab countries indicate that 49.7% of the societies suffer from the problem of the lack of volunteers; in addition to the 5.1% of them do not have volunteers.⁽¹⁾

- Volunteering students' real participation in the development and implementation of policies and programs is limited and may be limited to their major participation is in ceremonial occasions or elections students' organizations.
- Lack of centers, systems and adequate training for students in the field of volunteerism in the universities in the Arab and Islamic countries.
- The youth's stereotype image of charitable and voluntariness work. Field studies in the Arab countries indicate that the vast majority of volunteers are within the age group 45-60 years more.
- Scarcity of volunteers from youth and women, where the database of Arab Network for NGOs indicates that there is a crisis with respect to women's young people's voluntary work, where number of volunteering males exceeds their counterparts of female volunteers.

(1)Shaheda Al-Baz, Arab Civic Organizations on the edge of the twenty-first century, Reality Limitations and Future Horizons, Follow-up committee of the Arab Civil Organizations Conference, Cairo, 1997, p. 218.

- Lack of public awareness among university students in the field of the value of voluntary work in the university community, which resides in the general community atmosphere that encourages participation through the media, family, school and university.
- Weak incentives for volunteers which are literary incentives to encourage volunteerism, including the allocation of awards for outstanding volunteering works.
- Weak marketing and promotion of the benefits and gains of volunteerism in the university community.⁽¹⁾

2. Obstacles of voluntary work

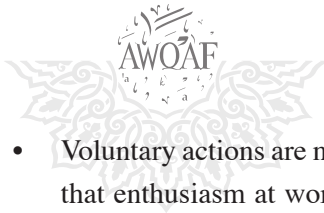
Volunteers face many problems and barriers in their voluntariness work and activities and some of them are out of their control which are represented in legal and regulatory environment governing the voluntariness activity, and affect it in terms of obstruction of volunteering activity or support in addition to the problems and obstacles raised by the volunteers themselves that can be classified into three types:

A. Barriers pertain to university⁽²⁾

- Insufficient awareness of the importance and goals of voluntary work in the university in specific and in the community in general.
- Underestimation of volunteer work and considering it a waste of time and effort.
- Lack of media awareness of the importance of volunteerism among university academicians, and the lack of efforts to stimulate volunteerism movement and advocacy in the university.
- Absence of the volunteerism culture as vital activities to the university.

(1)Amani Qandeel, The development of civil community institutions, previous resource, pp. (41 – 42)

(2)Abdullah Naser Al-Sadhan, previous resource pp. (135 – 137) and Hamdi Hassan Hafez, The reality and remedy for volunteering work crises. Researches of the symposium on the economical and social evaluation of civil societies in the Arab Republic of Egypt, Center of Saleh Abdullah Kamel for Islamic Economy, Al-Azhar University, Cario, Part III, 29 – 30 October, 1997, p. 7.



- Voluntary actions are not listed according to their difficulty, since it is thought that enthusiasm at work, job level and scientific qualification can guarantee the achievement of good performance of the volunteers without putting into account their abilities and psychological characteristics.
- Neglecting moral reinforcement to the volunteers since nature of the human psyche because of boredom and effort need to be stimulated the morally or materially other than wages, through providing letters of recognition and symbolic gifts as well as acknowledging achievement and excellence.
- Lack of scientific research which address the volunteer movement.

B.Barriers pertain to volunteering students⁽¹⁾

- Lack of self-confidence suffered by many young people, which probably happen as a result of their socialization, in addition to the absence of encouragement, training and gradual assignment, in addition to the lack of promotion of successful models.
- Fear of the unknown because youth is ignorant of a lot of programs and activities and volunteer needs.
- Fear and avoidance of commitment and responsibilities because of previous negative experiences.
- Prevailing economic conditions and the weakness of the financial resources of volunteer organizations, where many young people prefer to work against financial return.
- Not doing the responsibilities assigned to it in time, because the volunteer feels that his/her performance is not binding at a specific time other than official business.
- Volunteers' occupation with getting their scientific qualification and lack of sufficient time.
- Volunteers' time contradiction with study time so that they miss participation opportunities in voluntarily activities.

(1)Shaheda Al-Baz, Arab Civic Organizations on the edge of the twenty-first century, previous resource, p. 218. With disposition and Suliman Ben Ali Al-Ali, previous resource, p. 79.

- Some volunteers attempt to serve their personal purposes and this contradicts with the philosophy and nature of volunteering.

C.Barriers pertain to charitable and volunteering associations

- Lack of management, especially for volunteers, which is interested in their own affairs and appointed them according to their appropriate choice.
- Lack of sufficient information and awareness about the objectives and activities of the association.
- Not identify a clear role for volunteers and allow them choose what suits them freely.
- Lack of specific training programs to train volunteers before they are assigned.
- Lack of suitable appreciation of the volunteers' effort.
- Huge administrative and technical work which are onerous for volunteers.
- Favoritism in the implementation of the business or employing non-qualified workers from the relatives.
- Excessive fear and inflection of limitation, restriction of business.
- Lack of ambition and satisfaction without trying to change reality.
- Fear of the new and the importance of openness.
- Consideration of the association's business as secrets that should not be discussed with others.
- Restriction of membership or the desire not to accept the new volunteers thus the organization becomes a monopoly on a certain number volunteers.
- Lack of propaganda campaigns by of the charity concerning the need for volunteers so that there many young people who are willing to volunteer but they do not know anything about the volunteering association that would engage them.⁽¹⁾

(1)Suliman Ben Ali Al-Ali, previous resource, pp. (79 -80).



Chapter Four

The Role of Time Endowment in Attracting and Accommodating Universities' Youth to Participate in Voluntary Work Pertaining to Hajj and Umrah

The historical experience to develop the social practice of waqf (endowment) system revealed that endowment process by endowed money marked with expansion to include every time new varieties of detentions, where the economic vessel began fixed endowed monies, such as land and real estate and then expanded once again to include movable money and assets then money was included within the endowment vessel⁽¹⁾ then it began expanding again to respond to the requirements of the communities to shift towards a knowledge economy, where the rights and benefits diversified services have become an important part of the economic vessel, this expansion in detentions came to keep pace with the continuous expansion and diversification of the they community's needs.

The First Requirement

Temporal Waqf of Benefits - Waqf of Time: concept and importance

To arrive at an accurate concept of waqf of benefits determine its dimensions and then rooting it in terms of legitimacy, initially the concept of utility has to be defined and to discuss its finances and constituents.

1. The Definition of Benefits Endowment

Contracts of donations, endowment and bare others are applicable to the benefits⁽²⁾, and benefits is defined as all types of money from the harvested material or moral tangible or intangible in-kind,. Ahkam Magazine defined it as "benefits that is gained by Al-ain "specific thing". The benefits could constitute

(1)Shaouk Ahmad Donya, New Endowment Domains: Benefits and Rights Endowment, Researches of the Second Conference on Endowments, Umm Al-Qura University, Makkah Al-Mukarama, 11 December, 2006, p. 131.

(2)Ateya Al-Sayid Al-Sayid, Benefits Endowments in Islamic Fiqh , Researches of the Second Conference for Endowments, Umm Al-Qura University, Makkah Al-Mokarama, 11 December, 2006, p. 204.

a fertile arena for the time of the interim when they endorse, does not stop at this point but extends the temporary suspension of benefits to include time and human effort or benefit of work and skills.⁽¹⁾

Economically the benefit reflects the degree of saturation obtained by individuals of the goods or services for the price they pay. It is also what it is meant by the use of the leased property.⁽²⁾ Benefit is seen as “a property, ability or characteristic that is related to money, whatsoever either material which is called commodity or moral which called services and makes this money marked with or sticking to it able to satisfy the need or desire of humans. The existence of benefit in these funds depends on the person who has the desire to ask that the money”⁽³⁾. Benefit can take two forms: the benefit of specific Aain benefited the thing takes possession tenant the same is like riding a car or an apartment house and known work utility what the employee service, sewing, trading, education and medication.⁽⁴⁾

Jurisprudentially, the benefit is defined as the interest that that is gained through using the Aain, as long as the benefit is aggregated from the house and aggregated from riding an animal but that benefit is not aggregated from the use of objects only, where it can be gained from the use of the right or the money or benefits, and ruling of the Shariah differs from the ruling regarding this benefit in different ways according to its gaining either through permitted or prohibited means.⁽⁵⁾

The benefit is also known as “the incidental benefits that are gained from

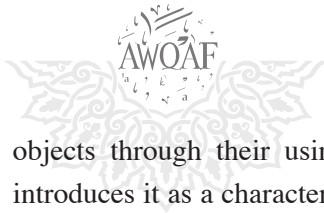
(1)Yousef Ibraheem Yousef, Temporal Waqf , Researches of the Second Conference for Endowments, Umm Al-Qura University, Makkah Al-Mokarama, 11 December, 2006, p. 204.

(2)Gamal Abdullnaser, Economic Lexicon, Dar Osama and Dar Al-Mashreq Al-Thaqfi, Amman, 2006, p. 377.

(3)Shaouk Ahmad Donya, previous resource, p 9.

(4)Gamal Abdullnaser, previous resource, p. 377.

(5)Qutop Mustafa Sano, Endowment of Benefits and Rights & Its Contemporary Applications, the Agenda of the third symposium of the Fiqh Issues on Awaqf, New Issues, Shariah Foundation, Kuwait Awqaf Public Foundation and Islamic Bank, Kuwait during 11-13 Rabe' Al-Thani, 1428, corresponding to 28-30 April, 2007, Kuwait Awqaf Public Foundation, Kuwait, 2007, p. 147



objects through their using them”⁽¹⁾, The juristic terminology of the benefit introduces it as a characteristic which relates to money and in-kind and tangible money that provides value to Alain or the tangible thing and jurisprudents view it as the final destination.⁽²⁾

Benefits endowment is “the detention or confinement of benefits whether owned by the waqf giver or other seeking for closeness to Allah.”⁽³⁾ and is also known as a “confinement the owner in charge of the benefit earned from using of worthy the term what he sees, since the ownership enables the one who is benefited from the to make use of these gained benefits such as money and Aains which will result in bring happiness and pleasure, either for support or temporality.”⁽⁴⁾

For the temporary waqf of work and skills since it falls within the benefits of people, is defined as “a temporary confinement of human’s manual or mental effort leading to the founding of legitimacy benefit which is shown individually or through a project (an institution or company).”⁽⁵⁾

Based on the aforementioned, philanthropy and volunteering are applicable to money, work and human services. In science, experience, knowledge and skills of human it’s a charity and volunteering as is the case in the money and in-kind assets, human services volunteering may be much easier than money donating, as it may be affordable and more accessible for many people than the availability of money.⁽⁶⁾

The Maliki fiqh permitted all types of benefit endowment (waqf) without

(1)Adel Abdulqader Ben Mohammad Wali Qota, Endowment of Shares, Instruments, Benefits, Moral Rights: Rooting – Implementation – Rules, Round Nineteenth, Organization of the Islamic Conference. International Islamic Fiqh Academy, Sharja Emirate, UAE, p. 14

(2)Shaouk Ahmad Donya, previous resource, p 9.

(3) City Mushatah Bent Mahmoud & Shamsiya Bent Mohamad, Endowment of Shares, Instruments, Benefits, Moral Rights: Rooting – Implementation – Rules, Round Nineteenth, Organization of the Islamic Conference, International Islamic Fiqh Academy, Sharja Emirate, UAE, pp. 6-7.

(4)Qutop Mustafa Sano, previous resource, p. 147.

(5)Hassan Mohammad Al-Refa’e, Temporal Work Endowment in Islamic Fiqh, Researches of the Second Conference on Endowments, Umm Al-Qura University, Makkah Al-Mukarama, 11 December, 2006, p. 16.

(6)Shaouk Ahmad Donya, previous resource, p 16.

discriminating between money or persons' benefit, where there is no impediment prevents the endowment of people's benefits, and people's endowment of benefit can take of the two forms:

- The waqf giver is the owner of the benefit of another person through the leasing who offers it to any party for a specified period of time.
- The person can assign his/her benefit or service to someone for some time.⁽¹⁾

2. The Legality of Benefits Endowment (Waqf) and Funding.

The legitimate foundation which permits the endowment of benefits and rights find its evidence for in the recipe confer financial benefits and rights and that the requirement endowed thing should come in the form of in-kind money, benefit or really.⁽²⁾ The benefits are what can be used such as the use of a property and riding a car and what proves that it is from of money is the nature of human who tends to it such as ains so that he/she seeks to acquire. The general custom in markets also considers it money.⁽³⁾ the legislators consider it as money, and they permit that the benefits can be a foal, and the dowry is not only money, so that benefits are money, and the contract represent the leased place, even if these benefits are not money through which contract is based on .⁽⁴⁾

The scholars differed in the extent to which the benefits are considered money and there are two views this regard:⁽⁵⁾

(1)The previous resource, pp. (14 – 15).

(2)Ahmad Hussein Ahmad Mohammad, Endowment of Benefits and Rights & Its Contemporary Applications, the Agenda of the third symposium of the Fiqh Issues on Awaqf, New Issues, Shariah Foundation, Kuwait Awqaf Public Foundation and Islamic Bank, Kuwait during 11-13 Rabe' Al-Thani, 1428, corresponding to 28-30 April, 2007, Kuwait Awqaf Public Foundation, Kuwait, 2007, p. 233.

(3)City Mushatah Bent Mahmoud & Shamsiya Bent Mohamad, previous resource, pp. 6-7.

(4)The proof that benefits are money is Allah's words on the tongue of our Master Prophet Shua'ib (PUH) in Suran Al-Qasas verse (27) *(He said: " I intend to wed one of these two daughters of mine to you, on condition that you serve me for eight years; but if you complete ten years, it will be (a favour) from you. But I intend not to place you under a difficulty. If Allah wills, you find me one of the righteous.)*. It is shown from the gracious verse that Mousa service is acceptable as dowry to one of prophet Shua'ib (PUH)'s daughters to marry. See City Mushatah Bent Mahmoud & Shamsiya Bent Mohamad, previous resource, p. 14.

(5)Ateya Al-Sayid Fiyad, previous resource pp. (14-15).



First; benefits are considered money, because money is what is possessed, and benefits is not like this, as Hanfyas said and what is mentioned by Iben Al-Atheer in his book Al-Nehaya. The benefits and rights, according to this argument are not considered money due to the lack of the ability to acquire and save for a time of need, and Al-Hanfyas ended with the conclusion that benefits represents money ownership.

Second; benefits are money because money is benefited by all, as the view of Maliki and Shafi'i and Hanbali, and on the basis of this statement shall be considered money and relating rights to money such as the right to drink, passing and innovation, as well as the benefits as those who occupy a house as well as their Aains, and as long as benefits are considered money legally entitled to use them⁽¹⁾. A handful of contemporary jurisprudents favor the second viewpoint and the legality of benefits and rights endowment.

The majority of scholars of the Maliki, Shafi'i and Hanbali considered benefits as money⁽²⁾, due to the possibility of the acquisition of its origin and it is the intended objects, but otherwise it not requested, and because the temper tends to it⁽³⁾, and it's the likely trend that is adopted by a number of contemporary scholars, and the general custom considered the benefits as money, and make it an object of investment, and a range of contracts based on the benefits, such as (Ijarah) royalty, Ga'ala and Istisna'. Money is gained through collection, since money is the source and proceeds, and not considering it as money result in losing lot of interests⁽⁴⁾. The first followers of Imam Hahafi tend to perceive the benefits as money due to its financial benefits.⁽⁵⁾

(1) Suhaib Hassan Abdulhghfar, Endowment of Benefits and Rights & Its Contemporary Applications, the Agenda of the third symposium of the Fiqh Issues on Awaqf, New Issues, Shariah Foundation, Kuwait Awqaf Public Foundation and Islamic Bank, Kuwait during 11-13 Rabe' Al-Thani, 1428, corresponding to 28-30 April, 2007, Kuwait Awqaf Public Foundation, Kuwait, 2007, p. 224.

(2) Assessed Funds mean two things: what is jurisprudentially permitted and what countering it according to peoples' convention. Money is divided into two sections: assessed and non-assessed: Assessed money is what is permitted jurisprudentially in case of choice, as mentioned by Jurisprudents about assessed money as its monetary value according to according to peoples' convention. See: Gamal Abdullnaser, previous resource, p. 321.

(3) Hassan Mohammad Al-Refa'e, previous resource, p. 14.

(4) Adel Abdulqader Ben Mohammad Wali Qota, previous resource, p. 14.

(5) Suhaib Hassan Abdulhghfar, previous resource, p. 217.

3. The Need for the Temporal Endowment “Wqaf” for the Benefit of Humans (Temporal Endowment of Work and Skills)

The contemporary lifestyle has created many needs and requirements and that can form the charitable activities charitable projects including what is permanent in nature and some of which is non-permanent, either because of the nature of need which it meets, or because there is no need or desire to waqf giver, as well as endowments ends when money itself is finished, some of which is temporary and money is returned back to waqf giver at the end of its term.⁽¹⁾

Time is the most precious property of human and the abuse of its management and investment is loss of energy and capacity, which means more problems and confusion at the social, professional and spiritual levels. Due to the limited time as a rare resource, the endowment of a part of it remains waqf through granting it others and a great gift, and the endowment of a part of the time is an endowment of a part of life for the benefit of others.⁽²⁾ Hence the importance of investment human's funds comes from as a precious and rare resource since temporal endowment is an effective tools in this investment.

The temporal endowment (Waqf) opens the door to standing in front of those who do not have the financial assets and money to endow and their ample financial capabilities do not allow them to give endowments , but they have different skills and expertise in a variety of different fields where they can through a temporal endowment overcome the problem of the lack of financial assets which provide them with opportunities to gain rewards and achieve the benefit and interests of the community by temporary volunteering through providing skills and experience in their field, and then the potential of the community can be exploited in the generation of benefits and services instead of wasting these benefits.⁽³⁾

(1)Munther Al-Qahf, *Islamic Waqf, Development, Management & Enhancement*, Dar Al-Feker, Damascus, 2001, p. 185.

(2)Atheem Gamal and Harvey MaChenon, previous reference, p. 68.

(3)Yousef Ibraheem Yousef, *Temporal Waqf, Researches of the Second Conference for Endowments*, Umm Al-Qura University, Makkah Al-Mokarama, 11 December, 2006, pp. 95 – 96



The temporal endowment of human's benefits and skills allows each professional, technician, doctor, teacher, engineer and other skilled participants endow their service for some time for the beneficiaries either who are specified or non-specified, Someone may endow his/her benefit or service to someone else for some time; for example, one day a doctor offer diagnostic service in his clinic for patients free of charge, or one doctor denote to conduct ten operations in two years for specific patients is determined him or by another party which may be health waqf institution. There is no doubt that the providing opportunities in this area waqf will contribute greatly in the expansion of the quality of the Waqf, as it would be easier and easier and more effective than the Waqf this based on financial assets and real estate and does not require a lot of physical and administrative burdens because the viewer is the waqf giver.⁽¹⁾

4. Endowment of Benefits and the Expansion of The Scope of Temporal Volunteering Services

Perpetual waqf is almost confined to the real estate endowment, while the scope of the temporal wafq expands to cover Awqafs that are suitable to be perpetual waqf. The scope of temporal waqf also expands to cove Aains: such as transferable wqaf and money according to those who view the legitimacy of its endowment which comprises endowment of services and rights also includes⁽²⁾ and its vessel expands to cover all areas of life.

Thus, we find that the circle of temporal endowments expand to it full extent especially in Maliki jurisprudent, which adapt holistic base indicating that “ the owned Waqf is true even if it is with a wage,” therefore the learnt lesson is in the ownership and not in something else, in the sense that the correctness of endowment is linked with ownership of the waqf and that is included under waqf, regardless of its type , whether it is Ain, benefit or right or otherwise of everything that can be possessed. Ownership through certain

(1)Shaouk Ahmad Donya, previous resource, p 16.

(2)Majeda Mahmoud Al-Haza', Temporal Waqf , Fiqh Research, Researches of the Second Conference for Endowments, Umm Al-Qura University, Makkah Al-Mokarama, 11 December, 2006, p.154.

is not required, and any means of ownership is acceptable even if it is through Ijara (leasing), and does not require the property to be perpetual, so that benefits and rights and any new types that may arise can be included in the future within the framework of waqf.⁽¹⁾ Hajj and Umrah services are one of the wide fields which can include a lot of specialized services that can be offered through the temporal waqf by conducting volunteering works and activities by the youth in the universities in Hajj and Umrah seasons.

The Second Requirement

The relationship between Waqf (endowment) and Hajj and Umrah

Awqaf provides a network of affiliates that has worked in multiple levels to provide a range of social, economic and cultural services, including the provision of comfort for pilgrims and ensure the safety of their convoys starting from their countries and until their arrival to the holy places. This network spotlighted the contribution of endowments in facilitating of the rituals of Hajj and finding ways to fulfill the needs of pilgrims across different eras of the Islamic Caliphate. Countless Services were provided to pilgrims and others who visit or reside in Mecca and secure their ways. Pilgrims and Umrah performers received many services including suitable shelter, and enough water. Additionally, restrooms and hostels with gardens and palm trees spread. The road between Mecca and Medina has been secured and supplied with markets⁽²⁾.

The relationship between endowments and Hajj represents real practice of the approach which stipulates that “Duty preceding the right” as one of the elements of civilization and the awareness of the importance of the leading role of the nation in line Pophet Ibrahim’s call(PUH) “make me a leader for the pious”. According to this perception and approach endowments succeeded through a

(1)Shaouk Ahmad Donya, previous resource, p 123.

(2)Mohammad Ben Fahd Al-Q’ar, Studying and verification of the oldest Wqaf document for services offered to pilgrims and Umrah performer; scripted in the Third Hجري century in Makkah Al-Mokarama, Researches of the Symposium of Makkah Al-Mokaram – the Capital of the Islamic Culture for the year 1426, Umm Al-Qura University, Makkah Al-Mokarama, 11 December, 2006, pp. (63 – 65).

long history of social practice for endowment in achieving utility in different levels and perspectives⁽¹⁾ in order to achieve the Divine's Promise (*That they may witness things that are of benefit to them*) the benefits for them."⁽²⁾

The Third Requirement

The Reasons for Activating Volunteering Among the University Youth in The Field of Hajj and Umrah

In light of the urgent need to take advantage of all of the nation's energies and its the human, material and moral potentials in the construction of the cultural, and restoration of its leading role there are many reasons, motives and justifications, that call for the administrators of the Hajj and Umrah seasons to take advantage of these energies and potentials.

1. Providing a Universal Model for Volunteering is a Civilizational Necessity: (*That they may witness things that are of benefit to them*)

At the global level, the activation of the culture of volunteerism in Arab universities in general and universities in the Kingdom especially is considered an urgent civilizational need so that Saudi University Arabia to contribute effectively to the building and the development of speech world can contribute in building and shaping global speech about the culture of volunteering. In general, the Arab Muslim community suffers from the absence of an outstanding contribution in the field of philanthropy and volunteering, in particular and in the nation which has a rich heritage of values, principles, standards and ethics that humanity can benefit from, which is in a real need to have such culture.

Civilizationally, it is not appropriate that the Arab participations to be characterized by formalism and non-influential in global forums concerned with volunteering issues, Arab participants only repeat what others say, or not to show a clear role through which they can offer the essence of the Islamic culture

(1)Editing Committee, Partnership between Waqf and Hajj: When worship turned to compressive development, issue no. 15, November, Awqaf Magazine, Kuwait Awqaf Public Foundation, Kuwait, p. 11.

(2)Sura Al-Hajj (The Pilgrimage) – verse no. 28.

of volunteerism is reflected in statements issued by those forums of data and moral codes. In order to achieve something out of it there is a need to activate the culture of volunteerism at both the theoretical and practical application in Arab society, otherwise our nation will not have any role in this domain on the global level.⁽¹⁾ Through time endowment project for volunteering services for the Hajj and Umrah, the Arab League and the Saudi university in particular can introduce a civilized voluntary model that presents a global contribution in voluntariness activity and contributes in achieving the civilizational witnesses of the nation.

2. Waqf Culture, Voluntariness and Hajj Rite: Tributaries of the Comprehensive Islamic Culture.

All Muslim communities from the ocean to gulf are brought together by one culture which is Arab and Islamic culture, and the culture of endowment and volunteering is not merely an individual pattern within the texture of this culture, therefore the activation of this culture will contribute in activating and strengthen it, supporting the bonds of brotherhood and solidarity on the basis of joint values. The pilgrimage season is suitable ceremony for all Muslims of the world to meet each other which reflects the image of one nation with one culture and its impact in promoting the values of solidarity and cooperation among the people of one nation, where there is a real need to transfer some of the gains and benefits of voluntariness work from some Arab countries unit volunteering work and activities has become a vital and active area (such as the Gulf States) to other Arab countries facing problems which deserve priority and care to receive brothers' contributions, and when the culture of endowment and volunteering the more effective on the Arab level and more correlation seasons of worship such as Hajj and Umrah, the greater the possibility of achieving integration between Arab and Islamic countries.⁽²⁾

(1) Ibrhaim Al-Baiumi Ghanem, Searching for voluntariness culture in our community, on the following website: www.islamonline.net Date of visit: 18 July, 2011 at 19:00.

(2) Ibrhaim Al-Baiumi Ghanem, the previous resource with disposition.



3. The University: Coordination of Work and The Integration of Efforts and Roles

The university works to coordinate and overcome the difficulties which face volunteer work through communication with other actors, where coordination is the cornerstone of a successful relationship between the temporal waqf (endowment) project and organizations working in the field of offering services and facilities that are related to Hajj and Umrah and its importance stems from its role in avoiding the scattering of efforts and replication, and duplication of services, and the importance lies also in the integration of activities and roles in the provision of services and to ensure the effective management of the season.⁽¹⁾ Supporting a culture of volunteerism through the university will work on linking their domain which is vital is to serve the community and contribute to its growth and development, where universities can play an important role in the dissemination of the culture of the neighborhood volunteerism through many of the regulations and procedures, as if the performance of a specified period of voluntary work as part of the requirements of the curriculum.⁽²⁾

4. Moral and Symbolic Value of Waqf (Endowment) and its Role in Motivating Volunteering Young People.

The waqf is a social sub-model system that is supported by a model of values that enhances the status of individual participation in public affairs. It also includes the initiative and contribution of groups of different degrees of social ladder in social work where money, effort and time are endowed based on an individual resolution decision so that assets are transferred to a public institution which should commit towards all parties to the society.⁽³⁾ Time volunteering by young people will result in a lot of legal and moral obligations which motivate them to try doing their best and accomplishing their voluntary desire seeking for reward. Therefore; it could be argued that the waqf as a devotional practice and

(1)Kamal Mansouri, Partnership as a strategic choice to build the relationship between civil work institutions and endowments. The website of the International Center for Researches & Studies, Link: www.medadcenter.com – Date of visit: 24/07/2011 at 11:00 o'clock.

(2)Abdulstar Bakar, previous resource, p. 42.

(3)Kamal Mansour, Administrative Reform of Awqaf Sector Organizations, Case study of Algeria; previous resource, p. 180.

as symbolic value of will create moral energy that significantly stimulates young people to do good and the desire and ability to participate in voluntariness work actively under the umbrella of the waqf.

The Fourth Requirement

Temporal Waqf of Benefits: Making Use of The University Youth in Offering Services Pertain to Hajj and Umrah

The achievement of the human energy quality provided by university students according to formula of temporal waqf should be based on (temporal waqf of benefits or work) formula or idea, and university students' voluntary work in accordance with the formula temporary waqf of benefits is to take advantage of their time and energies in their field who finished their academic career or is still in the study phase. Those students can participate in voluntary work according to their specialization, since specialized area may be best suited for them.⁽¹⁾ Ensuring the safety and comfort of the pilgrims and providing the services are the most important priorities and commitments, relying on volunteer university students, through effective contribution in providing qualitative and specialized voluntariness services for pilgrims in the following fields and specialization.

1. Information and Communication Technology Services

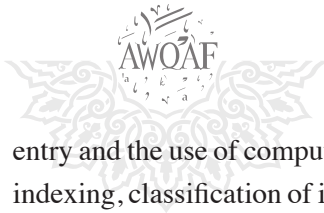
The expansion in the field of information and communication technology provides an opportunity to develop and promote voluntariness work in Hajj and Umrah seasons and through the use of networks, databases at the university level relating to volunteering activities and programs in the field of service of pilgrims, as well as systems that provide information on opportunities and volunteering programs and databases relate to volunteers.⁽²⁾

2. The Use of Software, Information Systems, Intelligent Systems and Networks

Knowledge gained by students in computer science, networks and information systems and their experiences can be benefited from to carry out the tasks of data

(1)Team of Excel, previous resource, p. 52.

(2)Team of Excel, previous resource, p. 53.



entry and the use of computer programs, as well as the operations and functions of indexing, classification of information to create guiding evidence, using maps and the development of organizational structures and maps of work and assignments distribution for all committees and departments that work in the field of Hajj and Umrah⁽¹⁾, as well as the use of remote sensing applications system, geographic information systems and intelligent systems in crowd management or to solve problems through simulation.⁽²⁾ In addition to the speed of communication and the implementation of the tasks that are offered by different networks.

3. Health and Pharmaceutical Services

Health services, health care, nursing and provision of medicine are very crucial in the season of Hajj and Umrah, where students of medical science volunteer in fixed and mobile groups to provide health services and first aid care.

4. Psychological Services

Services are provided by students who specialize in psychiatry or clinical psychology voluntarily during the seasons of Hajj and Umrah for pilgrims traumatized due to accidents, illness or wandering amid the crowds or because of the loss of money or possessions. The loss occurs due to several overlapping factors such extreme fatigue of pilgrim during the performance of Hajj and Umrah rituals, old age, or the huge number of pilgrims in the areas of performance rituals at peak times and in compliance with the instructions which regulates the movement of pilgrims resulting in a psychological problem requiring intervention by specialized volunteers to medicate this group of pilgrims.⁽³⁾

(1)Suliman Ben Awad Al-Zayidi, Scouts' Voluntary Services in Hajj and Umrah and Ramdan, First Scientific Conference on volunteering services in the Kingdom of Saudi Arabia, Umm Al Qura University from 27 to 29 Jumada Al-Thani, 1418, Makkah Al-Mukaram, pp. 528 – 529.

(2) Leaflet of Center of Excellence in Hajj & Umrah Research, p. 3 on the following website: www.hajjcore.org.

(3)Suliman Ben Awad Al-Zayidi, previous resource, p. 529.

5. Supportive Administrative Services

The administrative work is an important factor in the achievement of the business and the implementation of projects, as well as voluntary work management and the management of the pilgrimage season. Several civil institutions and governmental authorities participate in the administration of Hajj season and facilitating it through a package of services, where the urgent need for administrative services of different services other are very important to ensure effective work and organize tasks and communication processes, monitoring and evaluation, and here comes the role of volunteering students who have experience in providing administrative services to help in the field of providing specialized administrative services including secretarial work, registration, documentation, implementation follow-up, evaluation of the various activities and voluntariness services.

6. Religious Awareness and Guidance

An important voluntary activity that can be carried out by the students of Shariah sciences through fixed or movable groups to provide religious awareness and guidance in all matters relating to the performance of Hajj and Umrah who also provide awareness on Shariah irregularities that might occur by some pilgrims during the performance of worship and rituals.

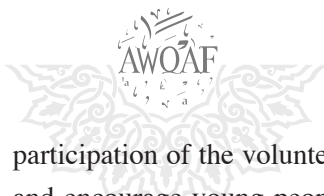
7. Monitoring and Statistics

In order to provide useful data on the of Hajj and Umrah seasons and monitor different phenomena during Hajj season, groups volunteering students gather various data to use in statistics, programming and planning operations as well as for the purposes of scientific and applied research or building special databases for Hajj and Umrah seasons.

The Fifth Requirement

The Role of The University in Activating Time Endowment for Voluntariness Services Pertain to Hajj and Umrah

Studies that dealt with youth organizations in the United Kingdom have confirmed that the schools, the education system, the youth service and non-formal education have key roles must be utilized. In order to enhance and activate the



participation of the volunteering youth movement⁽¹⁾ and to upgrade volunteerism and encourage young people's involvement in volunteering work in general and in Hajj and Umrah in specific, universities can contribute to the development and promotion of student's volunteering work to serve pilgrims, through the following:

1. Instilling Volunteering Work Culture Among Students

The University is the best qualified institution to do the task of consolidating the culture of voluntary work and spread the idea of time endowment among the various segments of students through carrying voluntary activities inside and outside the university, holding training programs and seminars for the volunteers. Universities can also teach students some of the courses pertain to voluntariness and waqf, and to encourage students' experiences in the developing and managing volunteering projects, as well as to promote research in the field of volunteerism. Universities can also enact laws, especially the compulsorily of students' involvement in volunteering activities.⁽²⁾

2. Volunteers: Professionalism and Training

Within the framework of nurturing university students' voluntariness work in the Hajj and Umrah seasons, and because of the importance of the human element as a basic component of voluntary and charitable work and the cornerstone of time endowment volunteering project, the university is incubator of this project, and it has an important responsibility to rehabilitate and train volunteering students through planning training needs of the project and its implementation in cooperation with the specialized agencies, in order to prepare volunteering students and crystallize their skills and develop their experiences.⁽³⁾ Therefore, unpaid workers and volunteering students at the university are subjected to accurate tests to identify the domains in which they can serve, and to train them,

(1)Team of Excel, previous resource, p. 24.

(2)Abdulkareem Bakar, *Upswing Culture: Ideas & Values to progress*, Dar Wgoh for Publication, Riyadh, 2013, p. 92.

Mohamad Akram Al-Adloni, *Institutional Work*, Dar Iben Hazim, Beirut, 2000, previous resource pp. (20 – 21).

(3)A group of trainers, *Management and charitable work skills – Time Endowment Project to nurse voluntary work*, the first training season, Kuwait Awqaf Public Foundation, Kuwait, 2003. p. 7.

then re-evaluate their performance on a regular basis, and so the volunteered students turns from workers with little experience and become trained and a staff member who do not receive any financial return.⁽¹⁾

3. The Institutional Dimension of the University Voluntariness

Institutional work is the tendency to accept teamwork and performing it systematically structured based on specific organizational foundations, principles, pillars and values, and its importance lies in the transfer of work from the individuality to the collectivity, spontaneity to the planning, and the limited impact to the widespread impact, customary status to legal legitimacy.⁽²⁾ The historical experience indicates that volunteering and charity work will be more effective and higher yield when crystallized in the form of an institution with the ability to survival, refurbishing and innovation so that it can contribute to meet the renewable and variable of development needs.⁽³⁾

The service of pilgrims is authentic voluntary work, and a human, cultural, and social value urged by the Islamic religion, and to provide this service through waqf (endowment) will promote and provide it with symbolic value is to do good in pursuit of reward, but serving of pilgrims in Hajj and Umrah seasons needs plentiful material and human potentials that individual and isolated efforts can't meet, therefore there must be a massive institutional work that may not be accommodated by a local institution with limited potentials and resources, into this comes the university to introduce voluntariness approach in accordance with temporal waqf formula.

4. Motivating Volunteers and Qualitative Voluntariness Projects

- The university gives the highest priority to the development of youth volunteering work, and considering the season of Hajj and Umrah as a great

(1)Peter F. Drucker, *Managing for the Future: The 1990s and Beyond*; previous resource, pp (324 – 353).

(2)Mohamad Akram Al-Adlani, *Institutional Work*, Dar Iben Hazim, Beirut, 2000, previous resource pp. (20 – 21).

(3)Kamal Mansour, *Administrative Reform of Awqaf Sector Organizations*, Case study of Algeria, previous resource, p. 239.



opportunity to develop and promote volunteering among university students.

- Studying methods to encourage and support volunteering through university education systems in all of the universities in the Kingdom.
- Providing support for groups that are offering innovative projects calling for the development of voluntarily services for Hajj and Umrah.
- Creating qualitative programs to attract young people since they are challenging.⁽¹⁾

5. Attracting Volunteering University Students

In general, studies indicate a general decline in the proportion of volunteerism in the Arab countries, where one study indicated that the percentage of volunteering workers between 20-30 years old reached to about 15 % and this percentage indicate this important and outstanding segment and age group is not benefited from. This study also pointed out the high proportion of participants in the volunteering work from the university students which reached to 52%.⁽²⁾ This means there is possibility of attracting this distinctive category and to benefit from in the implementation of the qualitative voluntariness projects in the field Hajj and Umrah. The university can attract students to engage in voluntarily activities through the following:

- Training and honoring volunteering students and recognizing their volunteering achievements and developing privileges and incentives programs for them.

(1)Ala'deen Mosa Al-Badri, Charitable Work in Mid-Asia, predictive study (An Applied Study on: (Kazakhstan, Kyrgyzstan and Tajikistan) Researches of The Third Gulf Conference on Charitable Activity: Islamic Affairs and Charitable Activities Department, Dubai, United Arab Emirates, 20 – 22 February, 2008, pp. 181 – 207,

Omar Ben Nsair Al-Barakati, Attracting Volunteers in the Charitable Sector – Reality and Prospective, Al-Bayan Magazine, Issue no. 231 – Dhu al-Qi'dah, 1427 H, on the following website: Date of visit: 18 July, 2011 at 19:00 with

(2)Saleh Abdullateef Al-Sayied, The Guide in Charitable Work Management, Najd Commercial Press, Riyadh. 1999, pp (181 - 207).

- Establishing centers and websites and discussion forums on temporal waqf project.
- Establishing forums and holding volunteering conferences and charity work is stimulated by volunteering student.
- Allocating of hours out the students' times to volunteer in the activities of university life.
- Activating the idea of summer volunteering to attract students during their annual holidays.
- Involving faculty members in volunteering activities and providing support to these activities.
- Holding training courses on volunteering in the areas providing services Hajj and Umrah seasons.⁽¹⁾

6. University Volunteering Endowment: Establishment of a Safe Financing Base

The university can create a safe financing base through waqf for the continuation of funding university's voluntariness activities and research funding on university volunteering. The call for the university waqf will enable the university to establish a safe financing base that can ensure implementation of volunteering programs under the auspices of the university waqf for the benefit of pilgrims and Umrah performers.

The continuation of the endowment foundation depends on sustainable financing to establish a safe funding base by the university through conducting advertising campaigns and media to market the idea to waqf volunteering to stimulate waqf givers and donors, and to provide special benefits and services. In this context, we summon the western experience in this field. The leading universities in the West

(1)Omar Ben Nsair Al-Barakati, Attracting Volunteers in the Charitable Sector – Reality and Prospective, Al-Bayan Magazine, Issue no. 231 – Dhu al-Qi'dah, 1427 H, on the following website: Date of visit: 18 July, 2011 at 19:00 with disposition.



provide advantages and benefits to encourage private donors, in this way Harvard University managed, through one of its campaigns, to raise \$ 2.6 billion where it received 490 gifts valued at one million dollars and more.⁽¹⁾

The university can also integrate volunteering work through the following:

- Developing of scientific and applied research relevant to the enhancement of volunteering services for Hajj and Umrah in the field of transport, traffic and crowd management.
- Providing a sophisticated and highly efficient work environment research for the development of volunteering services and improving their quality.
- Developing a database and information bank for young volunteers and their specialties and volunteer activities in Hajj and Umrah to serve as reference information that contribute to the future planning for volunteering activities.
- Disseminating the culture of endowment and raising awareness on importance of volunteering work in the university community.

Conclusion

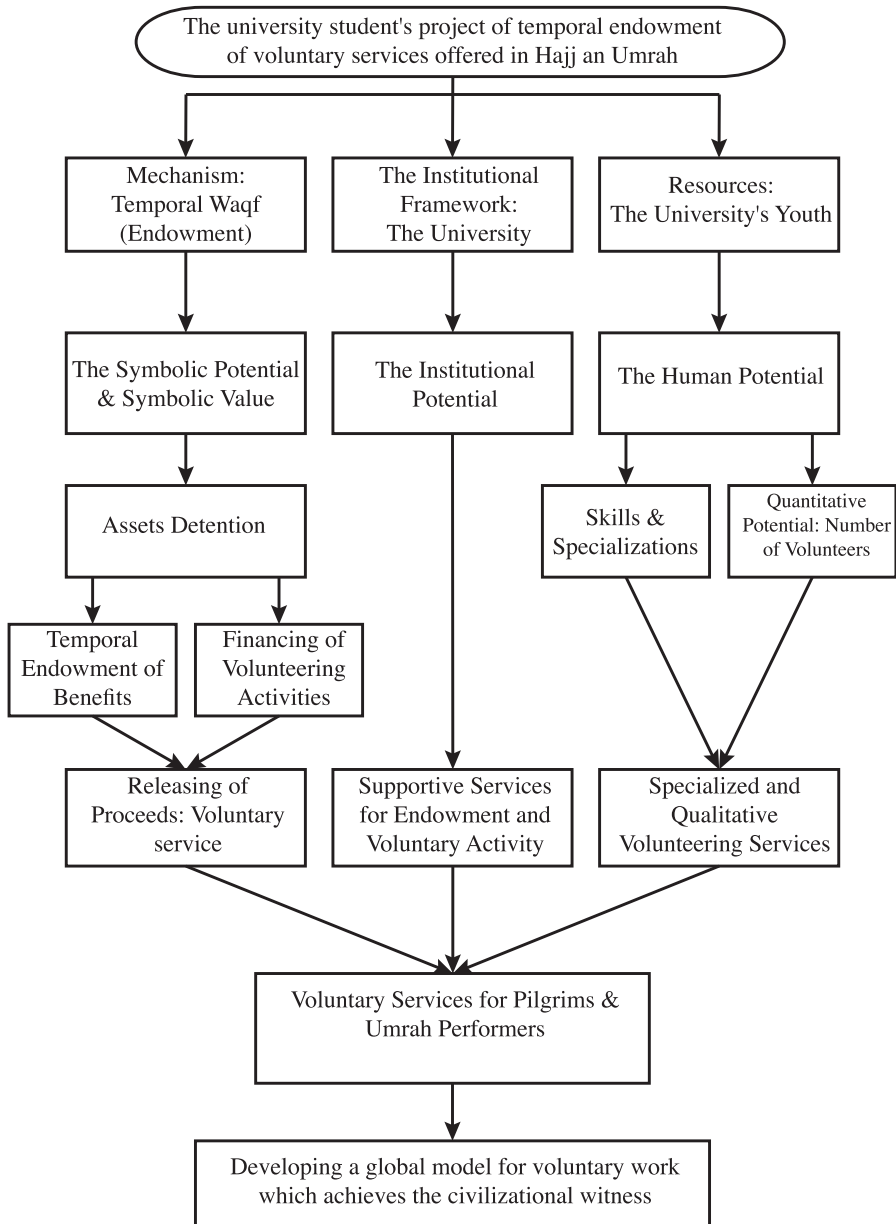
- This research arrives at the following results:
- Volunteering is a civilized human behavior, and a measurement for social effectiveness.
- University students' unwillingness to participate in volunteering activities is one of the most important problems of volunteering at the university because of the lack of awareness of the importance of volunteerism and the weak participation of student in university life and the negative stereotypes image about the volunteering in the community.
- Volunteering students are the valuable source for the university and the community, and the basis for human resources evaluation in the community, and the initiative of involving them in the university volunteering activities and Hajj and Umrah services is a vital requirement which reflects the vitality and mobility of the university's volunteering work and activities in public work.

(1)Edward L Glasser; Governance of Non-for-Profit Organization. The University of Chicago Press, Chicago and London, 2006, p. 176.



- Volunteering students are influential factors in university life who enjoy credibility in the work, they are a source of valuable information and experience of the university, and with the diversity of individuals' varied experiences, thus the possibility to take advantage of them in the activation of specialized qualitative services in Hajj and Umrah.
- Volunteering students are unpaid workers, and make up the value-added in the outputs of the university.
- Volunteering students can, through temporal endowment, contribute in the provision of qualitative voluntary services in Hajj season in the areas of health, mental health, communication and information technology, administrative services, religious awareness and guidance, statistics and monitoring, computer using.
- Through activating volunteerism and charitable activity at the university, and encouraging the participation in the project of the temporal endowment for benefits through:
- Establishing centers within universities, especially the volunteers during Hajj season that oversee, organize and follow up volunteering work through the seasons.
- Encourage pilot voluntary projects for students pertain to the provision of service to pilgrims, which aim to develop their spirit of belonging and initiation.
- Training and honoring volunteering students, recognizing their achievements and putting incentives program for them.
- Disseminating the culture of volunteerism and providing awareness of the importance of philanthropy and volunteerism among university students.
- Intensification of scientific accountability through research and studies on volunteer work and endowment of benefits.
- Inclusion the academic programs in various disciplines at the university with some university course that focus on the concepts of social voluntary work and its importance, its role in development, and the development of new disciplines to study and majoring in the management of volunteering services during the pilgrimage season.

Based on the following scheme, the project of temporal endowment for benefits can be summarized as follows:



The Resources of the Research

1. The Nobel Quran
2. Headeeth Book: Ṣaḥīḥ al-Bukhārī and Ṣaḥīḥ Muslim
3. Books in Arabic Language:
4. Ibrhaim Al-Baiumi Ghanem, Endowment and Politics in Egypt, Dar Al-Shourk, Cairo, p. 45.
5. Al-Dader Ahmad, Brief explanation to the nearest approach of Imam Malek's doctrine, Dar Al-Ma'ref, Cairo, 1986.
6. Amani Qandel, The economical and social contribution of the civil institutions in the Arab countries, case study: Jordan, Egypt & Tunisia – The Arab Network for the NGOs, Cairo, 1999.
7. Amani Qandeel, The development of civil community institutions, The Arab Network for the NGOs, Cairo, 2004.
8. Osama Omar Al-Ashqar, Development of the Endowment Firm in light of the Western charity experience (case study), Kuwait Public Secretary for Endowments, Kuwait, 2007.
9. Peter F. Drucker, Managing for the Future: The 1990s and Beyond, translated by Saleeb Botrus, International House of Publication & Distribution, of Cairo, 1998.
10. Gmal Alddeen Mohamad Makram – Iben Manthour, Arab Tongue, part eight, Dar Sader, Beirut, 1997.
11. Gamal Abdullnaser, Economic Lexicon, Dar Osama and Dar Al-Mashreq Al-Thaqfi, Amman, 2006.
12. Suliman Ben Ali Al-Ali, Development of Human & Financial Resource in Charitable Organization, Amana Foundation, 1st edition, Bletisfel, 1996
13. Hassan Musa Al-Safar, Volunteering wok in the service of the community, publisher, the author himself, Al-Qateef, 2005.
14. Mohammad Youssef Al-Qaradawi, The fundamentals of the voluntary work in

- light of texts and Shariah purposes, Dar Al-Shorouk, Cariro, 2008, pp (35 – 41).
15. Kamal Mansour, Administrative Reform of Awqf Sector Organizations, Case study of Algeria, Kuwait Awqaf Public Foundation, Kuwait, 2012.
 16. Lester M. Salamon & Helmut K. Anheier, The concept of charitable and voluntary work – comparative study on the non-profit sector: Objective, definition and classification – Translated by Naser Al-Mutari, Kuwait Awqaf Public Foundation, 1994.
 17. Mohammad Abu Zahra, Lectures on Endowments, Dar Al-Feker Al-Arabi, Cairo, 1972.
 18. Mohamad Benadullah, Waqf in the Islamic Intellect (Soft Copy), Part One, Fadalalah Press, Al-Rebat.
 19. A group of authors, Fiqh Encyclopedia, part 44, 1st edition, Ministry of Awqaf and Islamic Affairs, 2006.
 20. A group of trainers, Management and charitable work skills – Time Endowment Project to nurse voluntary work, the first training season, Kuwait Awqaf Public Foundation, Kuwait, 2003.
 21. Munther Al-Qahf, Islamic Waqf, Development, Management & Enhancement, Dar Al-Feker, Damascus, 2001.
 22. Mohamad Akram Al-Adloni, Institutional Work, Dar Iben Hazim, Beirut, 2000.
 23. Sameh Fouzi, Inside the Non-governmental Organization (New Culture for Effectiveness), Academic Library, Cairo, 2007
 24. Suzan G. Alice, The role of the boards of directors of non-profit organization in maximizing voluntary resources, The Egyptian Society for the Dissemination of Universal Culture and Knowledge, Cairo, 1999.
 25. Shaheda Al-Baz, Arab Civic Organizations on the edge of the twenty-first century, Reality Limitations and Future Horizons, Follow-up committee of the Arab Civil Organizations Conference, Cairo, 1997.
 26. Abdulsttar Bakar, Charitable Work Culture: How instill it?, How to disseminate it? Islam Today Foundation, Riyadh, 2011.

27. Abdulkareem Bakar, Upswing Culture: Ideas & Values to progress, Dar Wgoh for Publication, Riyadh, 2013, p. 92.
28. Atheem Gamal and Harvey MaChenon, the strength of giving, How can giving achieve richness for us – Translated by Jarer Library, Riyadh, 2010.
29. Abdullah Al-Ali Al-na'eem, Social volunteering work with a focus on the voluntariness work in the Kingdom of Saudi Arabia, Riyadh, 2005.
30. Team of Excel, the general strategy for volunteer work in the United Kingdom, 1st edition, the Kuwait Awqaf Public Foundation, 2003.
31. Saleh Abdullateef Al-Sayied, The Guide in Charitable Work Management, Najd Commercial Press, Riyadh. 1999

The Arbitrated Periodicals

1. Awqf Magazine, Issue no. 3, November, 2008, The General Secretary of Kuwait Awqaf Public Foundation, Kuwait
2. Al-Baraka Magazine, Issue 3, November, 2001, Jeddah.

University Theses & Letters

1. Abullaziz Ben Mohammad Mesfer Al-Ghamidi, Social and voluntary work from the perspective of Islamic Education and it applications in the secondary schools, (Unpublished Master thesis), College of Education, Umm Al-Quara University, Makkah Al-Mukarma, 1429.
2. Reham Ahmad Khafaje, The role of the charitable organizations in studying politics in the United States of America – case study: Ford Firm (1950 – 2004), unpublished master thesis, College of Economy and Faculty of Economics and Political Science, Cairo University, 2006.
3. Fares Masdor, Financing and investment of Endowments – between theory and application, with reference to the Algeria's case. Unpublished Doctoral thesis – College of Economical, Commercial & Management Sciences, Algiers University, 2008.



Scientific Symposiums & Conferences

1. The Third Gulf Conference on Charitable Activity: Islamic Affairs and Charitable Activities Department, Dubai, United Arab Emirates, 20 – 22 February, 2008.
2. Researches of the First Scientific Conference on volunteering services in the Kingdom of Saudi Arabia, Umm Al Qura University from 27 to 29 Jumada Al-Thani, 1418, Makkah Al-Mukaram.
3. Researches of the Second Conference on Endowments, Umm Al-Qura University, Makkah Al-Mukarama, 11 December, 2006.
4. Researches of the Symposium of Makkah Al-Mokaram – the Capital of the Islamic Culture for the year 1426, Umm Al-Qura University, Makkah Al-Mokarama, 11 December, 2006,
5. Round Nineteenth of the Organization of the Islamic Conference. International Islamic Fiqh Academy, Sharja Emirate, UAE,
6. The Seventh International Conference: Management of Civil and Voluntary in the Contemporary, December, 17 – 18, 2002, Sharja – United Arab Emirates.
7. the third symposium of the Fiqh Issues on Awaqf, New Issues, Shariah Foundation, Kuwait Awqaf Public Foundation and Islamic Bank, Kuwait during 11-13 Rabe' Al-Thani, 1428, corresponding to 28-30 April, 2007, Kuwait Awqaf Public Foundation, Kuwait, 2007.
8. Research and workshop on “Stimulation practices of volunteering work,” organized by the Association of Inheritance Charity in collaboration with UNDP, on the occasion of the volunteering year in 2001, in Beirut
9. For the Arab Symposium on: Unemployment – Its reasons, treatment, and effect on the community - College of Economical, Commercial & Management Sciences, in collaboration with Arab Unions Assemblies of Scientific Research – University of Sa'ad Duhlub: during (25 – 26 – 27) April, 2006, Blida, Algeria.

10. The researches of the Second Conference on Volunteering in the developmental project in the civil institutions: priorities and challenges, Sharjah, on 23-24, January, 2001.
11. Symposium on the economical and social evaluation of civil societies in the Arab Republic of Egypt, Center of Saleh Abdullah Kamel for Islamic Economy, Al-Azhar University, Cairo, Part III, 29 – 30 October, 1997.

Electronic Websites

1. The website of the International Center for Researches & Studies: Link :www.saaaid.net
2. Link : www.hajjcore.org
3. Link : www.islamonline.net
4. Link : http://alwaei.com/topic/view/article_new.php?sdd=2898&issue=527

Resources in English Language

- Edward L. Glasser; Governance of Non-for-Profit Organization. The University of Chicago Press, Chicago and London, 2006, p. 176.
- Jeffery L. Brudney, Voluntraism. In the Nature of Nonprofit Sector, edited by J. Steven Ott, University of Utah, 2001, p. 57.
- Laster M. Salmon, What is the Nonprofit Sector and Why Do We Have It? The Nature of Nonprofit Sector, Edited by J. Steven Ott University of Utah, 2001, p 163.
- Martin Knapp, Eileen, Robertson & Corinne Thomasson. Public money voluntary action In third Sector Comparative studies of Nonprofit Organization. Editors: Helmut K. Anheier and Wolfgang Seibel, Water de Gruyter. Barlin, p. 209.

Researches



Necessity of Waqf In Algerian Awqaf legislation

Entisar Magog⁽¹⁾

Summary:

The research tackled one of the important topics in Waqf Feqh. Most Arab legislations did not miss organizing this topic: necessity of Waqf. The research included discussing the legal value of necessity of Waqf in Algerian legislation. Targeting at uncovering the privacy feature in light of the legislative texts regulating Waqf in Algerian legislation. In the beginning, we tackled the attitude of the Algerian legislator towards the Feqh difference regarding the necessity of Waqf. It was decided for the interest of protecting Waqf by giving preponderance to the necessity. Then the importance of the results arranged by the Algerian legislator is clarified when it outweighs the necessity of Waqf.

This allowed the study to understand the legal value of the necessity of Waqf in Algerian legislation, represented in granting legal protection and immunity for the existence of Waqf and its continuation.

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Necessity of Waqf in Algerian Awqaf legislation

Introduction:

The Algerian family law⁽¹⁾ is considered the first law in Algeria which regulated the rules of Waqf considering it as legal action, taking out the Waqf fund from the property of the person who makes Waqf as donation and as a method of support. The eight articles in this law however were not sufficient to add legal effect to the Waqf property due to them being one type of property protected by law⁽²⁾. So, the law 10/91 was issued regarding Awqaf it was amending and completing⁽³⁾. Such law is considered the basic reference in determining the general rules governing regulating Waqf in Algeria. This law aims at imposing real protection on Waqf properties considering the status of such properties in Algeria whether the sequestration incurred to them or the seizure of Waqf property during the imperialism period as well as the nationalization measures that affected Waqf after independence and annexing them to the state property and seizure by natural and moral persons.

This took place under no legislation and contributed directly to revoking immunity on the existing Waqf properties and the absence of motivating establishing new Waqf.

Based on this awareness of the real status of Awqaf and to avoid such status in future, Awqaf law No.(10) for the year 1991 stressed regulating the matter concerning disposing of the Waqf property asset which is one of the matters discussed by Islamic creed Feqh scholars because it is directly linked with the

(1) Law No.(11/84) dated 9 Ramadan 1404 corresponding 9 June 1984 including the amended and the complementary family law

(2) Law No.(25-90) dated the first of Jumada Alola 1411 corresponding 18 November 1990, including the amending and complementary real estate direction, classified real estate property into three legal categories. They are: national property, private property and Waqf property. This law referred the regulation and entity of Waqf property to a special law represented in Awqaf law No.(10-91) that was issued later on.

(3) Law No.(10-91) dated 12 Shawal 1411 corresponding 27 April 1991, amended and completed under law No.(7-1) dated 28 Safar 1422 corresponding 22 May 2001 and law No.(10-2) dated 11 Shawal 1423 corresponding 15 December 2002

idea of charity continuity on which Waqf is based, within the field of research called "Waqf necessity". This means how far it is possible to revoke Waqf and dispose of Waqf in a manner transferring property by the person who made Waqf or by the person for whom the Waqf is made or by Almutawali or by others in general after constituting Waqf in a true manner.

The matter of necessity is considered among the differences in Waqf Feqh. Some say that it is necessary and other say it is permissible. But the Algerian legislator decided this Feqh difference by giving preponderance to the necessity of Waqf considering the important effects resulting from adopting Waqf necessity.

Preponderance of the necessity of Waqf resulted in essential matter which is namely fixing the time of achieving necessity and how can necessity be achieved. Can necessity be achieved just by issuing the true shape of Waqf or is it necessary to deliver receive and possess Waqf? This is another matter of difference in Waqf Feqh stating the necessity of Waqf. The importance of taking a decision appears when fixing the time of the resulting effects of necessity. When we adopt the necessity of Waqf, consequently we should decide the time of its achievement together with determining the consequential effects resulting from it from the time of its achievement.

The aforesaid discussion poses a problem: legal value of the necessity to take action in Waqf as per the rules of Algerian Awqaf legislation.

To be acquainted with the different sides of this subject and to solve the problem posed, we rely on the analytical descriptive method and the deductive and inductive methods in addition to resorting to comparison method in some research topics.

Thus, the research plan consists of three main pivots. They are:

- **First:** preponderating of Waqf necessity in Algerian Awqaf legislation
- **Second:** time during which Waqf necessity is arranged in Algerian Awqaf legislation
- **Third:** results of Waqf necessity in Algerian Awqaf legislation

First

Preponderating of Waqf necessity in Algerian Awqaf legislation

The Feqh scholars differ regarding necessity of Waqf. Some are for permissibility of Waqf in the sense that it is not mandatory except in certain cases, and some say that Waqf is absolutely necessary. This made it necessary for the Algerian legislator to adopt a decisive trend in this Feqh difference

1. Saying that Waqf is not necessary except in certain cases

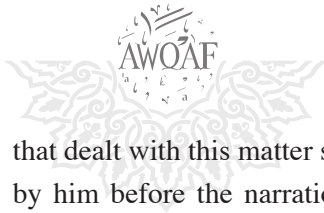
This is the speech of Imam Abu Hanifa. He based his speech regarding necessity on a group of transferred evidences and rational evidences⁽¹⁾. His opinion is to consider Waqf as a loan and so it is possible to revoke it in the same manner as the possibility to revoke loan whether by the person who makes Waqf himself or by his heirs after his death⁽²⁾. This is different from the saying of Omar Waqf (may God bless his soul) narrated by Imam Muslim in his Sahih book: It was narrated by Ibn Omar (may God bless their souls) that he said: Omar got a piece of land in Khaibar. He came to the Prophet (peace and blessings of Allah be upon him) asking his advice. He said to the Prophet, I have a piece of land in Khaibar and I have never taken funds dearer to me than it. What do you order me? The Prophet said "if you so wish you can withhold its asset and give charity". He said Omar gave it to charity. Its asset cannot be sold or bought or given as estate. It cannot be donated. He said: Omar gave it in charity to the poor and relatives and to free slaves and for the sake of God and for the wayfarer.

and the guest⁽³⁾. If Waqf means loan, there would not have been a need to introduce a new term: Waqf or locking up and the Prophet (peace and blessings of Allah be upon him) would not have used the term loan for Waqf. The books

(1)Vide "narrating evidences and giving reply to them: Mohammad Ebid Abdullah Alkubaisi, rules of Waqf in Islamic Sharea, first part, guidance printing house, Baghdad 1977 p 206-211, and Mohammad Mustafa Shalabi, rules of wills and Awqaf, edition 4, University publishing house, Beirut, 1982, p 309-312

(2)Vide: scientific investigation regarding the opinion of Abu Hanifa in the possibility of Waqf: by Zohdi Yakan, Waqf rules, first edition, Contemporary publishing house, Beirut p 38 and subsequent pages

(3)Sahih Muslim, will book, chapter of Waqf, saying No.(1632)



that dealt with this matter state that: the opinion of Imam Abu Hanifa was issued by him before the narration of Omar Waqf (may God bless his soul) became common. If such narration of Omar Waqf had reached Abu Hanifa, he would have stressed the necessity of Waqf absolutely⁽¹⁾ particularly because Abu Hanifa stated three cases in which Waqf is necessary. He considers Waqf mandatory as exception⁽²⁾. These cases are as follows:

- The judge gives ruling that Waqf is necessary. It is agreed upon by Feqh scholars that giving a ruling by the judiciary in something under difference, settles such difference. This means that if a matter was subject to difference by Feqh scholars and a judge gives a ruling using his own endeavors and discretionary power, his discretion becomes obligatory regarding the matter for which he gave a ruling⁽³⁾.
- The Waqf should be added to the time after death that is to say the man who makes Waqf should get the Waqf out of his will and becomes mandatory after his death if he dies while insisting on his Waqf. The important matter in this case is that it is not possible for the heirs to possess the Waqf fund.
- The Waqf real estate can be a mosque

2. Saying that Waqf is absolutely necessary:

The common Feqh scholars in Almalkya⁽⁴⁾, Alshafeya⁽⁵⁾, Alhanabela⁽⁶⁾ and

(1)Burhan Aldin Ibraheem Altarabulsi, first aid in the rules of Waqf, edition 2, Hendia printing house, Egypt 1902, p 3

(2)Mohammad Amin Bin Abedeen, Rad Almehtar Ala Aldor Almukhtar, part 6, Books World publishing house, Riyad, p 520

(3) Mustafa Ahmad Alzarqa, rules of endowments, first part, Ammar publishing house, Amman, edition 2, 1998, p 106

(4) Shams Aldin Mohammad Arafa Aldesoki, Aldesoki margin on the "Big Explanation", part 4, Arab books revival publishing house, Egypt, p 75 and subsequent pages

(5) Abu Ishaq Alsherazi "Almuhazab in Imam Shafei Feqh, investigation by Mohammad Alzeheli, part 3, first edition, Dar Alqalam, Damascus, Sham publishing house, Beirut 1996, p 680

(6) Mansour Bin Yonis ALbehoti "Kashaf Alqanaa An Aleqnaa, investigated by specialized committee in Ministry of Justice, Kingdom of Saudi Arabia, part 10, first edition, Ministry of Justice, Kingdom of Saudi Arabia 2007, p 34

Imam Abu Yosouf and Imam Mohammad Bin Hasan of Alhanafya⁽¹⁾, agreed to the absolute necessity of Waqf, that is to say in all cases without need to obtain a ruling regarding necessity. The most importance evidences which they depended on are as follows:

- The saying of Omar Waqf (may God bless his soul) and the conditions he stipulated in his Waqf letter obeying the saying of the Prophet (peace and blessings of Allah be upon him) Omar stressed the meaning of necessity which is clearly understood from banning disposing of the asset of Waqf, saying: (not to be sold or bought or given as estate, and cannot be donated)⁽²⁾
- The approved practical agreement of the Prophet companions, it was not narrated by them any recourse in any Waqf made by them but their Waqfs became so many as they followed the saying of the Prophet (peace and blessings of Allah be upon him) and they used the action of Omar (may God bless his soul) as an example⁽³⁾

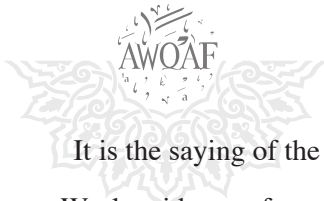
3. 3- Preponderating the saying that Waqf is necessary against the saying that it is possible by Feqh scholars

The agreement of most Feqh scholars that Waqf is absolutely necessary, in spite of their differences regarding the time of realizing its necessity and its conditions, is preponderated from Feqh side for many considerations. The most important of such considerations are as follows:

(1) In "Almabsoot" the following is mentioned: "Abu Yosouf, may God bless him was first adopting the saying of Abu Hanifa (may God bless his soul) but when he went on pilgrimage with Alrasheed (may God bless his soul), he so the attitude of the Prophet companions (may God bless them all), in Madena and its adjacent places and then he gave Fatwa regarding the necessity of Waqf" Shams Aldin Alsarkhasi, Almabsoot, part 12, knowledge publishing house, Beirut 1989, p 28

(2) Abu Alhasan Ali Bin Mohammad Bin Habib Almarwardi, "Alhawī Alkabīr fī Feqh Imām Alshāfi'ī creed", investigated by Ali Mohammad Moawad and Adel Ahmad Abdelmawgod, part 7 first edition, scientific books publishing house, Beirut 1994, p 513

(3) Sulayman Bin Abdullah Abaalkhail "Waqf in Islamic Sharea, Nayef University for Security Sciences, Riyadh 2008, p 34-40



It is the saying of the majority of scientists that:⁽¹⁾

- Weak evidence of people who say that Waqf is not necessary, in comparison with strong evidence used by people who say that Waqf is necessary⁽²⁾
- Agreement regarding the fixed Suna of the messenger (peace and blessings of Allah be upon him) and the consensus of the prophet companions in agreement⁽³⁾
- Verifying the interest of Waqf because it is meant for continuity, all the time and this cannot be realized unless necessity is its requirements as well as realizing the interest of people meant for this Waqf as they continue benefiting from it as well as the interest of the person who makes Waqf because he is always collecting reward from it but if he has recourse on his Waqf, then he has no interest in it⁽⁴⁾

(1) In Alesaaf: Alkhasaf said that his father told him a narration by Alhasan Ibn Zeyad who said Abu Hanifa (may God bless his soul) said that it is not allowed to make Waqf unless it is through will. It is narrated by Abu Yosouf, (may God bless his soul), that he accepted the same saying of Abu Hanifa till he was told that Omar Ibn Alkhatab (may God bless his soul), has a piece of land called "Thamgh" and he made it Waqf then Abu Yosouf refrained from his saying and said, if this speech reached Abu Hanifa, he would have refrained from his saying. Altarabulsi, Alesaaf, previous reference, p 3-4

(2) Munzer Abdelkarim (Judges) rules of Waqf (legal and comparative Feqh study) first edition, culture publishing house, Jordan 2011, p 100, and Ebtesam Belqasem Ayed Alqerani, (Waqf between the rule of God Almighty possession and common possession) a study submitted to the third endowments conference in Kingdom of Saudi Arabia, held in Islamic University in Almadina Almunawara in the period between 3 and 5 January 2010, p 194-195, and: Mahmoud Ahmad Abu Layl (funds Waqf in Islamic Feqh) Sharea and law magazine, United Arab Emirates University, issue 12, February 1999, p 28

(3) Shehab Aldin Ahmad Bin Idrees Alkerafi, Alzakhera, investigated by Saeid Aarab, part 6, first edition, Islamic west publishing house, Beirut 1994, p 323-324, and: Alsarkhasi, Almabsoot, previous reference, part 12, p 28

(4) Muwafaq Aldin Abu Mohammad Abdullah Bin Ahmad Bin Mohammad Bin Qadama Alkafi, investigated by Abdullah Bin Abdelmoshen Alturky in cooperation with Arab and Islamic studies and researches center, part 3, first edition, Hajr publishing house, Egypt, 1997, p 580, and: Abaalkhail, previous reference, p 48, and: Mohammad Othman Shebeer (Waqf between the rule of God Almighty possession and common possession) a study submitted to the third endowments conference in Kingdom of Saudi Arabia, held in Islamic University in Almadina Almunawara in the period between 3 and 5 January 2010, p 63

Nevertheless, some researchers⁽¹⁾ stressed the importance of Abu Hanifa opinion in Waqf contemporary legislations because it can be made use of in realizing the interest of the person who makes Waqf through treatment of some problems faced by the man who makes Waqf, during his live. This man may face some urgent circumstances that make him in dire need to restore the funds he made as Waqf so as to solve his problem and as relieve of his anguish or rebut or relieve great embracement to him⁽²⁾ .

This opinion is respected by some researchers but although it is important and grave enough, it could be used as means of backing off from Waqf without ensuring the availability of such urgent case of need⁽³⁾ .

The danger of allowing backing off from Waqf becomes more apparent in the cases in which backing off from Waqf become implicit which affect the mere existence or Waqf because it paves the way for the possibility of trickery regarding the principle of impermissibility to dispose of the Waqf asset by carrying out banned actions considering them as implicit backing off in action⁽⁴⁾ .

(1) Alayashi Fedad (introduction to discussion regarding issues in contemporary Waqf legislations) basic information paper submitted to the scientific forum regarding Waqf and Zakah laws, organized in Nowakshot, Mauritania in the period from 16 to 21 March 2008, in cooperation with Islamic Institute for researches and training affiliated to Islamic Development Bank in Jeddah and secretariat general of endowments in Kuwait and the national endowments institution in Mauritania p 7

(2) This motive made the Egyptian legislator give the person who makes Waqf the right of backing off in his Waqf. This is referred to by Ahmad Farrag Hassan: "the motive that made law give the person who makes Waqf the right to back off, as per the text of the explanatory memo, is that incidents show that some people who made Waqf were subject to certain necessities that can not be avoided except by allowing backing off from the whole Waqf or some of it. The person who made Waqf could have been a wealth merchant then he could be subject to bankruptcy and in this case he had nothing to relieve him from his insolvency and keep his commercial and financial reputation so as means of facilitating matters for people and in execution of the most benefiting things for people, it was decided not to make Waqf necessary" Ahmad Farrag Husain, rules of wills and endowments in Islamic Sharea, Munshat Almaarif, Alexandria, 2000, p 271

(3) Abdelrazaq Esbehi, legal study of ten problematic issues in Maghreb endowments Modawana, compared to some Arab legislations, Awqaf magazine issued by Kuwait endowments secretariat general, twelfth year, issue 22, May 2012, p 28-29

(4) Anwar Ahmad Alfezeaa (civil protection of Waqf: study in Kuwaiti law) rights magazine issued by scientific publishing council, Kuwait University, twenty third year, issue 2, June 1999, p 100



Therefore, adopting the contemporary legislations of permissibility of backing off from Waqf⁽¹⁾, should remain as exception and should not be resorted to unless its controls and conditions are realized as per the following:

- Availability of need and conditioned necessity on the part of the person who makes Waqf at the time of establishing his Waqf⁽²⁾. Such conditions and need should be subject to evaluation based on sufficient verification and proof
- Backing off should be made clear⁽³⁾

It is worth mentioning that regarding the first control, some researchers consider that the needy case based on sufficient verification is in itself, justification for deviating from the original to the exception. Therefore, there is no need to link the legitimacy of backing off from Waqf by the person who makes it when he becomes needy and stipulating a condition of such right when establishing his Waqf.

(1) The Moroccan legislator adopted the permissibility of backing off by the person who makes Waqf, in two conditions. They are: if the Waqf is linked to certain things that will be found in future and in the case of having a condition stipulated by the person who makes Waqf giving him the right to back off from Waqf in time of need, Esbehi, previous reference, p 29. But the Kuwaiti legislator allows the person who makes Waqf to back off from his Waqf whether in charity or privacy. The person who makes Waqf has the right to change methods of payment from Waqf and has the right to change its conditions, even if he deprives himself from this except Waqf allocated for the mosque, the person who makes Waqf has no right in this case to back off from Waqf and has no right to change it, even if he puts a condition regarding this, Alfozee, previous reference p 99. The Egyptian legislator did the same. Ahmad Mahmoud Alshafee: will and Waqf in Islamic Feqh, ALhuda publishing house, Alexandria 1994, p 226-227

(2) Controlling the permissibility of backing off from Waqf by the person who makes Waqf by stipulating a condition denoting this at the time of establishing Waqf can be justified in making such backing off legitimate considering it as implementation of the condition made by the person who makes Waqf. Almalkya made it possible for the person who makes Waqf to stipulate a condition giving him the right of backing off from Waqf and thus the right of backing off becomes demonstrated as per his condition. Aldesoki said: "if the person who makes the Waqf said I have the choice, as Ibn Alhajebe said and as investigated by Ibn Abdelsalam, he should satisfy its condition. They also said that he satisfies his condition if he says that if he needs the Waqf fund he can buy it" margin by Aldesoki, previous reference, part 4, p 75

(3) "If the person who makes Waqf sells the Waqf premises or makes it Waqf for another body without stating this in the documents of his new Waqf that he is backing off from his first Waqf or that he abstains from spending the revenues to the body meant for Waqf, this will not be considered as backing off" Farrag Husain, previous reference, p 272

Nevertheless, taking precaution should not be missed for the interest of Waqf and its target because the state of being needy alone is not sufficient justification to allow backing off from Waqf. The intention of the person who makes Waqf as charity is the point to be considered in establishing Waqf and discriminating in from other types of charity⁽¹⁾. The person who makes Waqf gets rid of his funds and allocates it without disposing of it for the purpose of benefiting from it as continuous charity in order to realize the reward in life and after death. So, he should not back off from Waqf because of becoming needy after he had decided and intended to make Waqf. The intension of Waqf will be changed from saving the wage for the other world to saving money for this life and the intension also will be changed from loan that will be returned in double in the other world to loan requested by its owner when he becomes needy while the Waqf is still under investment.

Regarding the second control, the results arising from backing off from Waqf are dangerous and backing off from Waqf should not contradict the general rules that necessitate expressing will clearly in cases required by law or agreement or the nature of transaction⁽²⁾

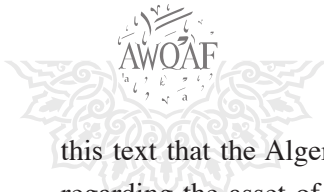
4- Preponderating the necessity of Waqf pursuant to the two sayings in Algerian endowments legislation

The necessity of disposing of Waqf in Algerian legislation has its foundation in the texts of the Algerian endowments law 10/91 and the Algerian Family law 11/84, as per the following:

- Pursuant to the text of the two article 16 and 23 of the Algerian endowments law 10/91 where article No.(23) stated the following: "disposing of the assets of Waqf property which is benefitted of, is not allowed in any manner of disposal through sale or donation or assignment or other" it is understood from

(1) Jomaa Mahmoud Alzoreqi, (future of Waqf institutions: within fixed and changeable things in Islamic Waqf system) Awqaf magazine issued by Kuwait Awqaf general secretariat, fourth year, seventh issue, November 2004, p 70

(2) The same source p 272-273, and: Alfozae, previous reference, p 100-101



this text that the Algerian legislator bands, in general, all types of disposal regarding the asset of the property Waqf in a manner that makes it subject of possession whatever the name of such disposal may be and whoever the person who carries out such act may be. Article No.(16) stated that: "the judge may cancel any condition necessitated by the person who makes Waqf if such condition contradicts the rule of the Waqf which is necessity or if such condition is harmful to the place of Waqf or to the interest of those for whom the Waqf is made" this text was clear enough regarding adopting necessity as rule or effect resulting from the correct Waqf in Algerian legislation⁽¹⁾

- Although the text of the two articles 16 and 23 of the Algerian endowments law 10/91 are important in determining the condition of necessity of disposing of Waqf in Algerian legislation, every doubt in necessity is rebutted pursuant to the text of the Algerian family law 11/84. The fourth chapter of this law includes a part entitled (contributions) within its first part regulating the will, donation and Waqf. The texts were clear regarding the permissibility of backing off from will and donation but there is no signal to the permissibility of backing off regarding the rules of Waqf⁽²⁾. The concept of such difference makes us understand that the Algerian legislator does not allow backing off from Waqf.
- The text of article 213 of the Algerian family law 11/84 states the following: "Waqf means withholding fund from possession by any person for the purpose of charity" this text is clear in determining the necessity of Waqf in Algerian legislation⁽³⁾. Although the text does not include clearly banning disposing of Waqf, but the meaning of withholding and eternity is non disposal of Waqf

(1) Hamdi Basha Omar, contributions contracts (donation, will, Waqf) Homa publishing house, Algeria, 2004, p 81, and: Ramol Khaled: legal and organizational frame of Waqf properties in Algeria, Homa publishing house, Algeria, 2004, p 54

(2) It is necessary to refer to the text of article No.(212) of the Algerian family law 11/84. "donation meant for public benefit cannot be backed off from"

(3) Abdelrazaq Bin Ammar Bo Diaf, the concept of Waqf as financial institution in Islamic Feqh and legislation, Alhuda publishing house, Algeria 2010, p 36

as well as its necessity⁽¹⁾. Algerian judiciary justified its ruling regarding the necessity of Waqf pursuant to the text of article 213, of the Algerian family law 11/84 ⁽²⁾.

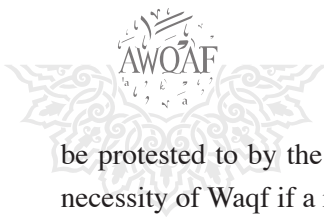
If we assume that the Algerian legislator adopts the necessity of Waqf pursuant to the opinion of the majority of Feqh scholars, studying and reconsidering the text of the two articles 16 and 23 of the Algerian endowments law 10/91 show that the Algerian legislator stressed the two Feqh opinions together, as per the following:

- The ruling stated in the text of article No.(23) of the Algerian endowments law No.(10/91) is a general rule necessitating Waqf by the power of law, that is to say without need to have a ruling but the rule established in the text of article 16 of the same law is a special rule in which the legislator considered the cases in which the person who makes Waqf states his right of backing off from his Waqf, because it is necessary to respect his will as per law⁽³⁾. This necessitates resorting to the judiciary to give ruling of the necessity of Waqf.
- What the Algerian legislator decided in the general and special rule is that in the case in which the person who makes Waqf inscribes a condition regarding backing off from his Waqf based on the saying of Imam Abu Hanifa or the saying of Almalkya in their permissibility of backing off from Waqf if the person who makes Waqf inscribes such condition for himself when making his Waqf, such backing off will result in breaching the general rule which the legislator wanted to stress and to avoid such breach,
- The Algerian legislator benefitted from the opinion of Abu Hanifa regarding excepting certain cases of Waqf from being necessary, a person who claims that his Waqf is not necessary can rely on the creed of Imam Abu Hanifa can

(1) Ramol, previous reference, p 54, and: Mosa Salmi: disposals taken regarding Waqf properties in Algerian legislation, Master degree thesis, Algeria University, Faculty of Law, Bin Aknon, 2003, p 18

(2) Salmi, previous reference, margin (2), p 18, and: Ahmad Laoor and Nabeel Sakr, legal guide for family, Alhuda publishing house, Algeria, 2007, p 142

(3) Article No.(14) of Algerian endowments law No.(10/91) states that: "the conditions made by the person who makes Waqf in his Waqf regulate Waqf unless there is a text in Sharea that forbids this"



be protested to by the saying of Imam Abu Hanifa himself who adopts the necessity of Waqf if a ruling is issued in this concern.

- If one person makes Waqf and then he backs off from his Waqf and "Almetwali" of his Waqf resorted to the judiciary, the judge may give ruling of the necessity of Waqf pursuant to the text of article 16 of the Algerian endowments law No.(10/91) which allows the judge to decide the necessity of Waqf⁽¹⁾.

Second

The time during which Waqf becomes necessary in Algerian endowments legislation

Although the majority of Feqh scholars agree to the necessity of Waqf, they greatly differ regarding the time of its realization. They are divided regarding determining such right. There are two teams; one team says that it is necessary to deliver the things given as Waqf so as to complete Waqf and its necessity. Another team says that the Waqf becomes necessary as soon as the correct form of Waqf is issued, without need for necessitating receipt of Waqf.

1- Necessity of receiving to realize the necessity of Waqf:

Imam Mohammad Bin Alhasan from Alhanafiya, and Alhanabela in one saying of the creed, as well as Almalkya, believe that it is necessary to receive the full complete Waqf and its necessity, but there are differences between them regarding the conditions of receiving and the methods of receiving:

- Imam Mohammad Bin Alhasan believes that Waqf does not become complete unless the parts of Waqf are taken off the hand of the person who makes Waqf and deliver everything related to Waqf, like the mosque where prayer is said in group. In other cases Almetwali should be appointed and the Waqf part should be delivered to him⁽²⁾

(1) When the judge gives ruling in Waqf founded on Alhanafi creed, he should decide the necessity of Waqf because Alhanafi creed give preponderance to the necessity of Waqf as per the opinion of Mohammad and Abu Yosouf. So judges are restrained to give ruling using the most accurate sayings preponderated in the creed. Alzarka, previous reference, p 107

(2) Ibn Abedin (Rad Amehtar) previous reference, part 6, p 534, and: Alsarkhasi, (Almabsoot) previous reference, part 12, p 36

- One of the sayings of Alhanabela states that Waqf does not become necessary unless it is received and taken out from the hands of the person who makes Waqf, giving a proxy to the person who will supervise it⁽¹⁾.

But Almalkya consider possession as condition for the correctness of withholding⁽²⁾. Almalkya say it is necessary to possess the Waqf funds by the people or the person for whom Waqf is made or by its deputy, that is to say Waqf should be delivered and received before the death of the person who makes Waqf or before his bankruptcy. It is necessary that such position of Waqf should last for one year⁽³⁾. If Almetwali who supervises Waqf does not possess Waqf till something happens to the person who makes Waqf such as illness or death or insolvency before the end of the year, the Waqf is revoked unless it become permissible by the creditors in case the estate has debts or the heirs in case of death illness⁽⁴⁾.

Almalkya said that if Almetwali who supervises Waqf possesses it and if Waqf has revenues and if the person who makes Waqf backs off from Waqf before the Elapse of the year, the rule in this case is like non possession ...

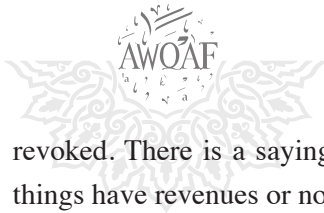
but if it is one of the things which have no revenue such as books, it is not

(1) The book of Hanbali Feqh says: "regarding the idea of condition: Imam Ahmad (may God bless his soul) considers delivering the Waqf to its superintendant, Alharthi says "Allaa Aldin Abi Alhasan Ali Bin Sulayman Almerdawi" in his book *Alensaf Fi Maerefat Alrajeh Min Alkhelaf*" as per the creed of Imam Ahmad Bin Hanbal, rectified and investigated by Mohammad Hamid Alfeqi, first edition (without mentioning a publishing house) 1956, p 36, and: "Ahmad said: it is known that Waqf should be taken out off the hand of the person who makes Waqf and deputized to the person who will supervise it because it is contribution and is not necessary as soon as it is made" Bin Qodama, Alkafi, previous reference, part 3, p 581

(2) Abi Alhasan Ali Bin Abdelsalam Altasoli (Albahja Fi Sharh Altohfa) corrected and controlled by Mohammad Abdelkader shaheen part 2 first edition, scientific books publishing house, Beirut 1998, p 379

(3) Same reference, P 373 and: Alqarafi (Alzakgera) previous reference, part 6, p 320

(4) Abi Abdullah Mohammad Bin Mohammad Bin Abdelrahman known as Alhattab, (Mawaheeb Aljalil Lesharh Mukhtasar Khalil) corrected and controlled by sheikh Zakarya Amerat, part 7, books world publishing house (without mentioning country of publishing) p 636-638, and: Abi Abdullah Mohammad Alkharshi (Sharh Alkharshi Ala Mukhtasar Khalil) part 7, second edition, Amiri printing house, Egypt, 1899 p 84-85



revoked. There is a saying that the rule of all things is the same whether such things have revenues or not⁽¹⁾

Possession at Almalkya is either material or imperative. In the first case delivery is actual that is to say the man who makes Waqf enables Almetwali to supervise the Waqf premises using all methods of possession and making Waqf under the authority of Almetwali, like allowing prayer in the mosque and burying in the grave and separating between Almetwali and the piece of land or house but imperative possession takes place if the premises subject of Waqf is placed under guardianship or under the custody of the person who makes Waqf. Possession is realized by the following conditions:

- Testimony of the person who makes Waqf, regarding the Waqf before the occurrence of prohibition
- The person who makes Waqf should spend the whole revenue of Waqf or some of it for the interest of the persons under guardianship

The premises under Waqf should not be occupied as a whole or in half by the lodging of the person who makes Waqf, otherwise possession is wholly revoked in the first case and revoked in half in the second case⁽²⁾ people who say that it is necessary to receive Waqf depended on the following:

- The saying of Omar (may God bless him) because he made his Waqf in the hand of his daughter Hafsa (may God bless her) and he made this to complete the Waqf⁽³⁾

(1) Abi Albarakat Ahmad Bin Mohammad Bin Ahmad Aldardir (Alsharh Alsagher Ala Aqrab Almasalik Ela Mazhab Alimam Malik) checked by Mustafa Kamal Wasfi, part 4, knowledge publishing house, Egypt, p 108

(2) Alqarafi (Alzakhera), previous reference part 6, p 319, and: Alkharshi, Sharh Alkharshi, previous reference, part 2, p 84-85

(3) In (Almabsoot) the following is mentioned: Mohammad – May God forgive him – used the saying of Omar – may God bless him – who made his Waqf in the hand of his daughter Hafsa – may God bless her. He did so to complete the Waqf, but Abu Yosouf, may God bless his soul, said that he did so because of his being so busy and feared being in default or to be in her hand after his death (Alsarkhasi), previous reference, part 12, p 36

- Waqf is like donation and giving a will in such case means removal of possession as means of contribution and they can not be complete except by receiving⁽¹⁾
- Juristic reasoning by analogy of the charitable Waqf to the realized charity, the second cannot be complete except by receiving and the first one should also be the same⁽²⁾.

2- Necessity of Waqf as soon as its correct form is issued:

Alshafeia⁽³⁾, and Alhanabela believe as per the commonly accepted part of the creed⁽⁴⁾ as well as Imam Abu Yosouf of Alhanafeya⁽⁵⁾ believe that the rule of Waqf is instant necessity, that is to say Waqf is complete as soon as it is uttered, without need to obtain a ruling or delivery or receiving.

They said that Waqf is similar to setting a slave free because each of them means removing property to another one other than the owner and because both of them results in banning disposal so, Waqf becomes necessary in the same way as setting a slave free becomes necessary as soon as the word is uttered⁽⁶⁾.

They reject the evidences of people who say that it is necessary to receive Waqf to become necessary, as per the following:

(1) Bin Qodama, Alkafi, previous reference, part 3, p 581

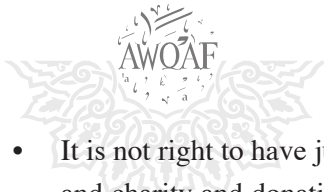
(2) Alsarkhasi (Almabsoot), previous reference, part 12, p 35, and: Abi Bakr Ahmad Bin Amr Alshebani, known as Alkhasaf, Awqaf rules, corrected by Egyptian Awqaf general diwan, first edition, Egyptian Awqaf general diwan printing house, Egypt, 1946, p 21

(3) Abi Ishaq Burhan Aldin Ibraheem Bin Mohammad Bin Abdullah Bin Mohammad Ibn Mufleh Alhanbali (Almubde'a Fi Sharh Almoqne'a) investigated by Mohammad Hasan Mohammad Hasan Ismaeil Alshafee, part 5, first edition, scientific books publishing house, Beirut, 1997, p 184, 185. And: Mohammad Bin Mohamad Bin Mohammad Alghazali (Alwaseet Fi Almazhab) investigated by Ahmad Mahmoud Ibraheem, first edition, Alsalam publishing house, 1997, p 255

(4) Almerdawi (Alensaf), previous reference, part 7, p 36. And: Bin Qodama (Alkafi) previous reference, part 3, p 581. And: Albehoti (Kashaaf Alqenaa) previous reference, part 10, p 34

(5) Altarabulsi (Alesaaf) previous reference, p 4. And: Ibn Abedin (Rad Almehtar) previous reference, part 6, p 535

(6) Almarwardi, Alhawi Alkabeer, previous reference, part 7, p 511. And: Ibn Mefleh (Almubde'a Fi Sharh Almuqne'a) previous reference, part 5, p 184-185. And: Bin Qodama (Alkafi), previous reference, part 3, p 581. And Alsarkhasi (Almabsoot), part 12, p 36. And: Ibn Abedin (Rad Almehtar) previous reference, part 6, p 535



- It is not right to have juristic reasoning analogy regarding Waqf on one hand and charity and donation because each of them results in full position to the person who is given the charity or the person who is given the donation, but in the case of Waqf ...
- Most feqh scholars think that the possession of waqf does not transfer to the person /people for whom waqf has been made because waqf means withholding the asset and liquidating the benefit Therefore annexing it to setting a slave free is better than annexing it to donation or charity⁽¹⁾

Narrators did not say that the delivery of Omar (May God bless him of his waqf to his daughter Hafsa(may God bless her) was an act made for effecting waqf completion⁽²⁾

3- Ambiguity of the Algerian legislator attitude in determining the time for waqf necessity

There is no clear text denoting receiving as precondition to waqf necessity or its completion in Algerian endowments legislation. Consequently, it is mandatory to resort to the rules of Islamic Sharia in application of the rules of the second article of the Algerian Endowments law No. 10/91 ⁽³⁾.

But this reference does not solve the problem decisively because the issue is subject of the judge discretion who should give preponderance to the most accurate opinion which is nearer to the rules of waqf clearly stated by the legislator. Respecting the will of the person who makes the waqf in founding his

(1) Mahmoud Alshafeie, previous reference, p. 200

(2) In "Alhawi Alkabeer", the following was mentioned: withholding takes place even if waqf is not received because Omar who paid charity by order of the prophet (peace and blessings of Allah be upon him) continued looking after his waqf till his death. Ali (may God bless him) continued looking after his waqf till his death. Fatima (may God bless her) continued looking after her waqf till her death. Alkawardi, previous reference, part 7, p. 511

(3) The article stated that "similar to all articles in this law; it is necessary to resort to the rules of Islamic Sharea regarding things which have no special text"

waqf on a certain creed should be considered⁽¹⁾

Starting from such directions, it is preponderated that the Algerian legislator adopted the saying that waqf becomes necessary as soon as the correct form of waqf is issued⁽²⁾, as per the following reasons:

- The prerequisite of receiving waqf as pillar for waqf formation was not mentioned in the text of the ninth article of the Algerian Endowments law or as a condition for its enforcement⁽³⁾. This is unlike the donation contract regarding which the Algerian legislator stated clearly the necessity of receiving⁽⁴⁾

(1) it is established in Algerian judiciary- regarding waqf cases- that waqf is subject to the will of the person who makes waqf. He may adopt the conditions applicable in any Islamic creed which he had chosen as basis for his waqf, such as "if the rules of Islamic sharea decide subjecting the withholding contract to the will of the person who makes such withholding and who is allowed to adopt the conditions applicable in any Islamic creed, breaching these principles necessitates revoking any resulting different rules. Therefore, this necessitates rejecting the decision to revoke the withholding contract because it deviated from the rules applicable in Almalqi creed, in breach of the legitimate rule that necessitates respecting the will of the person who makes the withholding" decision N0 40589 dated 24 February 1968, Judicial magazine, 1989, issue 1, p. 118, referred to in: Hamdi Pasha Omar, Real estate Judiciary, edition 10, Homa publishing house, Algeria, 2010, p 272

(2) the saying that waqf becomes necessary as soon as its correct form is issued, is preponderated by Feqh, pursuant to the fact that those who say that receiving is prerequisite before waqf becomes necessary; are against the established principles decided in waqf, as per the following:

-they did not make consent as prerequisite for the necessity of waqf, therefore the condition of non receiving or waqf necessity becomes more mandatory

-when receiving is necessary, continuity of receipt is necessary. And whereas people who say that receiving is precondition for necessity, allows the return of waqf to the person who made it without the permission of those for whom waqf was made, this is an evidence that taking waqf off the hands of the person who makes it is not a condition for the necessity of his waqf

-when receiving is considered mandatory, the point to be considered is receiving the thing meant in the contract that is to say the thing subject of waqf. But Almalqyah say that receiving the waqf by Almetwalli is prerequisite, Alkobeesi, previous reference, p. 196-197

(3) The articles states: "Waqf pillars are:

- the person who makes waqf
- the place of waqf
- Form of waqf -
- People/ things for whom waqf is made

(4) article N0 206 of the Algerian Family law N0 11/84 stated: "donation takes place by offering and agreement and possession becomes complete together with considering the rules of real estate authentication rules and the procedures regarding movables. If one of the previous conditions is breached, the donation becomes invalid"



Donation becomes invalid if the person granted the donation is not enabled to put its hands on the donated thing for the purpose of controlling it and assume the appearance of the owner of right. This cannot be done except by delivering the donated money to the person who has been granted such money⁽¹⁾.

Therefore, the silence of the Algerian legislator regarding the condition of the completion of waqf act, unlike his clear attitude regarding donation, leads to believing that the intention of this is realizing the necessity of waqf immediately on issuing the correct form of waqf.

- The third article of Algerian Endowments law No 10/91 defines waqf as: "waqf is withholding the premises from possession permanently and giving the benefit as charity to the poor or any manner of benevolence and charity"⁽²⁾.

This definition coincides a lot with the definitions of waqf by Feqh scholars who believe in the necessity of waqf as soon as its correct form is issued⁽³⁾

- Waqf in Algerian legislation is not correct unless it is eternal. Any waqf with a determined term becomes invalid⁽⁴⁾. This is a breach to the opinion of

(1) The attitude of the Algerian legislator is not clear in characterizing the condition of possession in donation contract that is to say if it is considered as integral pillar of constituting the contract or if it is necessary condition

(2) The definition of waqf as: "withholding funds from being possessed by any body as charity" as per the text of article N0 213 ofv the Algerian Family law No11/84 seems more accurate and clearer

(3) Alqalyoubi, one of Alshafiya fiqh scholars, defined waqf as: "withholding funds that can be benefited from and keeping it asset for permissible means of payment" Shehab Aldeen Ahmad Bin Salama Alqalyoubi ,(Hashyat Alqalyoubi ala qotr alraghbeen sharh minha[altalbeen) part 3, edition 2, Scientific books publishing house , Beirut 2003.p148, Alhanabelah fiqh scholars defined waqf as: "withholding the asset and liquidating the benefit" Almerdawi, (alensaf) part 7,previous reference .p. 3. In (Rad almokhtar) it is stated that: " Mohammad and Abi Yusuf define waqf as withholding the premises under the rule of being possession of God Almighty and spending its benefit to those he likes" ibn Aabdeen , previous reference, part 6, p. 520-521

(4) article N0 28 of the Algerian Endowments law N0 10/91 stated that: " waqf becomes invalid if it has a certain term"

Almalkyah who believe in the permissibility of temporary waqf⁽¹⁾

- The importance of receiving as prerequisite to necessity to dispose of waqf, lies in incarnating the desire to protect the right of those for whom the waqf is made from claiming the property subject of waqf by the heirs of the person who made waqf after the death of their testator or claiming by creditors. Thus, the target of receiving is getting the proper subject of waqf..

From the financial obligations of the person who makes Waqf so as not to be transferred together with his remaining funds to the financial obligations of others who have legal and legitimate right in such funds⁽²⁾. In view of the receiving condition and its resulting difficult effects on the people who make Waqf and discouraging people from Waqf⁽³⁾, if it is possible to realize the target of receiving without making it a precondition, it becomes unnecessary to strictly abide by the condition of receiving⁽⁴⁾. Therefore, the Algerian legislator necessitated under the text of article 41 of the Algerian endowments law No.(10/91) that Waqf act should be authenticated in an official notarized paper⁽⁵⁾. In so doing, Waqf will become in-kind right fixed and immunized using the most powerful immunization

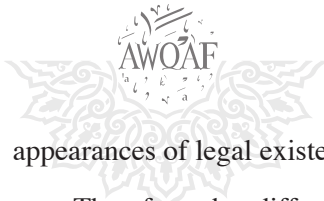
(1) Almalkyah do not necessitate the eternity condition for the correctness of waqf for them, eternity element. But it can be correct and necessary for a limited period such as one year then it returns as full property to the person who makes Waqf after the elapse of the limited period. Such property of Waqf can be given as inheritance. Almalkya believe that the eternity element in Waqf is not part of Waqf concept and its entity. Alkharshi says: "eternity element is not a condition for the validity of Waqf but Waqf can be valid and necessary for a period of one year then after such period it becomes property" Alkharshi explanation, previous reference, part 2, p 91

(2) Asbehi, previous reference, p 27

(3) Alfozea, previous reference, p 83

(4) Same reference, p 86

(5) Article 41 of the Algerian endowments law No.(10/91) stated that "the person who makes Waqf should restrain Waqf by a contract at the authenticator. He should register the contract at the bodies concerned with real estate registration which are forced to submit a proof of this registration and refer a copy of such registration to the concerned body at Awqaf". It is clear that this article is related to the Waqf whose subject is real estate and so there is inquiry regarding the chattel. There is no special text regarding revoking the act if it is not written down in an official paper before the authenticator that should be notarized. But the mandatory form mentioned in the text of this article supposes such thing.



appearances of legal existence for any right⁽¹⁾

Therefore the difference regarding the condition of receiving and non considering it as a condition for Waqf necessity becomes valueless as long as the realization of Waqf necessity is realized in both cases by the same procedure which is the real estate notary public

4- Necessity to differentiate between Waqf necessity regarding the real estate and Waqf regarding the chattel⁽²⁾ :

The real estate notarization system is considered the basic legal framework of the real estate property system in Algeria through which the Algerian legislator tries to stress and lay down a clear and unified matrix of real estate property which gives privacy to property subject of the real Estate in comparison with the property subject of chattel.

A) Regarding disposing of Waqf regarding real estate:

The endowments law agrees with the legislative policy of real estate property which is based on the prerequisite of form represented in writing down the disposal regarding the real estate in a formal paper executed by the concerned official (the authenticator) and it should be registered at the real estate notarization

(1) It is necessary to refer to the importance of the opinion saying that registering or entering the Waqf in the real estate is considered a form of mandatory possession which replaces material possession. Almalkya consider material possession as the basis when they consider receiving as a precondition for Waqf necessity. But when we consider the target for which possession is preconditioned which is acquitting the person who makes Waqf from the property subject of Waqf, mandatory possession of Waqf, incarnated in the real estate map, becomes stronger evidence than the material appearance of possession: Abdelrazaq Esbehi (civil protection of public Awqaf in Morocco) brochures of Ministry of Awqaf and Islamic affairs in Moroccan Kingdom, Alamnya publishing house, Alrabat 2009, p 145-149

(2) Unlike the opinion regarding Waqf necessity as soon as uttering the correct words expressing the intension of the person who makes Waqf, whether Waqf is made for chattel or real estate: Jasem Ali Salem Alshamesi (legal matters in the rules of Waqf) a research submitted in Islamic Waqf debate held by Sharea and law Faculty during the period from 6-7 December 1997, p 6

department (real estate portfolio) so as not to be subject of invalidity⁽¹⁾

This matter which is carried out as per its legally determined procedures is considered part of the general order because it is considered real guarantee of the real estate property right and the real estate in-kind rights as well as all legal transactions regarding the real estate⁽²⁾ its practical benefit is incarnated in making the one who takes and action alert of the importance and danger of the legal act which he is about to decide and ensure the right of the person who takes

(1) Since the issuance of the authentication law under order No.(70/91) dated 17 Shawal 1390 corresponding 15 December 1970 and the issuance of real estate notarization law under order No.(75-74) dated 8 Ze Alqada 1395 corresponding 12 November 1975 which included preparing the general land survey and establishing the real estate registry and the subsequent laws, orders, decrees and instructions, including the content of Algerian civil law issued under the order 75-58 dated 20 Ramadan 1395 corresponding 26 September 1975, the Algerian legislator stresses the condition of form in real estate transactions. Before that date, official form was not a condition. Waqf contracts, as per their religious nature, were executed by legitimate judges. The Algerian judicial discretion stressed the official shape of the contracts executed by legitimate judges in the decision No.(40097) dated 3/6/1989: "it is established by judiciary and Feqh scholars that contracts executed by legitimate judges gain the same official nature as the nature of contracts executed by the public officials and area considered as acknowledgement of accuracy of their contents including the agreements and the dates stated in them so that it is not possible to demonstrate something different or contradictory to their content". Judicial magazine 1992, issue No.(1), p 119. It is referred to in: Basha Omar (real estate judiciary), previous reference, p 93

(2) Article No.(324) repeated 1 of the Algerian civil law issued under order No.(75-58) stated that: "in addition to the contracts subject to a formal shape under the power of law, contracts including transferring of real estate property or real estate rights should be executed in an official shape so as not to be subject to invalidity. Price should be paid to the official officer who executes the contract". Article No.(793) of the same law states that: "property and other in-kind rights in the real estate will not be transferred whether between the contracting parties or regarding others unless the procedures stated in law are considered, and particularly the laws regarding real estate notarization". Articles No.(14, 15, 16) of the order No.(75-74) including preparing the general land survey and establishing the real estate registry stated the following:

"It is necessary to refer to the following regarding keeping the real estate cards groups:

1- All the official contracts establishing or transferring or stating or amending the real estate property which will be prepared after establishing the real estate cards group

4- In general, every amendment to the real estate legal status determined and registered in the real estate cards group

"Every right of property and every other in-kind right related to the real estate no existing for others except from the date of notarizing it in the real estate cards group ..."

"The will full contracts and agreements that target at establishing or transferring or licensing or amending or elapse of in-kind right has no effect between partners except from the date of publishing it in the real estate cards group"



action for his interest against others and the right of the person who takes action, in itself, in case of claiming in a manner different from the content of the official paper which is considered as demonstration of its content unless it is objected to through forgery⁽¹⁾. The most important role is represented in the in-kind effect which cannot be arranged except by completing notarization. The notarization of real estate disposals is the source of the foundation and the arise of the real estate in-kind right in the Algerian legislation⁽²⁾

Therefore, the necessity of Waqf regarding the real estate is realized by the notarization procedure which is considered the source emerging the in-kind right against all people⁽³⁾.

Although notarization is an obligation on the part of the authenticator regarding the things which should be notarized under law, this is assumed to be done automatically and under its responsibility⁽⁴⁾, yet it is necessary to stress the inaccuracy of considering the un-notarized official paper regarding the emerging

(1) Article No.(324) repeated 5, from the Algerian civil law issued under the order No.(75-58) stated that: "the content of the official contract is considered as demonstration until its forgery is proved and is considered effective all through the national complete lands"

(2) No legal effects will result, except the personal obligations, whether between the parties or against others if the legal disposal regarding the real estate is subject to notarization

(3) The legal existence of Waqf property against the person who makes Waqf and others is realized at the moment when the official paper is notarized in which Waqf disposal is written down and at the same time its necessity is realized because the criteria in Waqf is taking out the property under Waqf from the property of the person who makes Waqf and this cannot be verified except by notarization. It is necessary to differentiate between the meaning of the effect originating entry and between the source of right: "the source of right is the legal cause which originates the right as per the rules of gaining rights in any law but regarding the real estate rights it is not sufficient to have this cause so as to originate this right for its owner. This means that entry originates the right and not the action" Amin Barakat Saud, lecture entitled: "effects of entry in in-kind registries" it is referred to in: Majeed Khalfoni, real estate notarization system in Algerian law, edition 2, Homa publishing house, Algeria, 2008, P 24

(4) As per the text of article No.(90) of decree No.(76-63) dated 24 Rabee'a Awal 1396 corresponding 25 March 1976 related to establishing real estate registry, which includes: "the authenticators, control clerks and the administrative powers should try to notarize all contracts or the judicial decisions subject to notarization which are executed by them or through their assistance, within limited terms"

of Waqf and the necessity of disposing of Waqf regarding the real estate⁽¹⁾ taking into consideration the criticism⁽²⁾ that may be said regarding this attitude which can be overlooked for the following reasons:

- This opinion is based on the clear texts that generally have a precondition regarding notarizing the disposal concerning the real estate so as to use it as

(1) It is worthy of notice that article No.(8) of the Algerian endowments law No.(10/91) stated that: "the protected public Awqaf are:

- 1- The places where religious rituals are said
- 2- The real estates or chattels affiliated to such places whether they are linked to them or far away from them
- 3- Funds, real estates and chattels endowed on the societies, institutions and religious projects
- 4- The known real estate property as Waqf which are registered at courts
- 5- Properties which gradually appear pursuant to official documents or testimonies of reliable persons from among the people and inhabitation of the area in which the real estate is located.
- 6- The endowments fixed through legitimate contracts that were annexed to state property or natural or moral persons
- 7- Special endowments regarding which the withholding body is not known.
- 8- All properties that accrued to public Awqaf but the person who made the Waqf is not known as well as the people for whom the Waqf is made. Such property which people acknowledge as familiar Waqf.
- 9- The properties, real estate and chattel endowed or known to be endowed which are found outside the homeland

-The methods of applying this article will be determined when necessary through regulations

The protected public endowments in the text of this article mean the endowments which the Algerian legislator considers as public endowments protected by the power of law, either because their mere religious nature or because of the serious desire to regain what happened to Waqf properties including seizure or aggression or loss of their size. This desire goes with the eternity of Waqf and its necessity by Waqf legislator in Algeria.

In application of the rules of the aforesaid article, the executive decree No.(336/2000) dated 28 Rajab 1421 corresponding 26 October 2000, was issued containing introducing the written testimony certificate to demonstrate Waqf property, its conditions and methods of issuance and delivery. Such certificate after completing its legally decided conditions should have an official certificate regarding Waqf property which is subject to registration and real estate notarization.

(2) Some people think that stressing the notarization condition to realize the legal existence of Waqf property and the necessity of Waqf disposal regarding the real estate may lead to making matters difficult for people who make Waqf instead of facilitating matters for them and discouraging people from Waqf instead of motivating them to make Waqf. This is in addition to wasting the will of the person who makes Waqf in spite of its being fixed in official paper.

evidence against others⁽¹⁾, and particularly the heirs of the person who makes Waqf considering them among the others. It is not possible to oppose to them regarding removal of the property of the person who makes Waqf and the accrue of usufruct to the people for whom the Waqf was made⁽²⁾, this the real estate subject of Waqf is taken out of the estate unless Waqf disposal is notarized because it is the source of the existence of disposal regarding them⁽³⁾.

Therefore, Even if the form of Waqf disposal regarding a real estate has been written down in an official paper, it is considered in the eyes of law as valueless in expressing the will of the creator of Waqf regarding removing the real estate subject of Waqf from his property, as long as it has not been notarized⁽⁴⁾.

- Under the text of article No.(44) of the Algerian Awqaf law No.(10/91), the Algerian legislator exempted the public Waqf from registration fees, taxes and other fees because it is an act of benevolence and charity⁽⁵⁾. It is clearly understood that the legislative intension of this text is encouraging people to create endowment without giving up the idea of unifying the legal matrix of

(1) The Egyptian real estate notarization law stated in the ninth article that "all acts that may originate one of the basic real estate in-kind rights or transfer it or change it or remove it, as well as the final rulings proving such thing, should be notarized by registration. Such acts include Waqf and will. If such acts are not registered, the aforesaid rights will not originate and will not be transferred or changed or removed between concerned people or regarding others". This is referred to in Shalabi, previous reference, p 341

(2) Article No.(17) of Algerian Awqaf law No.(10/91) states that: "if Waqf is valid the property right of the person who makes Waqf is removed and usufruct is accrued to the people for whom Waqf is made, within the rules of Waqf and its conditions"

(3) The problem necessitating disposing of Waqf deviates it from the sphere of satisfactory acts in which satisfaction is sufficient to have their effects but it does not enter the sphere of in-kind acts in which it is necessary to receive so as to realize its necessity. The people for whom the endowment is made may request the creator of endowment to carry out his obligations in-kind or by way of compensation, if he decides to back off from his endowment by transferring the property of the real estate to another person through a notarized official contract. Alshamsi, previous reference, p 8

(4) In this meaning: "the general trend in Islamic Feqh which say that contracts and acts are causes for legal rules. Man in Islam performs a cause that results in having legal rules concerning taking place, validity, enforcement and necessity. He concludes the act as per the opinion of legislator, same reference, p 5-6

(5) The Algerian legislator gave the public endowment the privilege of exemption from taxes and fees unlike the private endowment although private endowment is also considered an act of benevolence and charity

the real estate property based on the real estate notarization system for the purpose of realizing the best protection for them.

- Carrying out the notarization procedures does not lie on the creator of endowment but it is within the capacity and responsibility of the official who execute the official deed.

B) Regarding Waqf act regarding the chattel:

There is no clear text in the Algerian Awqaf legislation concerning the endowment regarding real estate and discriminating it by Algerian legislator from the endowment regarding chattel. The existence of discrimination between the endowment subject to real estate and the endowment subject to chattel is implicitly deducted from the text of article No.(41) of the Algerian endowments law No.(10/91) whose rule seems

more harmonious with the real estate⁽¹⁾ . Consequently, the Waqf act regarding chattel is governed by the preponderated established principle which is the necessity of Waqf immediately on issuing its correct form without need for delivering or receiving.

By resorting to the texts of the Algerian civil law issued under the order No.(75/58) considering it as general Sharea, we can easily notice the discrimination of the Algerian legislator regarding the transference of property between the actions regarding the real estate which were mandatory subjected to formal procedures and notarization and the actions regarding chattel which no particular form was ordained⁽²⁾ the act that results in obligation to transfer in-kind right regarding chattel transfer this right automatically by the power of law as soon as it arises without need for any other procedure such as delivery. The act regarding chattel is considered, in itself, a source of transferring the property

(1) Mohammad Kanaza (public Waqf in Algerian legislation) Alhuda publishing house, Algeria, 2006, p 75-76

(2) Article No.(165) of the Algerian civil law issued under order No.(75-58) stated that: "the obligation to transfer ownership or any other in-kind right can transfers property or in-kind right by the power of law, if a certain thing owned by the obligator is the subject of obligation together with considering the rules related to real estate notarization".



unlike the act regarding the real estate⁽¹⁾ . By analogy, if Waqf act is regarding chattel, such act transfers the property automatically as soon as it arises without need for any other procedure⁽²⁾ . On this basis, the necessity of Waqf is realized as soon as the correct form of Waqf is issued⁽³⁾

As a result of this, the possession rule in chattel may not be effective as possession deed stated in article 835 of the Algerian civil law issued under order 75-58 ⁽⁴⁾ against the endowed chattel, this is in execution of the Feqh rule which necessitates that: "withholding is allowed but cannot be withheld"⁽⁵⁾ , because the existence of Waqf act, with the possibility of demonstrating it using the methods of demonstration, refute the presumption of considering possession as correct deed to acquire the ownership of the endowed chattel because when Waqf is issued satisfying its pillars and conditions, the right of the creator of Waqf in its possession stops as well as the right of others and can not act in a manner that breaches the intension of withholding the asset and giving the benefit as charity.

(1) Vide: Abdelrazaq Ahmad Alsanhuri (Alwaseet in explaining the new civil law), part 2, edition 3, Alhalabi law brochure s, Beirut 2009, p 770 and subsequent pages

(2) Article No.(166) of the Algerian civil law issued under order No.(75-58): "if obligation regarding transferring in-kind right regarding something which was not decided except by its right, right does not transfer except by separating such thing. If the debtor does not carry out its obligation, the creditor may obtain something of the same type at the expense of the debtor after getting the permission from the judge, he is also allowed to claim for the value of this thing without breaching his right of compensation, the text means that it is necessary for the thing decided by type to be decided by itself and this can not be realized except by separation and so ownership is transferred by separation without need for delivery, vide: Abdelrazaq Ahmad Alsanhuri (Alwaseet in explaining the new civil law), part 9, edition 3, first volume, Alhalabi law brochure s, Beirut 2009, p 333-334

(3) It is worthy to refer to the text of article No.(12) of the Algerian endowments law No.(10/91) which states that: "the form of Waqf can be in words uttered or in writing or by signal as per the method determined by regulation together with considering the rules of article No.(2) mentioned above". Therefore, Waqf form regarding the chattel can be complete by saying, considering chattel of special nature such as ships and planes for which law necessitates authenticating the acts regarding them in a formal manner.

(4) The article states that: "the person who possesses-under correct deed- chattel or in-kind right regarding the chattel or deed for its bearer, he becomes the owner of such thing if he has good will at the time of possessing it. If good will and correct deed have been available at the possessor who considers such thing free of costs and in-kind restraints, he gains the ownership of such thing free from such costs and in-kind restraints. Possession in itself is a presumption of the existence of correct deed and good will unless evidence to the otherwise is submitted".

(5) Vide: Asbehi (civil protection of general endowments in Maghreb), previous reference, p 128-129

Third

Results of Waqf necessity in the Algerian endowments legislation

Adopting the necessity of Waqf results in a group of requirements which are considered inevitable necessity and originates consequently and in correlation, stating it in the Algerian legislation is only understood as confirmation to the requirements of necessity and its importance.

1- Invalidity of every condition contradicting Waqf necessity together with Waqf staying

Article No.(218) of the Algerian family law No.(11/84) stated that: "the condition of the creator of Waqf is carried out unless it legally contradicts the requirements of Waqf, otherwise the condition is revoked and the Waqf stays". This text is decisive in deciding the invalidity of every condition that contradicts the requirements of one of the requirements of Waqf in the Algerian legislation, every Waqf which contains a condition of non necessity will have the fate of invalidating such condition and Waqf will always stay existing and necessary.

The text of article No.(16) of the Algerian endowments law No.(10/91) included the same meaning. We note that its formation was less decisive than the previous one because the word (may) mentioned in this text may be understood as giving the judge the option between cancelling the condition which contradicts necessity and keeping it and allowing the creator of Waqf to back off from its Waqf or dispose of it. This does not go well with the confirmation of the requirements of Waqf necessity by the Algerian legislator.

Therefore, it is necessary to understand the phrase (may) in the text of article No.(16) of the Algerian endowments law No.(10/91) in the meaning of mandatory, particularly if we take into consideration the priority of the text of article No.(14) the Algerian endowments law No.(10/91) under which the Algerian legislator considered Waqf requirements as regulating the Waqf and that they should be respected⁽¹⁾.

(1) Whereas necessity is legally and legitimately one of the requirements of Waqf, it is mandatory for care in the first place in the eyes of law. The intension of legislation is non breach of the legal principles and the rules created by legislation to oblige people to obey them in their transactions and works. Alzarka: previous reference, p 143



2- Removal of ownership right of the creator of Waqf from the endowed property:

Article No.(5) of the endowments law No.(10/91) stated that: "Waqf is not the property of natural or artificial persons. Waqf enjoys artificial personality and the state does its best to respect the will of the creator of Waqf and implement such will". As soon as Waqf is correctly constituted, it gains its artificial personality and the ownership of the creator of Waqf is removed. The people for whom Waqf is created have usufruct only⁽¹⁾. Waqf ownership becomes like the property of the artificial person.

It is understood that it is in correlation with the necessity of Waqf through banning disposing of it in a manner transferring ownership and resulting in removal of the property of the creator of Waqf, the right of the creator of Waqf is extinguished as well as his future heirs right of disposing of the endowed property, because the creator of Waqf is no longer owner of it. In correlation also, the right of the people for whom Waqf is made becomes confined to benefitting from the endowed property without having the right to possess it and cannot dispose of it. This is confirmed by the text of article No.(18) of the Algerian endowments law No.(10/91): "the right of the person benefitting from the endowed premises is confined to the products of this endowed premises and he should make use of it in a manner that does not damage the premises. His right is usufruct only and not ownership".

3- Invalidity of each act leading to possessing the asset of Waqf property:

It is understood from the text of article no.(23) of the Algerian endowments law No.(10/91) that Waqf ownership may not be subject to possession act whatever the name of this act may be. If this text is breached, absolute invalidity will be the fate of the act regarding the property of Waqf which its owner meant, directly or indirectly to lead to owning the asset of Waqf.

(1) This meaning is clearly understood from the text of article No.(17) of the Algerian endowments law No.(10/91). It is also understood from the text of the two articles No.(213) of the Algerian family law No.(11/84) and article No.(3) of the Algerian endowments law No.(10/91) which generally bans anyone from possession the endowed property

The Algerian legislator allowed, as exception, compensating or replacement of Waqf property, but within the limits of the text or article No.(24) of the Algerian endowments law No.(10/91) ⁽¹⁾ because it does not conceal selling the asset of Waqf or substituting it with something better which result from replacement. The original clear principle in the Algerian legislation is the impermissibility of disposing of the asset of Waqf through selling, therefore, the Algerian legislator.

Did not allow sequestering Waqf property because this leads to disposing of the asset of Waqf property through selling and consequently terminating Waqf⁽²⁾

4- Impermissibility of terminating Waqf:

The correct Waqf in Algerian legislation is the Waqf which is originated to be eternal. If the form of Waqf indicates that it is temporary, the fate of Waqf becomes invalid. This is clearly stated in Article No.(28) of the Algerian endowments law No.(10/91)

The attitude of the Algerian legislator agrees with the opinion of Alshafeia⁽³⁾, Alhanabela⁽⁴⁾ and Alhanafiya⁽⁵⁾ who adopted supporting Waqf and who have the following opinions:

(1) The articles stated that: "it is not allowed to compensate the Waqf premises or replace it with another property except in the following cases:

- In case of its being subject to loss or extension, in case of losing the benefit from Waqf property with no possibility to repair it.

- In case of public need such as widening a mosque or grave or public road within the limits allowed by Islamic Sharea.

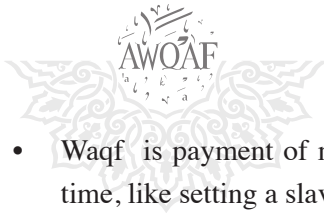
- In case of no benefit at all from the endowed real estate and dispelling of having any benefit at all from it on condition that Waqf should be compensated by another similar or better real estate. The above mentioned cases are demonstrated by a decision issued by the concerned body after examination and sufficient experience.

(2) Article No.(636) of law No.(9/8) dated 18 Safar 1429 H, corresponding 25 February 2008 stated the Algerian administrative and civil procedures law: "in addition to the funds that the special laws do not allow sequestering them, it is not allowed to sequester the following funds: (2) the funds endowed as general or special Waqf excluding fruits and revenues ..."

(3) In (Almohazab): "timing is not allowed in Waqf because it is payment of money as benevolence, with no time it is like setting a slave free". Alsherazi, previous reference, part 3, p 676

(4) The following is mentioned in (Alkafi): "it is not allowed to create Waqf with a certain term because it is the payment of money as means of benevolence if it is meant for a term it has no reward such as charity". Bin Qodama, previous reference, part 3, p 575

(5) In (Alesaaf): "if he says it is charity for the period of one month as Waqf and then the month is elapsed then the charity becomes absolute and Waqf becomes invalid because he made a condition regarding backing off from Waqf". Altarabulsi, Alesaaf, previous reference, p 29. Alkhasaf said: "if I said I made my piece of land as charity and Waqf for God Almighty for a period of one year or one day or one month, he said this Waqf is invalid. I asked why. He said he did not make his Waqf eternal" endowments rules, previous reference, p 127



- Waqf is payment of money as means of benevolence without determining time, like setting a slave free
- Waqf is legalize to become a continuous charity and the condition of its continuation is the eternity of Waqf but setting a term for Waqf is against its rule for which it has been legalize and so it becomes invalid⁽¹⁾

Almalkya and Alshafeia, differ from the majority of Feqh scholars, as per Ibn Seireg saying, and allowed Waqf temporarily and eternally⁽²⁾.

People, who agreed to Almalkya permissibility of temporary Waqf, think that such permissibility is widening of works of charity and encouraging such works to realize the purpose of many people in collecting the benefit of charity through creating Waqf of a certain real estate or property or money benefits they possess. Thus increasing the number of people who create Waqf is realized and there is variety of Waqf types⁽³⁾ as justification of their opinion, they said that benefitting takes place when Waqf is eternal and also when Waqf is temporary. This is as per the permissibility of chattel Waqf by the majority of Feqh scholars⁽⁴⁾. The criterion of Waqf is not eternity or not but liquidating benefit through the term of Waqf⁽⁵⁾.

Eternity in the opinion of the Algerian legislator is part of the meaning of Waqf and inherent in its requirements in a manner that does not allow temporary Waqf. The following are evidences regarding this:

(1) Shebeer, previous reference, p 60 and: Mohammad Abu Zahra, lectures on Waqf, edition 2, Dar Alfekr Alarabi 1972, p 72

(2) In Alhawi Alkabeer: "if Waqf is made for a certain time: as when he says: I made my house Waqf for Zaid for a period of one year, then he is not rewarded but Malek allowed this and the same was accepted by Abu Albbas Bin Sereg. When man is allowed to give charity using all or some of his money then he is allowed to give charity of such money at all times and at some time. Abu Alabbas said if some people say this is a loan and not Waqf, then the reply is this is not the matter, loan can be backed off from but Waqf can not be backed off from" Almawardi, previous reference, part 7, p 521. And: Alkharshi (Sharh Alkharshi) previous reference part 2, p 91

(3) Munzer Qahf, Islamic Waqf, its development, its management and its improvement, first edition, Dar Alfekr, Damascus 2000, p 152. And: Bodyaf, previous reference, p 69 and: Majda Mahmoud Hazaa, temporary Waqf (research submitted to the second conference of Waqf, organized Um Alqora University, Mecca Almukarama, 2006, p 14 and 20 and subsequent pages)

(4) Qahf, previous reference, p 152

(5) Alzoreqi, previous reference, p 72

- The phrase "eternity and charity" mentioned in the definition of Waqf as per the text of article 213 of the Algerian family law No.(11/84) is only understood in the meaning of the continuity of charity and its eternity.
- Permissibility of temporary Waqf is based on Almalki creed, but permissibility of temporary Waqf by Almalkya is based on the idea of the endowed property being still considered as ownership of the creator of Waqf ...

But the Algerian legislator adopted extinguishing property from the creator of waqf and transferring it as per artificial person property rule⁽¹⁾.

- Although Alshafeyah and Alhanabelah accepted waqf eternity, they allow chattel waqf and everything that can be benefited from all the time⁽²⁾. The Algerian legislator adopted eternity of waqf together with allowing chattel waqf
- Allowing "waqf almanfaa"⁽³⁾ by the Algerian legislator is explained as the benefit owned eternally by its owner⁽⁴⁾, unlike temporary benefit⁽⁵⁾

Considering eternity as part of real waqf and its concept⁽⁶⁾ by the Algerian legislator results in impermissibility of waqf termination despite cases that may incur and make people think that waqf is terminated such as ruining of waqf when it becomes uninhabitable or cannot be substituted or its revenues became

(1) Kenaza: previous reference, p 21

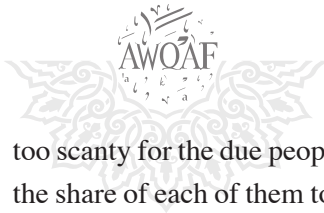
(2) Alsherazi (Almuhazab), previous reference, part 3, p 672. And: Albehoti (Kashaaf Alqanaa), previous reference, part 10, p 12-13. And Bin Qodama (Alkafi), previous reference, part 3, p 572-573

(3) Article No.(11) of Algerian endowments law stated: "the subject of Waqf may be real estate or chattel or benefit..."

(4) Hazaa, previous reference, p 18

(5) Almalkya allowed eternal or temporary Waqf Almanfaa, they have no conditions regarding eternity in Waqf, Alhattab (Mawaheb Aljalil) previous reference, part 7, p 629. And: Aldesoki (Hasheyat Aldesoki), previous reference, part 4, p 76

(6) It may be understood from the attitude of Algerial legislator that he allows Waqf but he linked its legal legitimacy, which has no breach to the sayings of the majority of Feqh scholars, with eternity, otherwise it goes beyond the frame of permissibility to banning. If the Algerian legislator refrains from its attitude and allows temporary Waqf, this is permissible in agreement with the Feqh opinion that allows the permissibility of temporary Waqf but in this case the legislator has precondition regarding making timing apart of the meaning of Waqf



too scanty for the due people or the increase of due people in a manner that makes the share of each of them too little to suffice them or the extension of the body for whom waqf was made⁽¹⁾. Therefore, the Algerian legislator determined special rules regarding disposal of waqf to avoid its termination, as follows:

- In case of the extension of the body for whom the general Waqf is made, Waqf accrues to another body of charity⁽²⁾ but if the body for whom Waqf is endowed is extinct in special Waqf, Waqf accrues to the authority entrusted with Awqaf and this Waqf becomes public.
- It is to be noted here that in spite of deviating the special Waqf regulation from Algerian Awqaf law No.(10/91) as per its amendment by law 10/2, this did not include liquidating the special Waqf or terminating it, but it referred its regulation to the applicable regulatory and legislative rules⁽³⁾
- In the endowed premises is rewind or its benefit became annihilated it will be compensated or replaced as per the rules of article 24 of Algerian Awqaf law No.(10/91). It is also possible to resort to using, investment and developing

(1) Shalabi, previous reference, p 414-417

(2) Under law No.(10/2) amending and complementary to the Algerian Awqaf law No.(10/91) the text of article No.(6) became as follows: "public Waqf is what was withheld for charity bodies at the time of its establishing. Its revenues are allocated for contribution to means of benevolence. Public Waqf has two sections: Waqf in which certain methods of paying its revenues are determined and this is called public Waqf with limited body and it is not allowed to spend the revenues for other types of charity.

-Waqf with no limited aspect of charity meant by the person who made Waqf, and this is called general Waqf with no limited body and its revenue is spent for the sake of spreading science and encouraging research and for the sake of benevolence.

(3) The first article of Algerian endowments law 10/91, amended by law No.(10/2) stated the following: "this law determines the general principles for regulating the public property of Waqf, running them, keeping them and protecting them as well as the conditions and methods related to making use of them, investing them and developing them. Special Waqf is subject to the legislative and organizing rules applicable at the time".

- The Algerian legislator was not correct when it left regulating special Waqf to the applicable legislative and regulating rules. On one side, his attitude is unjustifiable. It opens the sphere for interpretation of the Algerian legislator intension unlike the intent to encourage the revival of Waqf Suna. On the other hand, the recognized special Waqf is the Waqf that becomes devoted to a general charity body at the end. Regulating a special Waqf is made within a unified legal matrix of Waqf with all its different types, together with allocating independent chapters for the rules regarding each type.

the suspended Waqf property or those subject to ruin...

By way of forming contracts stated in law No.(7/1) amending and complementary to Algerian Awqaf law No.(10/91).

- Any change that affect the origin of Waqf property can not lead to terminating Waqf in any manner but it incur change to Waqf premises and Waqf remains existing⁽¹⁾. If such change results in compensation it is considered as Waqf⁽²⁾.
- Regulating the methods of regaining or compensating Waqf properties that were subject to nationalization under agriculture wealth law 73/71 ⁽³⁾. As per this law agricultural lands or lands prepared for agriculture endowed as public or special Waqf which were not registered, became integrated within Agricultural Wealth Fund. This took place during the period adopting socialist method in Algeria⁽⁴⁾. In view of the negative effect of this law in general⁽⁵⁾

This law was revoked⁽⁶⁾ and people tried to erase its negative results using what may be called "measures for atonement the sins of agricultural revolution"⁽⁷⁾

(1) Article No.(25) of the Alegrian Alwaq law No.(10/91) stated that ("every change that takes place whether a building or plant that may incur to the endowed premises makes Waqf still legitimate and standing whatever the type of change may be. The cases breaching the rules of this article should be settled through conciliation between the concerned people and the authority entrusted with Awqaf as per the rules of this law together with considering the rules of article No.(2) above").

(2) Article No.(220) of the Algerian family law No.(11/84) stated: "withholding remains still whatever change in the nature of the withheld thing may incur to it. If such change results in compensation, it takes the status of withholding".

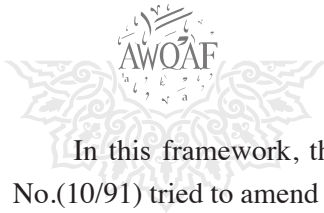
(3) Order 71-73 dated 20 Ramadan 1391 H, corresponding 8 November 1971

(4) Two styles were used in making Waqf properties affiliated to the national fund for agricultural wealth. The first style used annexing related to agricultural lands established as special Waqf in case of removing the body or authority benefiting from that Waqf and replacing the state in its place. The second style is related to integrating Waqf lands by nationalization regarding the lands whose owners are absent. Ramol, previous reference, p 20-21

(5) regarding Waqf properties, in particular, and the result of seizing huge size of waqf properties which made inscribing them a difficult process This is in addition to the flagrant aggression on the rules of Islamic Sharea, same source, p 107. And: Kenaza, previous reference. P 59

(6) Order No.(7371) was revoked under order No.(26/95) dated 30 Rabea Thani 1416 H, corresponding 25 September 1995 amending and complementary to law No.(25/90) including real estate direction

(7) Algelani Ega, agricultural real estate crisis and proposals for settlement, Alkhaldonya publishing house, Algeria p 247



In this framework, the text of article No.(38) of the Algerian Awqaf law No.(10/91) tried to amend the matter regarding the nationalized Waqf properties. The article states: "Waqf properties nationalized under the rules of order No.(73/71) dated 8 November 1971 should be restored. Such Waqf properties included in agricultural revolution should be regained when they are established by one of the legal and legitimate means and they go back to the bodies for which they had been basically endowed. In case of annihilation of the legal endowed body, Waqf properties accrue to the authority entrusted with Aqwaf. If it becomes possible to regain the endowed premises, compensation should be paid as per the applicable procedures, together with considering the rules of article No.(2) mentioned above"⁽¹⁾

- Allocating a group of public Waqf properties under the name "protected public Waqf properties" which enjoy legal immunity allowing strengthening their legal position and establish their legal existence against individuals as well as administration. Such properties include:
 - Properties that may gradually appear pursuant to official documents or testimonies of persons with sound mind from among the people living in the area in which the real estate is situated.
 - Endowments established by legitimate contracts which were annexed to the state properties or natural or artificial persons.

Conclusion

At the end of this research a group of conclusions can be made followed by some recommendations through which we hope to direct Algerian legislator regarding the things which constitute gaps in the regulation of Waqf necessity in Algerian legislation.

A) Results:

- Waqf is described as continuous charity aiming at the continuity of collecting

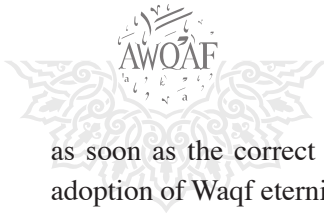
(1) The ministerial joint brochure was issued in application of the text of this article on 1 Rajab 1412 H, corresponding 6 January 1992

reward to the creator of Waqf during his life and after his death. Protecting the existence of Waqf after its correct establishing is imposed by the nature and target of Waqf, it is sufficient to link necessity with the nature of voluntary Waqf and its charitable worshipping intention so as to preponderate the adoption of Waqf necessity in a manner that does not allow backing off from it explicitly or implicitly.

- The will of the creator of Waqf is legally recognized and has effects regarding withholding Waqf asset and liquidating the benefit eternally when benefit is found, law protects it against all others including the creator of the Waqf himself.
- Reconciliation between the different Feqh opinions enables the Algerian legislator to decide the Feqh difference for the interest of confirming and protecting the requirements of necessity by banning any possible trial by the creator of Waqf or his heirs or others to trick such requirement or ignore it in a manner that may terminate Waqf.
- Understanding the legal value of Waqf necessity as per the rules of the Algerian Awqaf legislation regarding granting immunity to Waqf existence and its eternity and giving actual and effective protection to the present and future Waqf properties.
- Necessity as legal tool for protecting Waqf in Algerian legislation is made through allowing breaching the condition of the creator of Waqf that contradicts Waqf necessity and on the other hand arranging invalidity as penalty for every act regarding possession that may incur to the origin of Waqf property.

B) Recommendations:

- Necessity to clearly state the necessity of Waqf to avoid any wrong interpretations that lead to affecting the presence and continuation of Waqf. We propose that the following form will be used: "no Waqf is established unless it is necessary. Any other condition made by the creator of Waqf allowing him to back off from his Waqf becomes invalid".
- Stating clearly a time for realizing Waqf necessity which is preferred to be



as soon as the correct form of Waqf is issued, to conform to the legislator adoption of Waqf eternity as soon as it is correctly originated. This is together with stating clearly that the rules of real estate notarization and authentication law should be considered in case of Waqf regarding real estate.

- Although the Algerian legislator did not depend on counting method for the acts which are considered affecting the asset of Waqf property which restrain the judge when extending his protection on Waqf property, there are some legal acts and forms of material aggression and particularly such acts that may be issued by management through material actions or administrative decisions which constitute infringement to the origin of Waqf property, it is necessary to have clear texts that ban such acts.
- Regulating the methods and procedures of settling the material aggression forms made by management to Waqf property in a fair manner suitable to Waqf properties. Such settlement should not be less than repairing the damages and compensation for loss, at a minimum limit. This is based on the idea of continuity of charity.
- This matter is considered a rich domain for carrying out studies and research in the future.

List of references:

First: Alhadith books:

Abu Alhusain Muslin Bin Alhajaj Alqoshairi ALnesabori, Sahih Muslim, first edition, Teba publishing house, Riyadh, 2006

Second: Islamic Feqh books:

- Abu Ishaq Alsherazi "Almuhazab Fi Imam Shafei Feqh, investigation by Mohammad Alzeheli, part 3, first edition, Dar Alqalam, Damascus, Sham publishing house, Beirut 1996
- Abu Alhasan Ali Bin Mohammad Bin Habib Alkawardi, "Alhawi Alkawbeer fi Feqh Imam Alshafei creed", investigated by Ali Mohammad Moawad and Adel Ahmad Abdelmawgod, part 7 first edition, scientific books publishing house, Beirut 1994



- Abi Ishaq Burhan Aldin Ibraheem Bin Mohammad Bin Abdullah Bin Mohammad Ibn Mufleh Alhanbali (Almubde'a Fi Sharh Almoqnea) investigated by Mohammad Hasan Mohammad Hasan Ismaeil Alshafee, part 5, first edition, scientific books publishing house, Beirut, 1997
- Abi Albarakat Ahmad Bin Mohammad Bin Ahmad Aldardir (Alsharh Alsagher Ala Aqrab Almasalik Ela Mazhab Alimam Malik) checked by Mustafa Kamal Wasfi, part 4, knowledge publishing house, Egypt
- Abi Bakr Ahmad Bin Amr Alshebani, known as Alkhasaf, Awqaf rules, corrected by Egyptian Awqaf general diwan, first edition, Egyptian Awqaf general diwan printing house, Egypt, 1946
- Abi Alhasan Ali Bin Abdelsalam Altasoli (Albahja Fi Sharh Altohfa) corrected and controlled by Mohammad Abdelkader shaheen, part 2 first edition, scientific books publishing house, Beirut 1998
- Abi Abdullah Mohammad Alkharshi (Sharh Alkharshi Ala Mukhtasar Khalil) part 7, second edition, Amiri printing house, Egypt, 1899
- Abi Abdullah Mohammad Bin Mohammad Bin Abdelrahman known as Alhattab, (Mawaheb Aljalil Lesharh Mukhtasar Khalil) corrected and controlled by sheikh Zakarya Amerat, part 7, books world publishing house
- Burhan Aldin Ibraheem Altarabulsi, first aid in the rules of Waqf, edition 2, Hendia printing house, Egypt 1902
- Shams Aldin Alsarkhasi, Almabsoot, part 12, knowledge publishing house, Beirut 1989
- Shams Aldin Mohammad Arafa Aldesoki, Aldesoki margin on the "Big Explanation", part 4, Arab books revival publishing house, Egypt
- Shehab Aldin Ahmad Bin Idrees Alkerafi, Alzakhera, investigated by Saeid Aarab, part 6, first edition, Islamic west publishing house, Beirut 1994
- Shehab Aldeen Ahmad Bin Salama Alqalyoubi (Hashyat Alqalyoubi ala qotr alraghbeen sharh minhag altalbeen) part 3, edition 2, Scientific books publishing house, Beirut 2003



- Allaa Aldin Abi Alhasan Ali Bin Sulayman Almerdawi, Alensaf Fi Maerefat Alrajeh Min Alkhalaf Ala Mazhab Imam Ahmad Bin Hanbal, rectified and investigated by Mohammad Hamid Alfeqi, first edition (without mentioning a publishing house) 1956
- Mohammad Amin Bin Abedeen, Rad Almehtar Ala Aldor Almukhtar, part 6, Books World publishing house, Riyad
- Mohammad Bin Mohamamd Bin Mohammad Alghazali (Alwaseet Fi Almazhab) investigated by Ahmad Mahmoud Ibraheem, first edition, Alsalam publishing house
- Mansour Bin Yonis Albehoti "Kashaf Alqanaa An Aleqnaa, investigated by specialized committee in Ministry of Justice, Kingdom of Saudi Arabia, part 10, first edition, Ministry of Justice, Kingdom of Saudi Arabia 2007
- Muwafaq Aldin Abu Mohammad Abdullah Bin Ahmad Bin Mohammad Bin Qadama, Alkafi, investigated by Abdullah Bin Abdelmoshen Alturky in cooperation with Arab and Islamic studies and researches center, part 3, first edition, Hajr publishing house, Egypt, 1997

Third: Feqh books specialized in Waqf:

- Ahmad Farrag Husain, rules of wills and endowments in Islamic Sharea, Munshat Almaarif, Alexandria, 2000
- Ahmad Mahmoud Alshafee: will and Waqf in Islamic Feqh, Alhuda publishing house, Alexandria 1994
- Zohdi Yakan, Waqf rules, first edition, Contemporary publishing house, Beirut
- Sulayman Bin Abdullah Abaalkhail "Waqf in Islamic Sharea, Nayef University for Security Sciences, Riyadh 2008
- Mohammad Abu Zahra, lectures on Waqf, edition 2, Dar Alfekr Alarabi 1972
- Mohammad Ebid Abdullah Alkubaisi, rules of Waqf in Islamic Sharea, first part, guidance printing house, Baghdad 1977
- Mohammad Mustafa Shalabi, rules of wills and Awqaf, edition 4, University publishing house, Beirut, 1982

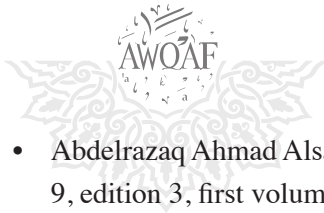
- Mustafa Ahmad Alzarqa, rules of endowments, first part, Ammar publishing house, Amman, edition 2, 1998
- Munzer Qahf, Islamic Waqf, its development, its management and its improvement, first edition, Dar Alfekr, Damascus 2000

Fourth: legal books specialized in Waqf

- Hamdi Basha Omar, contributions contracts (donation, will, Waqf) Homa publishing house, Algeria, 2004
- Ramol Khaled: legal and organizational frame of Waqf properties in Algeria, Homa publishing house, Algeria, 2004
- Abdelrazaq Esbehi (civil protection of public Awqaf in Morocco) brochures of Ministry of Awqaf and Islamic affairs in Moroccan Kingdom, Alamnya publishing house, Alrabat 2009
- Abdelrazaq Bin Ammar Bo Diaf, the concept of Waqf as financial institution in Islamic Feqh and legislation, Alhuda publishing house, Algeria 2010
- Mohammad Kanaza (public Waqf in Algerian legislation) Alhuda publishing house, Algeria, 2006
- Munzer Abdelkarim (Judges) rules of Waqf (legal and comparative Feqh study) first edition, culture publishing house, Jordan 2011

Fifth: general legal books:

- Ahmad Laoor and Nabeel Sakr, legal guide for family, Alhuda publishing house, Algeria, 2007
- Algelani Ega, agricultural real estate crisis and proposals for settlement, Alkhaldonya publishing house, Algeria
- Hamdi Pasha Omar, Real estate judiciary, edition 10, Homa publishing house, Algeria, 2010
- Abdelrazaq Ahmad Alsanhuri (Alwaseet in explaining the new civil law), part 2, edition 3, Alhalabi law brochures, Beirut 2009



- Abdelrazaq Ahmad Alsanhori (Alwaseet in explaining the new civil law), part 9, edition 3, first volume, Alhalabi law brochures, Beirut 2009
- Majeed Khalfoni, real estate notarization system in Algerian law, edition 2, Homa publishing house, Algeria, 2008

Sixth: university theses:

- Mosa Salmi: disposals taken regarding Waqf properties in Algerian legislation, Master degree thesis, Algeria University, Faculty of Law, Bin Aknon, 2003

Seventh: conferences, forums and debates:

- Almighty possession and common possession) a study submitted to the third endowments conference in Kingdom of Saudi Arabia, held in Islamic University in Almadina Almunawara in the period between 3 and 5 January 2010
- Alayashi Fedad (introduction to discussion regarding issues in contemporary Waqf legislations) basic information paper submitted to the scientific forum regarding Waqf and Zakah laws, organized in Nowakshot, Mauritania in the period from 16 to 21 March 2008, in cooperation with Islamic Institute for Research and Training affiliated to Islamic Development Bank in Jeddah and secretariat general of endowments in Kuwait and the national endowments institution in Mauritania
- Jasem Ali Salem Alshamesi (legal matters in the rules of Waqf) a research submitted in Islamic Waqf debate held by Sharea and Law Faculty during the period from 6-7 December 1997
- Majda Mahmoud Hazaa, temporary Waqf, research submitted to the second conference of Waqf, organized by Um Alqora University, Mecca Almurkama, 2006
- Mohammad Othman Shebeer (Waqf between the rule of God Almighty possession and common possession) a study submitted to the third endowments conference in Kingdom of Saudi Arabia, held in Islamic University in Almadina Almunawara in the period between 3 and 5 January 2010

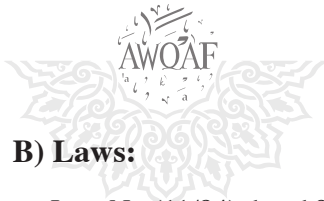
Eighth: essays and researches published in scientific magazines:

- Anwar Ahmad Alfezeaa (civil protection of Waqf: study in Kuwaiti law) rights magazine issued by scientific publishing council, Kuwait University, twenty third year, issue 2, June 1999
- Jomaa Mahmoud Alzoreqi, (future of Waqf institutions: within fixed and changeable things in Islamic Waqf system) Awqaf magazine issued by Kuwait Awqaf general secretariat, fourth year, seventh issue, November 2004
- Abdelrazaq Esbehi, legal study of ten problematic issues in Maghreb endowments Modawana, compared to some Arab legislations, Awqaf magazine issued by Kuwait endowments secretariat general, twelfth year, issue 22, May 2012
- Mahmoud Ahmad Abu Layl (funds Waqf in Islamic Feqh) Sharea and law magazine, United Arab Emirates University, issue 12, February 1999

Ninth: legislative texts:

A) Orders:

- Order No.(91-70) dated 17 Shawal 1390 corresponding 15 December 1970
- Order 71-73 dated 20 Ramadan 1391 H, corresponding 8 November 1971, including agricultural revolution law
- Order 75-58 dated 20 Ramadan 1395 corresponding 26 September 1975, including the civil law
- Order No.(75-74) dated 8 Ze Alqada 1395 corresponding 12 November 1975, which included preparing the general land survey and establishing the real estate registry
- Order No.(26/95) dated 30 Rabea Thani 1416 H, corresponding 25 September 1995 amending and complementary to law No.(25/90) including real estate direction



B) Laws:

- Law No.(11/84) dated 9 Ramadan 1404 corresponding 9 June 1984, including the amended and the complementary family law
- Law No.(25-90) dated the first of Jumada Alola 1411 corresponding 18 November 1990, including the amending and complementary real estate direction,.
- Law No.(10-91) dated 12 Shawal 1411, corresponding 27 April 1991, including Awqaf law
- Law No.(7-1) dated 28 Safar 1422 corresponding 22 May 2001, amending and complementary to law 10-91
- Law No.(10-2) dated 11 Shawal 1423 corresponding 15 December 2002, amending and complementary to law 10-91
- Law No.(9/8) dated 18 Safar 1429 H, corresponding 25 February 2008, including administrative civil procedures law

C) Decrees:

- Decree No.(76-63) dated 24 Rabeea Awal 1396 corresponding 25 March 1976 related to establishing real estate registry
- The executive decree No.(336/2000) dated 28 Rajab 1421 corresponding 26 October 2000, was issued containing introducing the written testimony certificate to demonstrate Waqf property, its conditions and methods of issuance and delivery

D) Brochures:

- The ministerial joint brochure dated 1 Rajab 1412 H, corresponding 6 January 1992

Researches



The Role of Waqf in The Cultural and Academic Progress in the History of the Far Maghreb (Al Maghreb Al Aqsa)

Introduction

Praise belongs to Allah to whom we pray for succour and blessings be upon His Messenger who communicated the message, fulfilled the trust and fought in the way of Allah until the Certain came to him.

Islam urged us to give and to render favour and work in the way of charity and goodness so that the interests of the people are observed and the dual rewards in this life and the hereafter are gained.

Islam came with those legislations which brought about the best results and fulfilled the sought objectives. It called for dedicating the surplus funds and withholding monies no longer required in the hope of winning Allah's good pleasure.

Moslems followed this model based on giving out of the surplus money and dedicating what is no longer required as early as the rise of Islam. Moslem generous people everywhere raced in this domain and the result was that overwhelming good which everybody experienced at that time.





The people of the Far Maghreb, just as all other Moslems, followed this example of generous dedication (awqaf) and directed them towards charitable channels. The result was fantastic as reflected in the books of history and biographies of prominent people which constitute part of our glorious and unfading civilization.

The areas of waqf in Al Maghreb (Morocco) varied and differed; there were awqaf in favour of the social, economic and academic sides touching the life of a Moslem citizen in Al Maghreb marked by that political stability which the country enjoyed since Islam came to it. Moroccans paid special attention to the academic side, hence were the generous awqaf on science and thought throughout their history.

This research acquires a special importance because it monitors the contributions of waqf throughout the Moroccan history without specifying a definite historical period or a specific state⁽¹⁾. All come in the academic or cultural domain. The importance of the research is exemplified in accumulating the academic material related to the subject and the study aims to deal with that fondness experienced by the Moroccans towards dedication (waqf) in favour of science and scholars, which opened a good market for learning and created an unprecedented sentiment for thought. The reasons for this are as follows:

1. The paucity of individual academic studies related to waqf in favour of science and scholars in the history of Al Aqsa Maghreb. Continued search and investigation led me to the study conducted by Dr. Mohammad Al Hajawi on 'mosques, schools, zawaya and Khazanat (libraries)' which flourished through the waqf money in Maghreb. Another study of his was on 'Al Waqf al Khairy and its Cultural, Social and Economic Influence in Maghreb: Past and Present'. There were other few studies on the aforementioned phenomenon in the history of Maghreb, namely the study of Dr. Al Said Burukba on the 'the Role of Waqf in the Cultural Life during the Watasi State' or his study on 'The Role of Waqf in the Cultural Life in Morocco during the Alawi state'. Talking about this phenomenon of waqf may come in the context

(1) The researcher preferred not to define the time framework in the title of the research because this may put the researcher in a corner from which there is no exit in terms of the academic material.

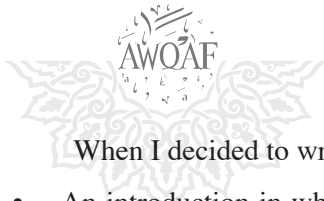
of talking about a specific Maghrebi city. as it is the case with Al Said Lamleih in his research entitled 'Waqf Institution and its Intellectual, Social and Economic Importance in the city of Fez during the 8th Century AH'. It is also likely to occur when dealing with the Maghrebi experience in waqf in favour of learning and scholars while talking about awqaf in the Islamic world as introduced by Dr. Al Said Burukba in his research 'the Social and Cultural Dimension of the Khairy Waqf in Islam'.

2. Researchers of Al Maghreb Al Aqsa expatiated on the issue of waqf and its effect on the social and economic aspects during several periods in the history of the country. A research was carried out by the historian and scholar Mohammad el Manouni entitled 'The Role of Al Awqaf Al Maghrebia in Social Solidarity during the Reign of Bani Meryen (657 – 869 AH); another research was carried out by Dr. Al Said Burukba entitled 'The Effects of Waqf in the Maghrebi Social Life throughout History'. The latter research was re-published with additions⁽¹⁾ under the title 'Waqf in Islam and its Role in the Social Life of Al Maghreb', There is the research of Dr. Al Said Burukba entitled 'Islamic Waqf and its Role in the Social Life'. Another research entitled 'Khairy Waqf in Maghreb – Past and Present- and its Cultural, Social and Economic Role by Dr. Mohammad Al Hajawi may fall under this category⁽²⁾. Here I would like to dedicate a full research to the role of the Khairy Waqf in the academic prosperity in the history of Al Maghreb, while shedding a light on the historical epochs.
3. Failure of some modern studies to show the role of waqf in the dissemination of education and culture throughout the Islamic history and avoiding any adequate handling of this subject. Dealing with such an issue is restricted to those researches submitted to some waqf-related conferences and seminars, whereas the role of the Khairy waqf in serving scholars and learning is often ignored either because of the difficulty in reaching the required information or that the researcher is content with the examples from the Islamic East⁽³⁾.

(1) Ihya'a Magazine, Maghreb, Issue 10, Rabie Awal 1418 AH.

(2) Awqaf journal , KAPF, Issue 4, 1424 AH.

(3) I preferred not to mention examples because they are available for all those interested in awqaf.



When I decided to write on this subject, the study came as follows:

- An introduction in which there is a reference to the subject, its importance and the reasons for handling it, together with a reference to the method to be followed and the themes to be approached..
- Initial theme in which waqf is defined and difference between ‘waqf’ and ‘Hobs’ is made clear, in additions to the interest of the Moroccans in the waqf: past and present. In this section, we find:
 - **Requirement 1:** Waqf in language and terminology
 - **Requirement 2:** The difference between ‘Waqf’ and ‘Hobs’
 - **Requirement 3:** Hints that show the interest of the Moroccans in Waqf.

Theme One: Moroccans’ interest in establishing waqf in favour of the cultural life throughout history. Here we have:

- **Requirement 1:** In favour of Mosques
- **Requirement 2:** In favour of schools
- **Requirement 3:** In favour of al Zawayas
- **Requirement 4:** In favour of the libraries
- **Requirement 5:** In favour of the learned people

Theme Two: The contribution of waqf to the cultural life as a means for political and social stability in the history of Al Maghreb

- **Requirement 1:** Realizing political security
- **Requirement 2:** Providing the means of a decent life for the society
- **Conclusion:** Important results and recommendations

The nature of the research made it imperative to adopt the methodology of induction and description⁽¹⁾, with their requirements in terms of analysis, study and eliciting conclusions and lessons from the dedication to scholars and learning which characterize the Islamic Ummah in this part of the world. In dealing with

(1) The researcher could have adopted the statistical method in case he specified a time frame for his research. Moreover a statistical method in a 40-page research is inadequate.

the first theme, I took a lengthy time because it is the essential part, whereas the other themes took less time, especially theme 2 because it is nearer to researchers dealing with history and politics, not to those researchers dealing with the shari'a branch I honorably belong to.

May Allah the Almighty make this study beneficial and acceptable, verily we have no God but He, our Protector and Helper.

Initial Theme

Meaning of waqf and the difference between 'Waqf' and 'Hobs' Moroccans' interest in Waqf is highlighted

This theme is meant to define 'waqf' and show the difference between 'waqf' and Hobs', in addition to showing the interest of the Moroccans in waqf throughout their history.

First Requirement: Definition of waqf in language and terminology

- **First:** Linguistically speaking, waqf means withholding or retention⁽¹⁾.
- **Second:** In terminology, it means releasing the usufruct of a thing as long as this thing exists though it remains in the possession of the settlor, as maintained by Ibn Arafah al Maleki⁽²⁾. Imam Abu Hanifa views it as 'withholding an asset and releasing the proceeds'⁽³⁾. Ibn Qudama Al Andalusí defines waqf as 'Retaining an asset and releasing the usufruct'⁽⁴⁾. Sheikh Abu Zahra cited a set of definitions based on 'immobilizing the corpus and distributing the usufruct to a charitable agency'⁽⁵⁾.

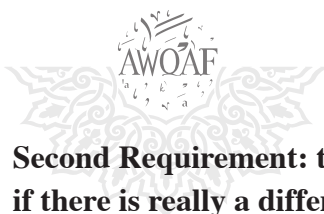
(1) Al Misabih el Munir, Al Maktba Al Elmiah, Beirut, p 669

(2) Manh el Jalil Sharh Mukhtasar Khalil, Dar el Fikr, Beirut 1409 AH, 8/108

(3) Al Hidayah bi Sharh Bedayat el Muftadi, Al Merghinani, Dar el Kutub El Elmiah, Beirut, edition 1, 1410 AH, 3/15

(4) Al Mughni by Ibn Qudama, Dar Hajar, Cairo, Edition 2, 1412 AH. 8/184

(5) Lectures on Waqf: Sheikh Abu Zahra, Dar el Fikr El Arabi, Cairo, 1972, P 7. Abu Zahra believes that this definition combines most of the definitions given by the jurists.



Second Requirement: the difference between ‘Waqf’ and ‘Hobs’ and if there is really a difference between them⁽¹⁾.

In fact there is no difference between both terms because the meaning of waqf in language, as we mentioned earlier, is withholding and retention. In dealing with an animal it means refraining it from moving. In dealing with a house it means acting against any disposition thereof. Hobs in language is derived from the verb ‘Habasa’ which means ‘Awqafa’ or ‘Dedicated’⁽²⁾. The dual use of ‘Waqf’ and ‘Hobs’ by the jurists show that there is no difference between them. Therefore, modern researchers are of the opinion that both of them are synonymous in language and shari’a⁽³⁾.

Moroccans tend to use Hobs and Ahbas when referring to Waqf and Awqaf as reflected in their modern studies on waqf⁽⁴⁾ and seminars⁽⁵⁾ on waqf. Moslems in the east often use waqf and awqaf, though Mohammad Bin Abdul Aziz Bin Abdullah mentions that the two terms were used⁽⁶⁾ in both the east and the west⁽⁷⁾ with the same meaning, making no difference in the connotation of either of them. Some of our books in Al Maghreb use waqf and many books in east use ‘hobs’⁽⁸⁾.

Third Requirement: Hints at Moroccans’ Interest in Waqf

Because this is indigenous in their nature, Moroccans have manifested an interest in dedicating to charities and good-doing throughout their history. They

(1) The Maliki faqih Saleh Abdul Samie Al Azhari believes that a declaration of waqf by the waqif (dedicator) is nearer to indicate perpetuity rather than Hobs

(2) Waqf in Islamic Thought by Mohammad Bin Abdul Aziz Bin Abdullah, Moroccan Ministry of Awqaf, Rabat 1416 AH, 1/41

(3) Ibid

(4) Al Ahbas al Islamia in Morocco by Al Makki Al Naseri, Tatwan, Morocco, 1935, republished by the Ministry of Awqaf in Al Maghreb in 1992.

(5) Seminar entitled ‘Nadwatul Ithbat fil mada el Habsia organized by the Moroccan Ministry of Waqf, June 2005

(6) Meaning waqf and Hobs

(7) Waqf in the Islamic Thought by Mohammad Bin Abdul Aziz Bin Abdullah, 1/70

(8) See Awqaf Al Magarebia in Al Haramain Al Sharifain by Dr. Hasan Al Warakly, Um El Qura University, 1422. See also Awqaf El Maghareba in Jerusalem by Dr. Abdul Hadi Al Tazi, Fadhala Al Mohammadia Printing Press, Morocco 1401 AH. Moroccans in Bilad El Sham and their awqaf in Jerusalem and Damascus from the 12th century to the 20th century by Dr. Al Sheebani Bin Balgaith, Afaq el Thaqa Magazine, Dubai, Issue 57/2007, P108

always extended assistance to the needy once visited by disasters and mishaps. Their hearts cleaved to this kind of charities so that they spent generously in numerous domains in their original country (Al Maghreb al Aqsa) and elsewhere. They had their awqaf in Al Haramain Al Sharifain in Mecca Al Mukarrama, in Bilad El Sham (Jerusalem and Damascus) and such awqaf left their indelible mark on the people of those countries.

Moroccans have always manifested such unmatched sentiments towards generosity and giving. They acted as one entity in this spiritual domain and outstripped others and such efforts yielded fruition , especially advocating the Maliki school of thought known for its liberality and the benefits extended to cover the interests of the whole nation through spending on schools, mosques and hospitals⁽¹⁾. Moroccans showed also an extraordinary penchant for any means which may perpetuate their charities in favour of the beneficiaries. They registered this in documents which acquired the name ‘Huwalat Habsia’ which later became part of their civilizational history⁽²⁾. They also set the rules and regulations for a waqf nazir, whose job was held in high esteem, and was charged with protecting and preserving the waqf against any imminent usurpation or encroachment.⁽³⁾.

Following is a reference to those social and economic domains attended to by waqf in the history of old Maghreb:

1. Manifestations of social development under the umbrella of awqaf in the history of Maghreb:

Among the numerous objectives of awqaf in Morocco touching the social life in the history of Maghreb was to serve the human being and to provide medical care, offer security and political stability. There were awqaf for the preferment of orphans and widows, extending help to the poor and the needy.

(1) Waqf in the Islamic Thought by Mohammad Bin Abdul Aziz Bin Abdullah, Dawatul Haq Magazine, Issue 230, 1403 AH

(2) Huwalat Habsia’ are documents for evidencing a title or title transfer related to awqaf property. See Lights on Huwalat Waqfia in Morocco by Mr. Abdullah Al Khodhr, Dar el Hadith el Hasania, Rabat, Issue7/1409, p 374

(3) Huwalat Habsia’ as a source or being familiarized with the civilizational history of Morocco by Dr.Omar Al Jeedi, Dawatul Haq Magazine, Issue 242/1405, P50

Waqifs (dedicators) spent generously on the beneficiaries through establishing bathrooms, mills and water facilities. They also established guest houses and halls for holding marriage celebrations and provided garments for the brides. They also extended assistance to apprentices in case they caused any damage to the tools to help them avoid punishment by the work master⁽¹⁾. There were also awqaf in favour of those falling under the burden of debt. This type of waqf consolidated cooperation and solidarity, taking into due account that waqifs dedicated all that in their possession or part of it in favour of the blind, the demented or the disabled⁽²⁾.

Moroccan Awqaf, as early as their establishment, pursued the medical care for a Moroccan citizens for which hospitals were built. As an outstanding example the Sultan Aba Anan Al Merini ordered a Bimaristan to be built in Fez and to establish a waqf for it. By doing so, he set a good example for well doers and other well off people who empathized with the captives and the disadvantaged. Generous donations were offered incessantly so much so that the Bimaristan had its own and independent nazara attending to the cases of psychological diseases, the strangers and the destitute⁽³⁾. Another awqaf belonging to Fez hospital during the reign of Bani Meryen were dedicated to the burial of the strangers⁽⁴⁾.

2. Economic Development and Awqaf in the History of Al Maghreb

Awqaf contributed to the economic development and the activation of trade throughout the history of the country because the 'properties of the awqaf were varied and numerous in the cities and villages. There were residences, bathrooms,

(1) Fez waqf nazirs used to buy pottery utensils to provide to the poor in replacement for the one or ones broken by the boys or the helpless people. See Himayatul Qasereen in the Waqf System in Morocco and Andalusia by Dr. Wedad Abdouni, Awqaf Journal, Kuwait, Issue 3, 1428 AH, P 53..

(2) The Effects of Waqf on the Social Life in Maghreb by Dr. Al Said Burukba, Dawatul Haq Magazine< Issue 284, 1411 AH, P 116.

(3) The effect of waqf in in the Moroccan Social Life by Dr. Said Burukba, Dawatul Haq Magazine, Issue 284, P 116.

(4)Al Qarawiyyen Mosque by Dr. Abdul Hadi Al Tazi, Dar el Kitab el Arabi, Beirut, Edition 1, 1973, 2/457

The Role of Moroccan Awqaf in Social Solidarity during the reign of Bani Meryen by Mohammad Al Manouni, Dawatul Haq Magazine, Issue 230, Seminar organized in Al Rabat in cooperation with the ISESCO in 1983.

ovens, trading centers, in addition to cultivated and uncultivated lands which met the needs of the people and provided them with cereals and vegetables. All these awqaf created job opportunities for the people, caused money to be circulated among the population and pushed the wheel of economy and brought about prosperity⁽¹⁾.

Theme I

Moroccans' Interest in Waqf in favour of the Cultural Life Throughout History

Moroccans showed an interest in establishing awqaf in favour of the academic and social life throughout their ancient history. They raced with one another to build mosques which constituted at that time centers of learning, schools, zawaya and libraries (khazain), not to mention those awqaf in favour of the illustrious scholars. Following is a survey of establishing awqaf in favour of the academic life which highlights the role of waqf in the academic and cultural progress of the country.

Requirement I: Awqaf in favour of Mosques⁽²⁾

The construction of mosques coincided with the Islamic conquests in Al Maghreb el Aqsa. 'Whenever there were conquests, there were mosques erected, and with each city established mosques soon appeared there to carry out their role in religious instruction and attracting worshippers⁽³⁾

Awqaf Department in Al Maghreb assumed the responsibility for building mosques so that the number of mosques showed a remarkable increase thanks to those in charge of ruling the country. Following is summary of each of those waqf mosques which contributed to the academic and cultural progress of the country in the past.

(1) Islamic Waqf and its Effect on the Social Life by Dr. Said Burukba, Dawatul Haq Magazine, Issue 230, P115

Khairy Waqf in Maghreb: Past and Present and its Social and Economic Effect, Awqaf Magazine, Issue 4, P 03

(2) Being institutions of learning long time ago, the researcher gave them a priority and singled out a special requirement for that. How can learning and culture move forward without mosques, especially in Morocco?

(3) Waqf in favour of Mosques in Maghreb and Andalusia and its Effect on Development and Distribution by Dr. Mohammad Abul Ajfan, P 32 (Unpublished research available on ALUKA website.



1. Al Qarawiyyin Mosque in Fez:

This mosque, usually associated with numerous awqaf, was established during the reign of the Idrisi State by Fatima Um ul Banin, daughter of Abi Abdullah Mohammad Bin Abdullah Al Fahri Al Qairawni in Fez in 245 AH. Furthermore, most of the buildings of the city were the property of the awqaf ⁽¹⁾. In view of the multiplicity of such awqaf, a special cabin was occupied by the nazir for managing the affairs of the awqaf. A warehouse was also established and celebrations were conducted on that occasion⁽²⁾.

Morocco came under the rule of several countries, all of which followed the policy of maintaining the awqaf of Al Qarawiyyin Mosque as reflected in the registers of Al Huwala Al Ismailia (named after Al Sultan Al Alawi Al Mawla Ismail). In some of the texts of this document we read the following quotation, "Praise belongs to Allah. The shops mentioned in the charts (33 in number) belong to the Great mosque (Al Qarawiyyin Mosque) which are mentioned in both the old and the new Huwala. They are held in high esteem and under the management of the nazir. He whoever knows and verifies this should register it, First of Thul Hijja, 1105 AH "⁽³⁾.

Fez became a centre of learning thanks⁽⁴⁾ to Al Qarawiyyin Mosque and the awqaf dedicated to the academic chairs ⁽⁵⁾ which flourished during the Merini rule inside the mosque. Those chairs embarked on teaching the masterpieces in the different areas of learning⁽⁶⁾ during the Watasi age.

2. Ibn Ghazi Chair:

This chair belonged to Abu Abdullah Mohammad Bin Mohammad Ibn Ghazi Al Othmani Al Meknasi (d. 919 AH). It was one of the awqaf of Abi Faris Al Waryaghli. Al Umda of the Prophetic tradition and the Qairawnia Message

(1) <http://majles.ALUKAH.Net/showthread.php?t=37231>

(2) Al Qarawiyyin Mosque by Dr. Abdul Hadi Al Tazi 1/64

(3) Al Huwala Al Ismailia Microfilm #158,P 75

(4) This is the saying of Delphin in his book about Fez and its Mosque. See Waqf Institution and its Intellectual, Social and Economic importance in Fez during the 8th century AH by Mr. Al Said Belmleih, Dawatul Haq Msagazine, Issue 363, 1422 AH, P 93. importance

(5) Academic Chairs were 140 in number, See Al Qarawiyyin Mosque 2/402

(6) Academic Chairs by Dr. Yousef Al Kittani, Dawatul Haq Magazine, Issue 244, P 103

were taught in that chair⁽¹⁾. Among the instructors in this chair was the Martyr imam Abdul Wahed Bin Ahmad Bin Yahia al Wanshareesi ⁽²⁾ (D 955 AH).

3. The Chair of Al Bukhari Bisharh Fat'h el Bari:

This chair was established by Sultan Abul Abbas Ahmad Bin Mohammad Bin Al Sheikh al Watasi to teach Sahih el Bukhari by Ibn Hajar. In favour of this chair, he dedicated a copy of this work in 848 AH. It was handwritten by Al Hafez Mohammad Ibn Abi Abdullah Al Tenessi and copied from the handwriting of Ibn Hajar himself. This chair is located to the left of the door in the eastern part of the mosque and adjacent to the Grand Hotel. The waqf document is still kept in Al Qarawiyyin Khazana (library) under number 100 ⁽³⁾.

Among the other chairs is the Chair of Sahih Muslim which was adjacent to Bab el Katbiyyin. Abul Abbas Ahmad Bin Ali Al Manjoor el Meknasi (d. 995) used to teach there during the time between al Maghreb and al Isha'a prayers⁽⁴⁾.

The academic movement in Al Qarawiyyin Mosque flourished during the Alawi era through the waqf multiple chairs, for example Dhahr el Sawma'a chair which was dedicated to Al Bukhari and the Message of Ibn Abi Ziad Al Qairawani, the Exegesis of Al Tha'alabi, Hiliat el Awlia'a and others. In this regard, Abdul Hadi al Tazi says that," These awqaf (eleven in number) are of great importance. They were during the reign of Al Sultan Al Mawla Ismail Al Alawi in the hands of Seedi Al Arabi Qasara as mentioned in the Huwala of 1115 AH⁽⁵⁾. There was also the chair of Dhahr Khassatel Ain⁽⁶⁾ which was one of the important chairs in view of the outstanding scholars who taught there. This chair enjoyed a good amount of waqf properties and lands so much so that some waqf

(1)The Chair of Asatitha at Al Qarawiyyin Mosque by the scholar Mohammad Al Manouni, Dawatul Haq magazine, Issue 4, P 93

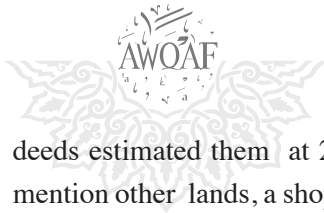
(2) Ibid, P 94

(3) Ibid

(4) Ibid, P 96

(5) Al Qarawiyyin Mosque, 2/376-377

(6) Khassa in the Moroccan dialect indicates a pipe from which water is gushing forth and the basin where water is kept. For more information see Khassatel Ain in Al Qarawiyyin Mosque by Dr. Azzouz, Edition 1,P 50



deeds estimated them at 22 during the reign of Sultan al Mawla Ismail, not to mention other lands, a shop at souq al al Qobaib, a complete shop and half a shop in the arcade, in addition to ten locations in different parts of the city⁽¹⁾".

Other mosques in many Moroccan cities benefited from the awqaf, for example the mosque of Taroudant in the southern part of Morocco to which generous awqaf were earmarked by the Saidis and the Alawis⁽²⁾.

There is also the grand Mosque in Tangiers which benefited from the waqf funds in the far north of the country. Extensive agricultural lands were dedicated to it by Sultan al Mawla Ismail al Alawi ⁽³⁾. Another mosque is in the centre of Meknes city known by the generous awqaf of Sultan al Mawla Ismail named 'Al Hobs al Kabeer⁽⁴⁾. There are other mosques in Chafchawan city in the north which received much attention by the judges. There is the Grand Mosque in Tatwan known for its awqaf from whose awqaf the rest of the mosques in the city benefited⁽⁵⁾. Ben Yousef Mosque in Marrakesh became a university and received students from the various parts of al Maghreb during the Saadi and Watasi periods⁽⁶⁾. Another mosque is that in Bab Dukkaka in Marrakesh built by the Lady Massouda⁽⁷⁾, mother of Sultan Mansour Al Saadi in 995 AH to which much awqaf were dedicated⁽⁸⁾.

(1) Al Qarawiyyin Mosque, 2/378-379

(2) Academic movement in the Grand Mosque in Taroudant during the 10th and the 11th centuries by Mostafa Al Maslouni, Dawatul Haq Magazine, Issue 325, PP91,92

(3) The Grand Mosque in Tangiers and its library by Dr. Abdul Salam Shaq ur, Dawatul Haq Magazine, Issues 309,310, P 108

(4) Meknes Awaqf during the reign of Mawlaya Ismail by Ruqayya Al Muqaddam, Ministry of Awqaf , Maghreb, 1/300

(5) Political, social and Intellectual Awqaf and their possessions in the 10th century AH by Dr. Abdul Qader Al Afia, Ministry of Awaqf , Morocco, 1402, p270-272. The Academic and Cultural Life in Tatwan from Protection to Independence by Dr. Khalifa Idris, Ministry of Awqaf, Maghreb, 1414 Ah, 1/181-183

(6) Ben Yousef Mosque: Role and Radiance by Dr. Hashem Al; Alawi, Dawatul Haq Magazine, Issue 377, PP 11,12

(7) This lady was known as a good doer and died in 1000 AH, Ministry of Awqaf, Maghreb, 2001,5/131

(8) Ibid, 5/122

Second Requirement: Awqaf in Favour of Schools

Awqaf dedicated by kings and well-doers in favour of schools were popular in Maghreb⁽¹⁾ throughout its history. Among those waqf schools in Fez were the following:

- Al Attareen School established by Sultan Abu Said Al Merini in 723 AH to which he appointed jurists. Several awqaf were also dedicated as shown in the marble plaque stuck to the wall⁽²⁾. On that plaque the following writing appears,” This is the order of our Mawlana Al Imam who requested the planning and construction of... the school which he ordered to be built. To it belonged 13 shops connected with Bab el Faraj, including the soap house with the three shops ⁽³⁾.
- Al Mesbahiyya school which was established by Sultan Abul Hasan Al Merini in 417 AH. Al Huwala al Ismailia mentions 19 real estate property, 14 olive farms, 30 gardens and tanning facilities ⁽⁴⁾.
- Al Halfawiyyin school which was established by Yakoob Al Merini in 670 AH to which much awqaf were dedicated to fulfill the needs of the students and academic activities ⁽⁵⁾.
- In fact and thanks to the intellectual and social roles undertaken by such schools inside and outside the city of Fez , it was made possible to provide poor students from the neighbouring areas with accommodation and books free of charge⁽⁶⁾.

(1) Researchers and other thinkers are at variance regarding the history of schools in Maghreb. Some date it back to the Murabitin era when Wekak Ibn Zolo established a school in Tiznit. Others maintain that schools appeared with the Muwaheddin but most of them believe that schools in Maghreb had taken their form and content since the Merini era. See Arts and Sciences during the period of Al Muwaheddin by the scholar Mohammad Al Manouni, Dar el Maghreb publishing and Translation House, Rabat, 1397, P 20

(2) Islamic Culture attended by waqf by Mohammad Bin Abdul Aziz Men Abdullah, Bani Isnasin Printing Press, Maghreb 2005, 1/48

Al Qarawiyyin Mosque , 2, 358

(3) Ibid, 2/ 358/359

(4) Ibid

(5) Ibid, 2/357

(6) Waqf Institution and its Intellectual, Social and Economic Importance in Fez during the 8th century AH by Al Said Lemleih, Dawatul Haq Magazine, Issue 363, P 95

Al Qarawiyyin Mosque , 2/364, and the role of waqf in the cultural life during the reign of the Wattasi state by Dr. Sid Burukba, Dawatul Haq Magazine, Rajab- Shaaban, 1413 Ah, PP73-74



- The School of Bab Al Jeesa to the north of Al Qarawiyyin was established by Bani Wattas in 840 AH to which several awqaf were dedicated as detailed in Al Huwala Al Jadida Li Ahbas Fez.

Among the waqf schools in Sabtah and Sala are the following:

- Al Sha'aria school in Sabtah which was established by Abul Hasan Ali Bin Mohammad Al Ghafeqi Al Sha'ari in 635 AH out of his own monies and to which he dedicated all his wealth, in addition to the awqaf in favour of this school. In doing so, he followed the example of the people in the Islamic East⁽¹⁾. It was one of the first waqf schools in Maghreb to accommodate students, in addition to a public library and a graveyard for those who pass away from among the students⁽²⁾.
- Al Merinia school in Taal'at Sala which was established by Sultan Abul Hasan Al Merini in 742 AH which was known by its exquisite form and design, to which a marble plaque was stuck, indicating the awqaf dedicated to it by the Sultan Abul Hasan Al Merini⁽³⁾.
- Sus Area in the south of the country was known for the good number of schools in that country. The tribes in that part of the country rarely knew Arabic language, so they took it as obligatory to establish a school which teaches Arabic learning⁽⁴⁾. Consequently well off people showed an interest in dedicating to this type of schools through an annual system⁽⁵⁾. This, no doubt, contributed to the academic progress in the south for several centuries, Among such schools were the following:
- The Grand Mosque School in Taroudant located, as mentioned by the scholar Al Mukhtar Al Susi, in front of the western door of the mosque. The school was re-established by the Saadis and learning prospered as a result of that. Scholars were plentiful and received generous consideration and enjoyed

(1) Ibn Rasheed Al Sabti in ' Ifadat el Nasseh fil taarieef bi sanad al Jamie el Sahih ' by Mohammad Al Habib Bal Khukha, published by Al Dar el Tunisia (no date), P 109.

(2) Academic movement in Sabtah during the 7th century by Mr. Ismail el Khateeb: Islamic Revival Society, Tatwan, Edition 1, P 70.

(3) Ibid, P 71

(4) Al It'haf el Wajeez by the scholar Mohammad Bin Ali Al Dukkali, Sala, Maghreb, 1406 AH, P 52.

(5) Ibid, P 56



high esteem at that time⁽¹⁾.

- Aghilalen school which was built by Mr. Yahia (d 1205 AH) who was held in high esteem at that time. He himself taught in that school. Cultivable fields in the neighbouring areas dedicated one tenth of the value of their crops in favour of this school. It was only during the time of Al Hajj Masoud al Wafqawi Al Ilghi that the school prospered and provided the students with the supplies, garments and other means of support⁽²⁾. The schools of Sus which benefited from awqaf during the period falling between the 10th to the 14th centuries are numerous, nearly one hundred, thanks to the efforts of Al Mukhtar Al Susi. The results were the rise of outstanding scholars who enriched life with the shari'a sciences⁽³⁾.
- Marrakesh district witnessed an academic prosperity in the late centuries due to the good number of old schools which depended on awqaf, among which was the school of Seedi al Zuwain⁽⁴⁾ which was specialized in Quranic recitation. The neighbouring tribes used to extend food to this school as grants and a'shar (tenths), They also ploughed the lands which belong to the Zaweya. Seedi al Zuwain also received support from the authority to encourage him to go ahead with teaching, memorizing and reciting the Book of Allah⁽⁵⁾

Waqf in favour of schools was prevalent and popular in the various parts of the country, for example Keshiathema, Al Suwaira and others⁽⁶⁾. Moreover, the people dedicated rooms and houses in favour of the students to encourage them and devote their time to learning⁽⁷⁾.

(1) Sus ancient schools and its teachers by Al Mukhtar al Susi, Tatwan , 1407 Ah, P 56, Ibid.
Sus Al Alema by Al Mukhtar Al Susi, Casablanca, Edition 2, 1404 AH, P 160.

(2) Ibid, 167

(3) Sus old schools: Rules, Regulations and Teachers by Al Mukhtar Al Susi, P 93

(4) Al Zuwain Ibn Mohammad Al Sharadi, (d 1324 AH. See Dawatul Haq Magazine , Issue 367, Pp 28-29.

(5) Old Schools and Academic Enlightenment by Dr. Hasan Al Jallab, P 29

(6) In the mid south of Maghreb. See Schools of old Education in the Suwairi Territory by Dr. Ibrahim Al Wafi, P 289

(7) Al Ihsan Al Ilzami fil Islam wa Tatbiqatuh by Dr. Mohammad Al Habib Al Tajkani, Ministry of Awqaf, Maghreb, PP 553-554



Annexed to those schools and relevant awqaf was the dedication in favour of the Quranic Katateeb which flourished as early as the Islamic conquest⁽¹⁾ and received the due attention from the different rulers who took turns in ruling the country, Murabitteen, Alawiyyin and others ⁽²⁾. Those Katateeb benefited from the generous waqf-like charities known by the Moroccans by different names and terms⁽³⁾.

Third Requirement: Awqaf in Favour of Al Zawaya

Al Maghreb Al Aqsa is known for the existence of Al Zawaya and Rubut which spread throughout the country and affected the political, social and cultural life of the country. What helped the survival of those zawaya is the fact that they depended on fixed revenues thanks to the donations of well doers and the rulers who took turns in ruling the country and developed them. Among the zawaya which served the academic progress of the country are the following:

Al Zaweya al Delai'yya which is located in Khunaifra on the Atlantic-Mediterranean. It was established by Abu Bakr Bin Mohammad Said Al Delaie in 974 AH. The favours of this person cannot be performed except by a sultan, for example he built barrages, cut canals, expanded valleys and provided generously for the students, the weak and the poor⁽⁴⁾. During the late 10th century, this Zaweya was a luminary of learning in the Maghreb of the past. Religious sciences including Shari'a, Exegesis, Hadith, Tawheed, fiqh, Usoul etc) were taught there. Other sciences were also taught, for example logic and literature⁽⁵⁾. Outstanding scholars graduated from this institution.

(1) Life of Authors and Literature of Al Muhdhara by Abdul Hadi Hamito, Ministry of Awqaf, Morocco, 1/57

(2) Ibid 1/148 -151 - 237

(3) Among those is the Shart or condition between the teacher and the parents; there is the Nauba system which indicates what is extended in terms of food to the teacher; There is also Al Maarouf which indicated the food extended to foreign students; then there is Al Rateeba which indicates the daily provision extended by well off people to the jurist(faqih) and the students.

(4) Al Budoor Al Dhawiya in Presenting Al Sadat of Al Zaweya Al Delai'ya by Dr. Mohammad Hajji, Casablanca, 1409, P 32 and their re

(5) Ibid, P 57

Al Zaweya Al Naseriyya located to the south of Zakura city in the eastern part of the country. It was established in the 10th century AH by Sheikh Ahmad Al Ansari, but it was Sheikh Mohammad Bin Nasser Al Tamkruti Al Derie who raised its status and spread learning there so that students came to him from the various parts of the Sahara⁽¹⁾. This Zaweya benefited from the charitable waqf paid by the tribes in the area, in addition to the waqf funds generated by the property dedicated by Sheikh Ahmad bin Ibrahim Al Ansari, the grandson of the founder⁽²⁾. Through its status and well-furnished library, it managed to graduate thousands of students who contributed to the progress which Maghreb witnessed in the 10th century and the centuries which followed⁽³⁾.

Al Zaweya Al Fassia was established at the end of the 10th century AH by Sheikh Abul Mahasen Yousuf Al Fassi. It consists of two zaweyas; the first is in Fez and the second is in Tatwan⁽⁴⁾. This Zaweya benefited from the waqf funds as mentioned by Abu Hamed Al Arabi Al Fassi⁽⁵⁾.

Those were the most important zawaya through which learning was preserved by the Grace of Allah, as maintained by Sheikh Mohammad Bin Abdul Karim Al Sarghini ⁽⁶⁾. There are other zawaya which contributed to the academic progress of the country throughout its lengthy history, for example Al Zaweya Al Ayashia in the neighborhood of Medlit city at the top of Al Ayashi Mountain⁽⁷⁾; There is also Zaweyat Mohammad Bin Yakoob

(1) Ibid, P 61

(2) Al Zaweya Al Naseriyya in Morocco and the Problem of its Foundation by Abdul Haq Abraj, Published research

(3) Aspects of Al Zaweya Al Naseriyya from the rise to the death of Sheikh Mohammad Al Hanafi by Dr. Ahmad Bin Amalek, Ministry of Awqaf, Maghreb, 1427 Ah, 2/238 and 347

(4) Al Zaweya Al Fassia: Development and Role up to the End of the Alawi Period by Nafisa Al Dhahabi, Al Najah Printing Press, PP 73 and 95. Al Zaweya Al Delai'yya, PP64-65

(5) Mira'at el Mahasen min Akhbar Al Sheikh Abil Mahasen by Hamed Al Arabi, P 43

(6) The Cultural and Social Perspectives of Khairy Waqf in Islam by Dr. Said Burukbs, Dawatul Haq Magazine, Issue 363, P 60

(7) Al Zaweya Al Delai'yya and its Religious and Political Role, PP 68-69



in Tata city⁽¹⁾ to the far south of Maghreb, and Al Zaweya Al Sadeqia⁽²⁾ in Tafilalt, Al Wazania Zaweya⁽³⁾ and Al Zaweya Al Sharqwiyya⁽⁴⁾ in Tadla plane and others.

Fourth Requirement: Awqaf in Favour of Libraries

Moroccans were interested in possessing books, copying and selling them. The sultans of Maghreb competed in requesting all that was new in this domain. Consequently we found royal libraries or Khazain Sultania about which history gives us some information⁽⁵⁾. Likewise, individuals, scholars and princes competed in gathering books after which the public were given access to those books. Some sought to dedicate what he gathered from those rare resources to institutions of learning and to students. As a result there were dedicated libraries⁽⁶⁾ among which are the following:

Al Sha'aria Library in Sabtah

It was established by Abul Hasan Ali Bin Mohammad Al Ghafeqi Al Sabti whose mention came earlier in this research. He was born and brought up in Sabtah and contributed to the dissemination of learning during his life and after his death. To get the masterpieces he paid dearly for that out of his own monies⁽⁷⁾ and dedicated them to the school which he founded in Sabtah. Abul Qassim Al

(1) Al Zawaya and Mausoleums in Tata, Al Manahil Magazine, Ministry of Culture, Issues 82,83, P109

(2) Al Zaweya and the Sadeqi Method by Mr. Hasan Al Sadeqi, Al Manahil Magazine, Ministry of Culture, Maghreb, Issues 82,83, pp 147 and what follows.

(3) The role Of Sultan Yousuf in kindling the academic progress in Al Saweya Al Wazania by Abdul Ilah Al Ghazawi, Dawatul Haq Magazine, 390, PP 92-93

(4) Al Zaweya Al Sharqiyya and its Social and Political Role by Ahmad Bukari, Al Najah Printing Press, Casablanca, //13 and 67

(5) An Outline of the History of Al Khazain in Al Maghreb Al Aqsa by Mohammad Al Manouni, Dawatul Haq Magazine, Issue 228, P 8

(6) Al Maghreb Kazain keeps nowadays valuable manuscripts> See the History of Books Khazain in Maghreb by Dr. Ahmad Shawky (Benin) and translated by Dr. Mostafa Toobi, P 200 and the parts which follow. See also Rare Waqf Manuscripts as prepared by Dawatul Haq Magazine, Issue 3, P 123 and the pages which follow.

(7) Ifadatul Naseeh by Ibn Rasheed Al Sabti, P 105

Ansari⁽¹⁾ adds that this library is the first to be dedicated as waqf in Al Maghreb. Due to the huge amounts of books, a nazir was appointed to take charge of it ⁽²⁾.

Al Khazana Al Subaihia in Sala

This library was named after the Pasha of Sala Al Hajj Mohammad Bin Al Tayyeb Al Subaihi in 1389 AH who dedicated his books (4000 in number) to the students⁽³⁾.

The Library of the Grand Mosque in Tangiers

Sultan Bin Abdullah Al Alawi dedicated a number of books to this library as mentioned in some documents through the following text, "Registering the books provided by Amir el Mumineen Seedi Mohammad Bin Abdullah Bin Ismail to be benefited from in the Grand Mosque of Tangiers. In the end, the number of books is seventy, including the small and the big. The nazir Mr. Al Zaher Bin Mohammad Al Laghmeesh took them to library in the said mosque as mentioned here on Rabie Awal 1190, AH"⁽⁴⁾.

The Library of the Grand Mosque in Taroudant

This library was established during the Saadi era. Two parts of Mashareq el Anwar by the Judge Ayyadh were dedicated by Sultan Abdullah Bin Mohammad Al Sheikh Al Saadi, following which more dedications followed by the Alawi Sultans, princes and scholars in general as mentioned by Ahbas Taroudant⁽⁵⁾.

The Library of Al Sultan Al Mawla Ismail

This library contained lots of the treasures of learning. Al Sultan Al

(1) IKhtisarul Akhbar amma kana bithaghr Sabtah by Mohammad Bin Al Qassem Al Ansari, Edition 2, P 29

(2) Bulghatul Uminia wa Maqsid Al Labib in whatever was in Sabtah during the Merini State by an unknown author, Tatwan Magaziine, Issue 9, p 177

(3) Index of the Academic Subaihia Khazana in Sala by Dr. Mohammad Al Hajji, Institute of Arabic Manuscripts, Kuwait, Edition 1, PP 9-10. See also Waqf and the make up of the Arabic library By Yahia Al Saatti, King Faisal Centre, Edition 2, P 55.

(4) The Grand Mosque in Tangiers and its Academic Library by Dr. Abdul Salam Shaqoor, Dawatul Haq Magazine, Issue 319, 310< P110.

(5) Academic libraries in Taroudant by Mohammad Al Manouni, Dawatul Haq Magazine, Issue 280, Muharram and Safar, 1411, P 58



Mawla Ismail Al Alawi dedicated books to some waqf libraries in Maghreb. He also sent copies of the Holy Quran to the Prophetic Mosques in Al Medinah el Munawara⁽¹⁾.

Al Qarawiyyin Library:

It was established by Al Sultan Al Merini in 750 AH. In the relative waqfia, we read the following text: “The Sultan established this library which includes books of all disciplines provided by His Highness. He made this a perpetual waqf for all Moslems till Allah Inherits the earth and what is thereupon. This deed was in favour of the students who wish to have an access to. Nobody, hoping to win Allah’s reward and good pleasure, is entitled to take the books out of this place or to neglect them⁽²⁾”.

Abu Anan gave his due attention to this library in order to contribute to the blessed academic progress in Fez and for that purpose he appointed a ” nazir for its management and defined a salary for him, in addition to a favour and attention⁽³⁾”.

The writing of Abu Anan himself appears on each part of the books dedicated perpetually to the library⁽⁴⁾. The advantages and benefits of the library were not confined to the era of its founder during the Merini epoch , but exceeded that to other historical epochs. These factors were precursors of an academic progress witnessed by Al Maghreb of the past. Sultans, princes and scholars showed an interest in attending to this library through more dedication in favour of its construction and employees. “ It is enough to cast a look at the manuscripts and what they contained in terms of regular tahbisat (awqaf) over consecutive periods..... A number of the Alawi sultans made important classifications and dedicated them to Al Qarawiyyin library, for example ‘ the Book of the Divine Conquests by Sultan Seedi Mohammad Bin Abdullah⁽⁵⁾”.

(1) An outline of the Royal Libraries in Al Maghreb el Aqsa by Mohammad Al Manouni

(2) The text of this document appears at the door of Al Khazana Al Anania in Al Qarawiyyin. See also Al Qarawiyyin Mosque 2/33

(3) Jani Zahr el Asse fi Binaa Medinat Fez by Ali Al Jeznaie, Royal Printing press, Rabat, Edition 2, 1411. See also Al Qarawiyyin Mosque; Past and Present through the Sultani documents by Dr. Ali Al Ghezaiwi, Dawatul Haq Magazine, Issue 363, P 31.

(4) Ibid

(5) Ibid, P 33



Among the tahbisat of the Khazana was the Al Mus'haf el Akbar (Copy of the Holy Book) dedicated by Al Sultan Ahmad el Mansour Al Saadi on the occasion of re-launching al Khazana in 1011⁽¹⁾ AH. There were other books dedicated by Al Sultan Al Mawla Ismail Al Alawi in 1115 AH as mentioned in the waqf document and its attachments, for example drawings and papers. In the end we read the following, "Praise belongs to Allah. The number of academic books included in this document and the previous is twenty one pages , all of which fall in eight hundred and eighty nine drawings, starting by Al Mus'haf el Kabeer and ending by the books of Ibn el Khateeb in medicine which are kept in Al Ahmadia Khazana, being dedicated in the interest of reading, then to be returned to their places once the aim is fulfilled⁽²⁾ .

Among the Alawi sultanas who attended to Khazanat ul Qarawiyyin was Mohammad Ben Abdullah and Mawlaya Sulaiman and Hasan I. They dedicated many of the classifieds to it and encouraged copiers to rewrite damaged works. Sultan Mohammad Bin Abdullah Al Alawi⁽³⁾ ordered the damaged parts of the books of Al Qarawiyyin to be copied at the expense of waqf funds⁽⁴⁾. To it also the famous historian Ibn Khaldoun dedicated his 'History' as this appears in his own handwriting on the first page of the book⁽⁵⁾ .

Waqf Khazain during the Saadi Era:

The Saadis assumed power and revived schools and libraries and established other libraries and furnished them with treasures. Consequently there were several public and private libraries, all of which were dedicated to students and users, for example:

1. Ibn Yousuf library in Marrakesh

This library was established by Abdullah Al Ghalib in 965 AH in the mosque of Ben Yousef Al Murabiti. In this regard Dr. Mohammad Al Hajji says that ' in addition to the books dedicated by Al Ghalib, authors, well off people and others

(1) Al Qarawiyyin mosque, 2/415

(2) Ibid, 3/669

(3) Khazanatul Qarawiyyin:Past and Present – Al Wathaiq al Sultania by DR. Ali Al Ghezaiwi

(4) Ibid 36-37

(5) Ibid 37



continued to dedicate books to the library⁽¹⁾.

Jami Al Shurafa'a Library in Marrakesh:

It was established by Abdullah Ibn El Ghalib and to it he dedicated treasures. Saadi princes and well doers continued to dedicate books and masterpieces till it ranked equal to Al Qarawiyyin library in the north⁽²⁾.

Al Haram El Abbasi Library in Marrakesh:

This library was established by the prince Abu Farris Abdullah el Wathiq Bin Ahmad Al Mansour in the grand mosque which he established beside the Mausoleum of Abil Abbas Al Sabti. To it he dedicated a number of the antique books⁽³⁾.

The Grand Mosque Library in Meknes:

The Saadis revived the library and to it they dedicated a number of books⁽⁴⁾.

Qasabat ul Ribat Mosque Library:

This library was established by the Andalusí immigrants by the end of the 11th century AH. To it they dedicated the books which they brought with them from the Lost Paradise or those which they bought from the advanced East⁽⁵⁾

Dar el Edda Library in Fejaïj

This library was established by Sheikh Abdul Jabbar Bin Ahmad Al Fejaïji (d. 918 AH) and to it he, and his sons, dedicated a great number of books believed to have reached 5000⁽⁶⁾. These books included works on Tafseer (exegesis), fiqh and literature. In the waqf deed, we read, "Dedicated to whoever wants to benefit from, descendants and others, and it is allowed to copy them and thereafter to be returned to their places forever⁽⁷⁾."

(1) Dawr el Kutub fi Madhi Al Maghreb by Mohammad Al Manouni, Al Khazana Al Hasania, Rabat, Edition 1, P 58

(2) Al Haraka el Fikria fil Maghreb during the Saadi era by Mohammad Hajji, 1/158

(3) Ibid

(4) Ibid

(5) Ibid

(6) Fejaïj is located in the east south to the city of Wajda in MAghreb

(7) Al Haraka el Fikria fil Maghreb during the Saadi Era by Dr. Mohammad Al Hajji

Mohammad Ben Naser Library in Dera'a

This library was established by Mohammad Ben Naser Al Derie (D 1085) in Dera'a in the south of the country in 1040AH. It was a property of his, then he dedicated it or parts thereof to the students near the end of his life⁽¹⁾. He exerted sincere efforts to organize it. The sheikhs who took charge of the Zaweya later benefited from this library⁽²⁾

Fifth Requirement; Dedication to Academic Figures

Waqf took different directions in the history of the country when it attended to prominent figures who took up teaching , authoring books and classification. This type of waqf in favour of scholars was associated with those scholars who took credit for the academic chairs which brought about the progress of the country. Among those figures are the following:

Abul Rabie Sulaiman Al Wanshareesi (d 705 AH) who had a chair in Al Andalus Mosque in Fez based on Tafrie and Mudawana⁽³⁾.

Abul Hasan Ali Ben Mohammad Known by Abil Hasan Al Sughair of Fez (d 719 AH) . He had a chair in the Mosque of Al Azda'a in Fez in which he used to teach Tahtheeb Al Baradhi'e fi Ikhtisar El Mudawana ⁽⁴⁾. In describing his council, Ibn Farhoon says," one hundred people attend and he used to seat himself on a high chair to cause everybody to hear him due to his low voice. He was good at teaching the reciting of the Quran⁽⁵⁾".

1. Abu Abdullah Mohammad Bin Ahmad Ben Ghazi Al Meknasi (d. 919 AH) who came to Fez. The learned Imam, the authority, the editor and the gatherer of virtues who represented the remainder of the Maghrebi scholars. He took up preaching and Imama at Al Qarawiyyin Mosque⁽⁶⁾. Ibn Ghazi was in charge

(1) Ibid, 1/192

(2) Marakis al Durous wal Takween wa Atharuha fil Haraka el Elmia during the reign of Sultan Al Mawla Ismail by Dr. Abdullah Al Tatghi, Dawatul Haq Magazine, Issue 324, 1417 AH, P 88

(3) Karasi el Asatitha at Al Qarawiyyin University by Mohammad Al Manouni,P 93

(4) Zaherat el Karasi El Elmia by Dr. Yousuf Kittani

(5) Al Deebaj el Muthahhab by Ibn Farhoon, Dar el Kutub el Elmiah, Beirut, 1417, P 305

(6) Shajaratul Noor el zakia fi Tabakat el Malikia by Sheikh Mohammad Makhloof, Dar el Fikr , Beirut (no date), P 276.



of the Academic chair and taught Al Umda related to the Prophetic Hadith.

2. Abu Malik Abdul Wahed Bin Ahmad Al Wanshareesi Al Fasi (d. 955 AH). The learned and pedantic Imam, the renowned orator, the man with solid faith⁽¹⁾. He occupied the chair of Al Bukhari Bisharh Fat'h el Bari⁽²⁾. In dealing with his biography, Al Manjoor (d 995 AH) says. " I attended his council several evenings in Majlis el Bukhari between the Maghreb and Isha'a in Al Qarawiyyin in which al Wanshareesi expatiated on Fat'h el Bari because this was the condition of the waqif (Muhbis)⁽³⁾".
3. Abul Fadhl Bin El Arabi Ibn Al Haj Al Salmi Al Fasi (D 1109 AH) and his descendants from his family: His son Abu Abdullah ibn el Haj (d 1128 AH), Abul Abbas Ahmad Ibn El Haj (d 1133 AH) Abu Zaid Abdul Rahman Ibn El Haj (d 1170 AH) Abul Faidh Hamdoun Ibn Abdul Rahman Ibn El Haj (d 1232 and Abu Abdullah Mohammad ibn Hamdoun Ibn el Haj (d 1273 AH). On dealing with Al Hadith Chair in Dha'hr Khasatul Ain in Al Qarawiyyin, Scholar Mohammad Al Manouni says, " the said chair was dedicated (made waqf) to Abul Fadhl Ahmad Ibn el Arabi Ibn el Haj and his descendants later and they were charged with this task in connection with the said chair and in managing it to their discretion.

Second Theme

AWQAF, Cultural Life and Political and Social Stability in Maghreb

Waqf was associated in the history of Maghreb with the countries which ruled it. It was cared for by the kings, sultans, princes and army commanders. On parallel lines, the Ahbas (awqaf) in Morocco were associated with those high sentiments experienced by the people towards well-doing. Both types of Ahbas, Khairy and governmental, constituted an important asset to the cultural

(1) Karasi el Asatitha in Al Qarawiyyin University by Mahammad Al Manouni, (93)

Karasi el Asatitha in Al Qarawiyyin University by Mahammad Al Manouni, (93

2 Shajarut el Noor Al Zakia, P282

(2)3 Zaherat el Karasi Al Elmia by Dr. Yousef Kittani, P 106

(3) 4 Index of Ahmad el Manjoor, investigated by Dr. Mohammad Hajji, Dar el Maghreb for Authoring, Translation and Publishing, Rabat, 1395 AH, P 54

life, developing and reviving it. Consequently this was evident in politics and social life and it will be the subject of the forthcoming part.

First requirement:

Dedication to the academic life in Maghreb contributed to the political life of the country. Ahbas providing for the Zawaya managed to mobilize armies during the 10th and 11th centuries to regain the usurped parts in Al Araish, Al Ma'moura and others.

Al Zawaya, through the waqf funds, fought bravely against the foreign intervention through providing weapons, recruiting soldiers and stirring up people to fight the enemies.

Among those Zawaya which undertook this responsibility was Al Zawaya Al Delai'yya mentioned above. It played a commendable role in resisting Spanish imperialism in its occupation of some of the Maghreb ports⁽¹⁾.

There was also Zawayat Seedi Ibrahim Bin Al Basir Al Rekaibi and his brother Mohammad Al Basir who championed Sheikh Ahmad Al Haiba in his struggle against the French imperialism in Marrakesh and Seedi Abu Othman. Therefore, the Zawaya remained under close vigilance by the imperialistic administration⁽²⁾.

Awqaf in favor of the Maghrebi culture nowadays highlight that honorable role of the countries that ruled the country and constitute an evidence of the political stability which Maghreb enjoyed during lengthy periods of its deep-rooted history.

With the turbulence and anarchy which hit the country after the Saadi state, some of the Zawaya dignitaries assumed power, the waqf funds dedicated to Al Zawaya Al Delai'yya played a role in empowering the Dela'is who managed to spread their rule to the central and northern areas of Maghreb. Their power got

(1) See more details in Al Zawayat Al Dela'iyah and its religious, academic and political role, p.173-177.

(2) Status of Seedi Ibrahim Al Basir Al Rekaibi by Mohammad Dahman. Dawatul Haq magazine, issue 395, p 51



more and more instrumental so that they were feared by the European countries. It is noteworthy that there were diplomatic relations between the Dela'is and those countries. All these factors contributed to the stabilizing the political conditions, albeit partially⁽¹⁾.

Second Requirement: A Decent Life for the Society

Moroccan people throughout history enjoyed that prosperity of waqf dedicated to learning and knowledge, and witnessed that solidarity among its members as based on fraternity, sacrifice and giving. Mosques and Zawaya acted as schools which produced graduates which formed an elite in the society. There were outstanding scholars who enriched the Moroccan and Islamic library, for example Al Hasan Al Yousi (d. 1102 AH), Ahmad Al Muqri (d. 1041) and Al Arabi Al Fassi (d. 1052) and many others.

Teachers who taught in the mosques and schools received salaries from waqf funds which helped them to lead a decent life. In this regard, Dr. Said Burukba says that "from among the greatest mosques which abounded in knowledge in Maghreb and were frequented by the students were Al Qarawiyyin Mosque in Fez and Ibn Yousef mosque in Marrakesh, both of which display the advantages of waqf outstanding scholars who used to teach there. They received good salaries by the waqf which enabled them to lead a decent life⁽²⁾".

The Zawaya established by the relevant waqf acted as a vehicle for serving the society in times of stress and disasters. In this regard, Dr. Mohammad Al Hajji talks about the significance of solidarity embodied by Al Zawaya Al Delai'yya in the time of sedition which the country experienced during the later periods of the Saadi epoch. Following the death of Abu Mansour Al Dhahabi, and the spread of sedition and anarchy resulting from the differences among the sons, people fled the country to the Sahara. Al Zawaya Al Delai'yya was the best shelter for the scholars, where they enjoyed peace and tranquility and managed to devote their time to learning and study. Consequently, the sons of Abu Bakr⁽³⁾ acquired much academic learning for

(1) Al Zawaya Al Dela'iya and its academic and political role, p.192 and pages which follow.

(2) Effects of WAQF on the social life in Morocco throughout history, p.117.

(3) Meaning "Al Delaie".

a pittance. They embarked on teaching in the Zawaya and received students from everywhere ⁽¹⁾.

Thus Al Zaweya Al Delai'yya became a centre of learning and a source for sciences for those who were interested in study day and night ⁽²⁾.

Moreover, Al Zawaya Al Delai'yya was a heaven for a big sector of the society, especially those who suffered and were abandoned. It is said that Mohammad Bin Abu Bakr Al Delaie used to provide food in those difficult years to seven thousands of the poor daily, in addition to guests and students living next to him and to many others⁽³⁾. The role of Al zawaya is undeniable because they were the haven for the poor and the wayfarers. One of the outstanding zawaya which carried out this role was Zaweyat Shala during the Merini era and Zaweyat Abi Anan at the gates of Sala, and another one in Fez which consisted of a number of homes, one of which dedicated to receive incomers from the needy and wayfarers⁽⁴⁾.

Among the products which prevailed in Al Maghreb and by virtue of the sentiments of individuals and institutions towards dedication in favor of the academic life was that progress in authoring books. This was made possible through availing resources and references which proved beneficial for classification. Ahmad Bin Ahmad Baba Al Tanbakti (d. 1036) benefited greatly from the books at Al Shurafa Mosque in Marrakesh in writing his books of Al Tarajim (Biographies)⁽⁵⁾.

Another Example is Ahmad Bin Abu Bakr Al Sakooni who managed to write some of his books through spending several days in the library of Abdul Jabbar Al Fejaiji⁽⁶⁾.

Young men benefited also from those grants extended to them from Awqaf funds through which they managed to survive through securing accommodation

(1) Al Zawaya Al Delaiyya and its Religions and Political role, p.74

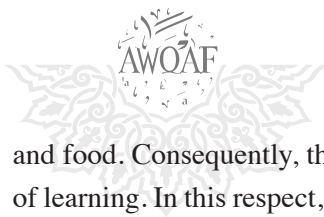
(2) Al Istiqsaa li Akhbar Al Maghreb Al Aqsa, 5/303.

(3) Ibid, p.49.

(4) The role of WAQF in Serving, Learning and Learned by Obaid Bu Dawud. 2011, p.21. A research submitted to Al Sharjah University.

(5) Al Tanbakti Fi Nayl Al Ibtihaj Bitatreez Al Dibaj 1/181-2/106-243.

(6) Imam Abdul Jabbar Al Fejaiji, founder of the cultural edifice in Fekaik by Ben Ali Mohammad Buzayan, p.96.



and food. Consequently, they succeeded in devoting their time to the acquisition of learning. In this respect, Dr. Said Burukba says that “students received grants⁽¹⁾ which helped them acquire learning, in addition to securing accommodations free of charge. It is noteworthy that the Merini state as one of the countries which took a turn in ruling the country, competed in establishing schools and hotels. Among those cities which embraced schools were Meknes, Fez, Marrakesh and Sala.”

The Merini kings who were famous for establishing schools were Abu Yousuf Yakoob Bin Abdul Haq Al Merini, Abu Said Othman Bin Abdul Haq, Abdul Hasan Ali Ben Said and Abu Anan Farris Bin Abdul Hasan⁽²⁾.

Deviating from this role supported by waqf funds sometimes, there was no strong objection raised against those who called for this spring to stop. This happened to the Naseriyya Zawaya during some of its life. Therefore, the voice of objection of Mohammad Bin Abdul Salam Al Naseri Al Derie (d. 1239) was raised against the disagreeable and displeasing novelties and fads in Al Naseriyya Zawaya, criticizing the process of directing the waqf funds to channels other than the Shari’a channels. He criticized depriving the students of their provisions and the hatred shown to learning and the learned, and the unfriendly behaviour towards those who acquired learning⁽³⁾.

In Tamkruth in 1268 AH, Al Zawaya Al Naseriya were located, without which learning could have been lost during the 11th century⁽⁴⁾. There were more than 2500 people, mostly of scholars and students, who depended for their living on the Waqf funds dedicated to the Zawaya. The subjects which were learnt there included Exegesis, Hadith, language and Usoul. There were books for those subjects, for example Sahih Al Bukhari, Mukhtasar Khalil and Al Shifa

(1) Meaning AWQAF.

(2) Effect of WAQF on the social life in Al Maghreb throughout history, p.117,118.

(3) Al Mazaya Fima Uhditha Minal Bida’a by Mohammad Bin Abdul Salam Al Naseri Al Derie – Abdul Majeed Khayali, Dar El Kutub Al Elmia, Beirut Edition 1, p.106

(4) It was maintained that but 3, learning could have been lost in Maghreb during the 11th century AH due to the seditions. The three are Mohammad Ben Naser in Dera; Mohammad Bin Abu Bakr Al Delaie in Dela’a and Abdul Qader Al Fassi in Fez. Fahas El Fahres by Dr. Ihsan Abbas, Beirut. Edition 2,2/767.

by Ayyadh, Al Risalah by Ibn Zaid Al Qairawan and Kafiah Ibn Al Hajeb, Al Mufaddal by Al Zamakhshari and Jami Al Jawamie by Al Sayouti⁽¹⁾.

The same thing happened to Al Zawaya Al Sharqawiya in Abil Jaad⁽²⁾. The Sheikhs in charge of Al Zawaya exerted considerable efforts to provide the favourable atmosphere for scholars and the incoming learners who frequented Al Zawaya, so that they might not harbour that feeling of monotony or estrangement due to difference between the life of village and the life in the major cities. Sheikh Mohammad Al Saleh solicited scholars and Awlia and convince them to stay there. The political and social stable atmosphere inside and outside the area during the reign of Al Mawla Ismail assisted in attracting scholars who received the due respect and other rewards and bounties⁽³⁾.

On parallel lines, the Sheikhs who devoted themselves to teaching benefited from the funds distributed to them out of the waqf proceeds. They exerted sincere efforts to serve the academic life which accounts for the academic progress during those days. Waqf also contributed to some academic progress in the history of the country, for example the Mosques through boosting the social aspects of those in charge of the mosques, for example the preachers. It is said that the jurist Qasem Al Qadhaie (d.615 H) the preacher at Al Qarawiyyin mosque deserted teaching near the end of his life and went in retreat in the Mosque and stayed in the house dedicated to the Imams of the Mosque ⁽⁴⁾.

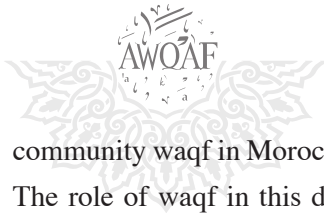
The other remarkable role of waqf in the cultural and academic life of al Maghreb is that role of obliterating illiteracy in the country. In this respect, Dr. Mohammad Zneiber says that from among the historical images concerning the

(1) With and introduction by Abdul Majeed Khayali for the book Al Mazaya...p.33.

(2) Abil Jaad City is located in Qasabat Tadhah Plane in the center of the country, near the city of Bani Malal.

(3) Al Zawaya Al Sharqiyya Zawayat Abil Jaad and its social and Political Role by Ahmad Bukhari, p.221.

(4) Jathwatul Iktibas Fi Thikr man Halla Mena Al Alam Medinat Fez by Ibn Al Qadhi Al Meknessi, Mansour printing press, Rabat, p.60.



community waqf in Morocco is that related to education and combating illiteracy. The role of waqf in this domain was comprehensive and crucial. It carried out everything, for example finding a location for education, providing it with books, hiring teachers and finding accommodation for foreign students. Katateeb were in thousands, all of which belong to awqaf in terms of building or furnishing. Their role in the dissemination of learning in cities and Sahara is undeniable. It caused religious education to prevail and set the first foundations for embarking on teaching the Arabic language. The effect of such an education in the remote places of the Sahara is highly remarkable⁽¹⁾.

Conclusion

Moroccans used to dedicate money to channels of charity touching the life of human beings throughout their history. Money used to serve science which brought about an unprecedented academic progress highlighted remarkably in the books of history. Today it is time to get lessons which might serve as work plans for any sought progress in the modern Islamic World.

Dedication to Quranic Katateeb in the history of al Maghreb received the due attention from the relevant agencies of today. The Ministry of Awqaf in Morocco established and developed scores of Katateeb, besides funding them out of the waqf monies. People in charge were rewarded and educational training courses were organized for that purpose. There were seminars on their objectives and mechanisms in order to benefit from them today.

Waqf in favour of academic chairs in the history of Al Maghreb is the reason underlying the attention paid by the relevant authorities of today to revive this recommendable practice. Consequently, the Ministry of Awqaf in al Maghreb established academic chairs, for example the chair of Ibn Attia for Seera (Prophet's biography), the chair of Abu Mousa Al Ash'ari for faith (Aqeeda), the chair of Al Jenaid for sophism, the chair of Ibn Ajrum for grammar, the chair of Imam

(1) Al hobs and social and political life in the history of Morocco by Dr. Mohammad Zneiber, 1983, p.206.

Malik in Fiqh (jurisprudence) and the chair of Imam Naf'ie for the recitation of the Quran (tajweed). Undoubtedly, the process of funding these chairs was made possible through waqf monies.

Dedication to traditional learning in the mosques and Zawaya in the history of al Maghreb is the cause underlying the attention of the relevant authorities which set down rules and regulations for this type of education. The Ministry of Awqaf has enacted a law to organize this type of education in 1422 H in which its objectives and stages were defined. The number of the old institutions and schools under the control of the ministry amounted to 423,⁽¹⁾ all of which receive the support out of the waqf funds.

Dedication to libraries in the history of Maghreb was behind the attention accorded to the organization of public libraries to which waqf made generous contributions. The Ministry of Ahbas assumed the responsibility⁽²⁾ for compiling this legacy of books in the various Zawaya and universities and produced copies of them, and kept them in the public library in Rabat⁽³⁾ which became later a part of the National Library.

The academic progress of the Islamic Ummah should be guided by the experiences of education which prevailed during the history of this Ummah. If this sought prosperous academic progress is to be achieved, the role of waqf should be revived through the following steps.

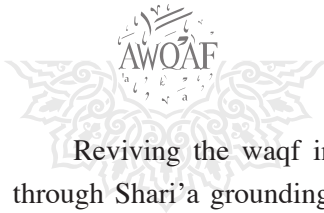
Creating an interest among the governmental and non-governmental institutions towards serving the projects in favor of the educational progress in the Islamic World.

Utilizing media and other modern means of communication to highlight that connection between the progress of the Ummah and the civil society initiatives on the one hand and the state's efforts on the other. This will surely boost solidarity and cooperation and assist in finding solutions for the educational problems in many Arab and Islamic Countries.

(1) Statistic of the Ministry of AWQAF.

(2) It is the previous name of the Ministry of AWQAF.

(3) The role of Ahbas in organizing the Maghrebi library, Dawatul Haq Magazine, Issue 3, PP.121-122.



Reviving the waqf institutions in the hearts of individuals and societies through Shari'a grounding, and creating awareness of its role in the academic progress of the Islamic World.

Calling for investing waqf monies in favour of the academic and scientific progress of the Ummah through developmental projects which create job opportunities and improve the conditions of the labourers through raising their.

Dedicating funds for researches in the empirical sciences will enable the Ummah to settle technology and develop it. This is expected to take the Ummah to the level of the advanced countries. We do believe that this possible with the Grace of Allah.

Finally it is Allah's guidance that I seek and His forgiveness of my slips that I pray for. Praise belongs to Him, and peace and blessings be upon His Messenger Mohammad Ibn Abdullah and his companions.

Resources

1. Ikhtisar el Akhbar fi Thaghr Sabtah by Mohammad Bin Al Qasem Al Ansari, Edition 2, Rabat 1403
2. Al Istiqsaa lhAhbar Duwal Al Maghreb Al Aqsa by Ahmad Khalid Al Nasei Al Silawi, Ministry of Culture and Communication, 2001
3. Ifadatul Nasseh fil Taarif bi Sanad el Jamie el Sahih by Ibn Rushd Al Sabti, Al Dar Al Tunisia Publishing House
4. Al It'haf el Wajeez by the scholar Ali Al Dukkali, leaflets of al Khazana Al Subaihia in Sala, 1`406
5. Bulghatel Umnia wa Maqsed al Labib in the Merini state by an unknown author , investigated by Mohammad Al Tatwani, Tatwan Magazine, Issue 9/1964
6. Juthwatul Iqtibas fi zikr man Halla minal A'lam Fez City by Ibn Al Qadhi Al Meknesi, Al Mansour Printin Press, 1973 and 74
7. Jani Zahr el Asse fi binaa Medinat Fez by by Ali Al Jeznaie, Royal Printing Press, Rabat, Edition 2, 1411



8. Jawaher el Eklil shasrh Mukhtasar Khalil fi Math'hab Malik by Saleh Abdul Samie Al Azhari, Dar el Fikr Printing press (no date)
9. Al Hobs ka Mazhar min Mazaher Al Seyasah al Ijtimaiyya in the history of Maghreb by Mohammad Zneiber, Seminar of 'Awqaf in the Arabic and Islamic World, 1983.
10. Al Huwala al Ismailia Microfilm # 158, Rabat
11. Al Deebaj el Muthahhab fi Maarifat Ulama el Math'hab by Ibn Farhoon, Dar el Kutub el Elmia, Beirut, 1417 AH
12. Shajaratul Noor el Zakkia fi Tabakatel Malikia by Sheikh Mohammad Makhloof, Dar el Fikr Beirut (no date)
13. Fahas Ahmad el Manjoor investigated by Mohammad Hajji, Dar El Maghreb Publishing House, Rabat, 1395
14. Al Mazaya fima uhditha mina Bida'a by Mohammad Abdul Salam Al Naseri Al Derie, Dar el Kutub el Elmia, Beirut, First Edition, 1424 AH
15. Al Musnad el Sahih fi Maathir Mawlana Abil Hasan Mohammad Al Telmesani, investigated by Dr. Maria Beghaira, Algeria 1401
16. Al Misbah el Muneer fi GHareeb el Sharh el Kabeer by Al Rafie, Ahmad Bin Mohammad Al Fayyumi, Al Maktaba el Elmia (no date)
17. Al Mughni by Imam Ibn Qudama al Maqdesi, investigated by Abdullah Turki and his colleague, Hajar Printing Press, Cairo, Edition 2, 1412
18. Nayl al Ibtihaj bitatreez el Deebaj by Ahmad Baba Al Tanbakti, investigated by Dr. Ali Omar, Religious Culture Library, Edition 1, 1423.
19. Al Hidayah sharh Bidayatul Mubtadi by Burhaneddin al Merghinani, Dar el Kutub El Elmia, Beirut, Edition 1, 1410

References

1. Awqaf Meknes during the reign of Mawlaya Ismail by Ruqayya Al Muqaddam, Ministry of Awqaf , Maghreb, Rabat, 1413
2. Al Ihsan Al Ilzami in Islam and its applications by Dr. Mohammad Al Habib al Tajkani, Ministry of Awqaf, Maghreb, 1410



3. Tarikh Khazain el Kutub in Maghreb by Ahmad Shawqi Benin, translated by Mostafa Tooba, National Printing Press, Marrakesh, 2003
4. Islamic Culture fi Ri'ayatel waqf by Mohammad Bin Abdul Aziz Bin Abdullah, Bani Iznassen Printing Press, Maghreb, 2005
5. Al Qarawiyyin Mosque and the University in Fez By Dr. Abdul Hadi Al Tazi, Dar el Kitab Al Lubnania, Beirut, Edition 1, 1973
6. Janib min Tarikh Al Zaweya el Naseriyya by Dr. Ahmad Bin Mohammad Amalek, Ministry of Awqaf, Maghreb, Rabat, 1427.
7. Al Haraka al Elmiah Khilal al Qarn el Sabi'e by Ismail el Khateeb, Islamic Society Society, Tatwan, Edition 1, 1406
8. Al Haraka Al Elmiah wal Thaqafiah fi Tatwn from Protection to Independence, Rabat, 1414 Ah
9. Al Haraka el Fikriah fil Maghreb during the Saadi Epoch by Dr. Mohammad Hajji, Ministry of Awqaf , Rabat, Edition 1, 1427 AH
10. Hayatul Kuttab wa Adabiat al Mahdhara by Dr. Abdul Hadi Hamito, Ministry of Awqaf, Rabat, 1427
11. Al Hayat el Siyassia wal Ijtimaia wal Fikria in Chafchawan and its possessions during the 10th century AH by Abdul Qader Afiah, Ministry of Awqaf, Rabat, 1402
12. Dowrel Kutub fi Madhi al Maghreb by Mohammad Al Manouni, Al Khazana Al Hasania, Rabat, Edition 1, 2005
13. Dowr el waqf fi Khidmatul Elm wa Ahlihi: namathij min Tarikh el Maghreb el Islami el Waseet, Obaid Bu Dawud, A research submitted to the University of Sharjah, 2011
14. Sus al Alema by Al Mukhtar Al Susi, Casablanca, 1404 Ah
15. Al Zaweya Al Delai'yya wa dawruha el Deeni wal Elmi wal Siyassi
16. by Dr . Mohammad El Hajji, Al Najah Printing Press, Casablanca, 1409

17. Al Zaweya Al Sharqawiyya zaweyat Abil Jaad Dawruha al Ijtimaie wal Siyassi by Ahmad Bukari, Al Najah P. Press, Casablanca, 1409.
18. Al Zaweya el Farissia Al Tatawur wal adwar till the End of the Alawi Era by Nafisa el Dhahabi, Al Najah P. Press, Casablanca, Edition 1
19. Al Suwaira el Zakera wa basamatel Hadher, Faculty of Arts and Humanities, Aghadir , Seminars Series, 1990
20. Arts and Sciences during the Reigh of Al Muwaheddin by the scholar Mohammad Al Manouni, Dar el Maghreb for Translation and Authoring, 1397 AH, Rabat
21. Index of Al Khazana al Subaihia in Sala by Dr. Mohammad el Hajji, Manuscripts Institute, Kuwait, Edition 1. 1402 AH
22. Fahas el Fahares wal Ithbat by Abdul Hai Al Kittani, Investigated by Dr. Ihsan Abbas, Dar el Gharb El Arabi, Baeirut, Edition 2, 1982
23. Kursi el Hadith Bidhahr Hessatul Ain fi Jamie El Qarawiyyin in Fez, by Dr. Mohammad Ben Azzouz, Legacy Cultural Centre and Dar Ibn Hazm, Beirut, Edition 1
24. Madaris el Taalim el Ateeq in Suwaira by Ahmad Al Hadri, Al Najah P. Press, Casablanca, 1994
25. Madaris Sus el Ateeqa: system and Teachers, Redha Abdullah Wafi Al Mukhtar Al Susi, Tatwan, Edition 1, 1407
26. Lectures on Waqf by Mohammad Abu Zahra, Dar el Fikr el Arabi, Cairo, 1972
27. Waqf fil fikr el Islami by Mohammad Bin Abdul Aziz Ben Abdullah, Ministry of Awqaf, Rabat, 1416 AH
28. Al Waqf wa Buniatel Maktaba el Arabia, Istibtan lil mawrooth el Thaqafi by Yahia Mahmoud El Saatti, King Faisal Center, Edition 2



Articles

1. Adhwaa ala Huwalat el Waqfia fil Maghreb by Abdullah al Khodhr, Dar el Hadith el Hasania, Rabat 7/1409
2. Al Isha'a el Elmi lil madaris el Ateeqa in Marrakesh: Seedi el Zain madrasa by Dr. Hasan el Jallab, Dawatul Haq Magazine, Issue 367, Rabie thani, 1423
3. Imam Abdul Jabbar al Fejaiji founder of Al Serh el Thaqafi in Fekaik by Benali Buzayan, Dawatul Haq Magazine, 254, 1417 Ah
4. Athar el waqf fil Hayat el Mijtimaia fil Maghreb by Dr. Al Said Burukba, Dawatul Haq Magazine, 284, 1411 AH
5. Al Bu'd el Thaqafi wal mujatamie lil waqf el Khairy fil Islam, by Dr. Said Burukba, Dawatul Haq Magazine, 363, 1422AH
6. Jamie Ben Yousuf in Marrakesh: Nasha'ah wal Isha'a by Dr. Hashem El Alawi Al Qasemi, Dawatul Haq Magazine, 277, 1425 Ah
7. Al Haraka el Elmia fil Jamiel Kabeer in Taroudant during 10th and 11th centuries, by Dr. Mostafa al Maslouti, Dawatul Haq Magazine, 325, 1417 AH
8. Al Huwalat el Habsia masdar Assasi Ili taaruf ala al Tarikh el Hadhari lil Maghreb, by Dr. Omar el Jeedi, Dawatul Haq Magazine, 242, 1405 Ah
9. Himayatul Qasereen fi Nuzum el Waqf fil Maghreb wal Andalus by Wedad al Abdouni, Awqaf Journal , Kuwait, Issue 3, 1428AH
10. Khazanatul Qarawiyyin, past and and present, min Khilal al Wathaiq al Sultania by Dr. Ali Al Ghazaiwi, Dawatul Haq Magazine, 363, 1422 AH
11. Al Khazain el Elmia fi Taroudant by Mohammad al Manouni, Dawatul Haq Magazine, 280, 1411 Ah
12. Dawr el awqaf el Maghreb fil Takaful al Ijtimaie fi Asr beni Meryen by Mohammad Al Manouni, Dawatul Haq Magazine 230, 1403 H
13. Dawr el Waqf fi Ahd el Dawla al Wattasia by Dr. Said Burukba, Dawatul Haq Magazine, 295, 1413 AH
14. Dawrel Sultan Mawlaya Yousuf fi Baath el Nahdha el Elmia fil Zaweya by

Abdul Ilah Al Gazawi, Dawatul Haq Magazine, 390 1429 AH

15. Dawrul Ahbas fi Tanzim al Maktaba el Maghreb, Dawatul Haq Magazine Editorial Staff, Issue 3, 1385 AH
16. Al Zawaya wal Adhriha fi Iqlim Tata by Mostafa Mohammad Ataq and Mohammad Bal Ateeq, Al Manahil Magazine, Ministry of Culture, Maghreb, An Issue on Al Zawaya fil Maghreb
17. Al Zaweya wal Tariqa el Sadeqia by Hasan Al Sadeqi, Al Manahil magazine, Issues 82,83 / 2007
18. Zaherat el Karasi el Elmia by Dr. Yousuf al Kittani, Dawatul Haq Magazine, 244, 1385 AH
19. Karasi el Asatitha fi Jamiat el Qaraiyyin by Mohammad Al Manouni, Dawatul Haq 1385
20. Lamha an Tarikh el Makhazin el Malakia in Al Maghreb el Aqsa by Mohammad Al Manouni, Dawatul Haq Magazine, 228, 1403 AH
21. Muassasit elul awqaf wa Ahamiytuha el Ijtimaia wal iqtisadia wal Fikria in Fez in the 8th century Ah by Al Said Belmleih, Dawatul Haq Magazine, 363 1422 AH

WEBSITES

www.habous.gov.ma

Articles



Waqf of Essa Bey Founder of Sarajevo 866 H / 1462 AD

Dr. Mohammad Muwafaq Al-Arnaoot⁽¹⁾

During the year 2012, Sarajevo celebrated the occasion of elapse of 550 year since its establishment, and in particular the authentication of Essa Bey Bin Ishaq Waqf in the year 866 H/ 1462 AD which included the urban nucleus on which Sarajevo was founded. On this occasion, a festival was held in Sarajevo museum during the month of April 2012 and Essa Bey Waqf was presented. It was written in Arabic. It is considered the document establishing Sarajevo. In view of the fact that such Waqf referred to realizing the building of installations that included the basic nucleus of the new city, the person who made this Waqf is called "founder of Sarajevo", though Sarajevo reached the top of its glory after nearly one hundred years by the subsequent "Wali Kgesro Bey"⁽²⁾.

The person who made Waqf

The researchers differ regarding the origin of Essa Bey, the person who made this Waqf, some say that he is the descendant of great Bosnian families such as Hranusic, Pavlovic and Kosac, but the contemporary Bosnian researcher (Hazem

(1) Global Islamic Sciences University - Amman – Jordan

(2) Odkasabe Do Metropol Vise Od Pola Milenija Evropskog Jerussalema, Dnevniavaz, Sarajevo 6/4/2012

Shabanovitch), says that such opinion resulted from mistake in reading the resources.

His origin is left to be decided through more research⁽¹⁾. His father, Ishaq Bey, became outstanding in Othmani rule when he was appointed at the head of the bordering province (Og Bey) whose center was in Skopje (Othmani Skopje) adjacent to Bosnia during the period 816-842 H/ 1414-1439 AD. He led some campaigns from Skopje towards the south of Bosnia. Ishaq Bey was famous for his interest on Waqf. He built a group of important installations (mosque, school, building, two bathrooms, two inns, markets, etc) these things made Skopje have Islamic trait, gradually⁽²⁾. His son Essa Bey who succeeded his father in his position during the term 842-867 H / 1439-1463 AD followed the same steps of his father. From this place, Essa Bey directed campaigns to open the adjacent Bosnia and was able to control some forts in the south of Bosnia such as HODIDJED and VRHBOSNA. A bordering province (Og Beywat) was formed there. He made the first liberation book for this province in the year 859 H / 1455 AD⁽³⁾. The rest of Bosnia was opened in the spring of the year 867 H / 1463 AD. "Bosnia Sanjaq" used the city of GAJCE as center for him during summer but later on he moved the center of Sanjaq in the autumn of the year 868 H / 1463 AD to the newly established city of Sarajevo⁽⁴⁾

As a result of his courage in conquering new lands, Essa Bey was appointed as Bosnia Sanjaq. Thus he entered the history of Bosnia as "Sarajevo sounder" which was quickly changed into the capital of Bosnia and the most important center of new Islamic culture

(1) Hazem Sabanovic, Bosanskipasaluk, Sarajevo (svjetlost) 1982, p25, majodizdar, Srajevski vakifi I njegovi vakufi 1462/ 2001, Sarajevo 2010, p40

(2) For more information about Ishaq Bey endowments and their importance in developing Skopje view the following

Dr. Hasan Kalesi Najstariji Vakufski Dokumeti u Jugoslaviji Na arapskom jeziku, presristina 1972 pp89-94, Ahmet Sherif vakefet ne maqedoni ne paridhen osmane shkup (nun) 2006 pp70-71

Dr. Nasser Mahdi Ramadan, roots of Islamic culture in Macedonia Republic, Amman (Almaamoon publishing house) 2010 P106-107 and 136-137

(3) This important book was published as per the scientific principles Othmani text together with translation and study, Dr. Hazem Shabanovitch

Dr. Hazim Shabanivitch, Krj Isa-Beja isakovica zbirni katastarski popis iz 1455, jodine, Sarajevo sarbo (orijentalni institute) 1964

(4) Sabanovic, bosanski pasaluk p.40



Essa Bey's exact date of death is not known, but the documents of the neighboring republic Raghosa(Dobrofinic) indicate that he was the last ruler(Sangak) of Bosnia in Rajab 874H./ February 1470 A.D. ⁽¹⁾

Waqf

Essa Bey, built the nucleus of Sarajevo city in the valley of the river Miljacka, one of the most important tributaries of Bosnia river which gave the country its name (Bosnia) At that time, the area was confined to the fortress and village of Hododjed consisting of 36 houses. Its inhabitants worked in the service of the fortress, in addition to the neighboring village of Prodac

Essa Bey, started his urban activities by building palace(Sarai) in valley surrounding the village of Prodac It was important because it gave its name to the new city that sprang up in this place: Saraibosna, Saraiabab, Saraiaawasi and finally Sarajevo as it became known since the end of the fifteenth century⁽²⁾, but the nucleus of the new city was connected with his establishing of the new mosque on the left bank of Miljacka river which is the first Othmani mosque in Bosnia. It is believed that Essa Bey, built the said mosque in the year 862H./1457AD in the name of Sultan Mohammad the conqueror, that is why it has been known under the name of "The Sultan Mosque"⁽³⁾

This mosque (not mentioned in the Waqf as it was said to be built in the

(1) Dizdar, Sarajevski vaskifi, p. 40

(2) This Sarai remained in its place till 1267H./1851 AD It was demolished. The army headquarters building was established in its place in 6 April square This place was known under the name Begluk(the place of Bey) The name of the new city , mentioned in Waqf (Sarai Awaci) is composed of Sarai+Aw(valley) Then the Slovenian form: Sarajevo was derived from it. This form was first mentioned in a letter by Bosnia Wali ; Fayrouz Bey in Shawal 912H/7 March 1507AD : Mohammad Alarnaoot, "Islam in Yugoslavia, from Belgrade to Sarajevo, Amman,(Albasheer publishing house) 1993,p. 171-172

(3) This mosque remained in its place till the year 884H./1480AD when it was burnt during the fire that spread with the Hungarian army stormed the city It was rebuilt (in the new present shape) in the year 973H./ 1566AD by order issued by Sultan Suleiman Alqanini It was first restored during the period 1847-1848 then in the year 1996 after it had been subject to some damages resulting from the Serbian bombing during the war of 1992-1995 Now it is considered as one of the most beautiful mosques in Ottoman Sarajevo

For more information: Dr. Jamalaldeen Sayed Ahmad, Bosna and Herzegovina, Cairo,(Suaad Al_Subah publishing house) 1992, p. 47-52



name of the Sultan) was actually built by Essa Bey who made its Waqf. The mosque is considered the real nucleus of Sarajevo. Essa Bey built a bathroom near the said mosque⁽¹⁾ and built a bridge over Miljacka river to link its new installations on both banks. Thus he helped the new city to extend on both sides of the river⁽²⁾. In addition to this, Essa Bey built an inn made of stone together with "bezstan" (it includes many shops)⁽³⁾. He built Zawya, a place prepared for student, in the neighboring village of Prodac which was assigned for the lodging of the poor Muslims, conquerors and wayfarers. It was also used to supply food to them⁽⁴⁾. Essa Bey made Waqf for them including various mills and many pieces of land as stipulated in the waqf.

This reconstruction nucleus (the mosque + the bathroom + the market + Zawya) grew quickly and new place began to be built round the mosque and another new places were built round the "Sarai" as well as new place round the "Zawya". The Waqf made by Essa Bey and was finally documented in the year 866H/1462AD became new "Qasaba". This indicates the elapse of time between building such installations and documenting them. It is worth noting here that the presence of Sultan mosque (where Fridays & the two Eids prayers were said) and the presence of the "Souk" were considered important conditions for Ottoman administration to recognize the change of any residential gathering into "Qasaba"⁽⁵⁾.

(1) This bathroom remained in its place till the year 1306H/ 1889AD when the Endowments Department, regretfully, knocked it down and built another bathroom (in the European fashion) when the European "trend" became prevalent during the Austrian rule in the period from 1878 to 1918.

(2) This bridge was called 'the Sultani bridge' in relation to "the Sultani mosque" that the bridge led to on the other side of the river. But such bridge collapsed due to great flood of the river in the year 1619. One of the noblemen in Sarajevo (Haj Hussein Agha) built stone bridge in its place. The new Austrian administration knocked it down in the year 1896 and built a cement bridge in its place: Dzidari, Sarajevski vakifi, pp. 42-43.

(3) The walls of this inn are still found up till now. They represent the oldest ruin found in the first nucleus of Sarajevo. This place (known as Kolobara) was changed into a summer cinema.

(4) The term "Zawya" was used in waqfs in more than one meaning, but here it means the place prepared for science students. People lodging in it were sufficiently serviced with "meat, rice and bread, on condition that they do not stay for more than three days.

(5) Adem Handzic "O formiranju nekih gradskih naselja u Bosni u XVI stoljeću" POF XXV, Sarajevo 1975, p. 135.



Waqf

This Waqf is very important because it is the oldest Othmani Waqf in Bosnia and the first Waqf written in Arabic. Although this Waqf is important, its original text, regrettably is lost but today we have two copies documented in the judiciary record kept in library of Khesro Bey the conqueror in Sarajevo. We adopted the first copy here (p 51-52 of the record). It is characterized by many documentations. As this Waqf is important, it was translated into Serbian language in the year 1929 by the researcher: Gelesha Alsovetch. It was later translated in a better manner into Bosnian language in the year 1951 by the well known researcher Hazim Shabanovitch⁽¹⁾.

The importance of this Waqf is clear from the documentations because it contained the first names of this new "Qasaba" (Saraj Bosnia, Saraj Abad, Saraj Owasi) the present name of Sarajevo was derived from latter name. The documentation also contains the names of the judges who were found in early times in Sarajevo which indicate that the city was quickly developed. We can say that the importance of this Waqf becomes clearer because it includes many names of villages, rivers, grass lands. Some of them do not exist anymore. Some of them were integrated in other villages. New residential places were built in their places. This is in addition to mentioning the plants that were planted and harvested in the agricultural lands and things people used to eat or drink. This Waqf provides us with complete picture of the beginnings of Sarajevo and its neighboring places during the first years of Othmani rule.

On the other hand, this Waqf contains many Slavian names of people, rivers and villages written in Arabic. This is the early beginning of writing Slavian words in Arabic letters showing the difficulty of such thing because of the difference in phonetics between the two languages. This does not prevent the subsequent writing of Slavian/ Bosnian language in Arabic letters as customary among other Islamic peoples in Balkan⁽²⁾

(1) Glisa Elezovic, glasnik skopskog naucnog drustva knjiga I, skopje 1929, pp 170 – 176, hazim sabanovic, dvijenagstarije vakusname u Bosnia, pof II, Sarajevo 1951, pp 5-38

(2) For more information: Mohammad Mofako, "Albanian culture in Arabic letters, Kuwait (knowledge world publishing house) 1983, p 5-6

Conclusion

Essa Bey Waqf dated back to 866 H / 1462 AD, and is considered one of the important documents related to the history of Sarajevo. It is the documents establishing the reconstruction nucleus which was later changed into Saray Bosnia or Sarajevo. Bosnia / Sarajevo indicates the large role played by Waqf in the rising and development of cities in Balkan peninsula Mustar, Askop, Presrin, Terana, Kortsha etc.

This Waqf is also important because it was written in Arabic. It attracted the attention of many researchers in eastern studies since 1929. It was translated into Serbian language in the year 1929 then into Bosnian language in the year 1951. Today it is published for the first time in its original language on the occasion of the festivities celebrating the elapse of 550 years since the foundation of Sarajevo. Because it was written in Arabic, it was the first time to accommodate the proper names and the names of Slavian places in Arabic letters. In so doing, it represents the beginnings of writing the local language in Bosnia in Arabic letters which continued till the middle of the twentieth century.

Thus, we hope there will be interest to publish tens of Waqf written in Arabic in Balkan during the first century of Othmani rule because such Waqfs have historical importance as they are considered the sources of the reconstruction history, economic and social history of the area.

Essa Bey Bin Ishaq Waqf

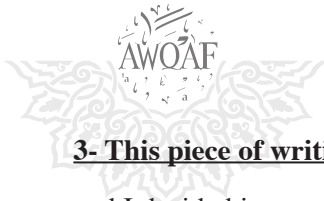
(Documentations)

1- This Waqf was seen by me

I accepted it and signed it I, Mohammad Alzereki in Almujaheedin House Saray Almahrosa, may God forgive him

2- This book was seen by me

I accepted it and carried out its content I Darweesh Mohammad Bin Sidi Almawla Saray Almahrosa



3- This piece of writing was seen by me

and I decided its accuracy As well as its content of endowments principles, its conditions and requirements I know the difference regarding endowments issue I, Mubarak Alqadi Saray Almahmya

4- This is copy of Waqf signed by

Mubarak Alqadi on this date in Aljehad House Saray Almahrosa it was transferred from it without increasing or decreasing by Husain Bin Mohammad Almawla in Saray city

5- This legal Waqf and documents was viewed by me

I looked at its content/ margins. I read it from beginning to end. I agree to it and accept it. I signed it. this documentation was written by Abdulla Bin Ali Bin Almuayad who carried out legal rules in Aljehad House, Saray Abad protectorate which is full of religious rituals as well as all parts of the country. at the commencement of Ze Alheja in the year nine hundred and thirty seven . we thank God creator of all land and we pray for the best man Muhammad and his family and companions

6- This book was reviewed by my I accepted it and agreed to it

By Noman Bin Yaqoob Saray Owasi

7- The content of this Waqf was ratified by

Sheikh Zada Alsayed Mohammad Saeed, the judge in the city of Saray Bosnia

8- This copy is a true copy of the original

Written by: Mahmoud Bin Deyaa Aldin known as Bin Wali Zada. the judge in the city of Saray Almahrosa

9- The content of this Waqf was ratified by

Khalil Alqadi in the city of Saray Bosnia May God forgive him

(Waqf)

We thank God for all his blessings and we pray to his prophet Mohammad, the great Amir who gives charity and blessings whose manners are worthy of respect, Essa Bey Bin the deceased Ishaq Bey, may God promote his status and support the pillars of his state, after he witnessed that there is only one God who has no companion and rules alone as He desires and carries out what he wants and after witnessing that Mohammad, piece and blessing of Allah be upon him who was dispatched with the true religion and the Holy Quran to become the sole religion, even if non believer so desist. He witnessed that God accepts penitence from his people and forgive mistakes and that God mercy is overwhelming. He is the most merciful and the most forgiving. Essa Bey build a house in the shape of "Zawya" including⁽¹⁾ three houses, stable⁽²⁾ and place suitable to them inside the village of Prodghah affiliated to Saray Owasi. During his living⁽³⁾ he gave "Zawya" for charity to be a lodging for poor Muslims including sciences students, nobles, conquerors and wayfarers where meet, rice and bread are prepared in sufficient quantity as well as fats and soup are given as per need for three days. They are not allowed to lodge for more than three days. Soup is given also to the people serving in this Zawya. Little orphans who reside in this Qasaba are given the additional excessive amounts of meat rice and bread. Essa also build⁽⁴⁾ a bridge on the river Miljacka⁽⁵⁾ on both sides and for fifteen "arm", up and down will be for the interest of the bridge. He made it Waqf⁽⁶⁾ for passersby in a legal and correct Waqf and as continuous charity forever effective for the sack of God and as means to be nearer to God Almighty, seeking His mercy and wishing the reward said by God in the Holy Quran *"the charity you offer for yourself will be greater and bigger in the other world"*⁽⁷⁾. This Waqf is not for sale and nobody is to own it in any manner. This Waqf will stay with all its assets forever till the Day of Judgment and God is the best heir.

(1) In the original: Mustamela

(2) In the original: one third

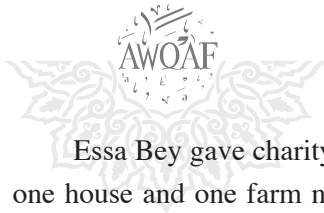
(3) In the original: his life

(4) In the original: "Bana"

(5) Miljacka river is one of the tributaries of Bosnia river

(6) In the original: Waqf

(7) The Holy Quran, Almozamel Sura 20



Essa Bey gave charity of his pure properties as well as all mills included in one house and one farm neighboring the said mills located in this area and the bathroom, water for its needs and the rest of the bathroom water, the inn and the shops near the current water, in the west the shops are adjacent to the public road and in the north the inn is near the public road and in the east the property of his young son Mohammad. The Waqf is linked to the place of market together with the real estate up and down Zawya bordered in the north by BiosKa road⁽¹⁾ as well as places adjacent to the market and the public road to the mills, bordered on the other side by the river mentioned to the said mills and the orchard which he bought from Yosouf known as Qotaqa⁽²⁾ located as a whole within the border of this village including its buildings, width, yards and everything whether few or many within these places, vines and real estate as well as the place called "Helpsalshata"⁽³⁾ and the place called Borti⁽⁴⁾ and the place called Baslashta⁽⁵⁾ located between the two roads and the place called Bedona⁽⁶⁾ and one farm near Bodena⁽⁷⁾ and one farm in the boundaries of Radwah⁽⁸⁾ to the boundaries of Radlwek⁽⁹⁾ and the place called Bionegaliq⁽¹⁰⁾ below the market between the two roads

Part of it is called "Ateeq" which is a place called Arosh⁽¹¹⁾ adjacent to

(1) Biosko village lies to the north of Sarajevo. It was developed with time and became two villages Gornje Biosko and Donje Biosko. The said road leads to Donje Biosko

(2) The researcher Skartish did his best to determine such land stating that it lied in the west south of the reconstruction nucleus established by Essa Bey:

Vladimir Skaric, Sarajevo I njegova okolina od najstarijih vremenado austro ugraske okupacije, Sarajevo 1937, P 40

(3) In the local Slavic language "hlebseliste means "bread: but this village had been vanished later on

(4) In Slavic local language, vrte is derived from vrt which means garden, kindergarten. It seems that this village vanished later on

(5) In local Slavic language seliste and it seems that this village vanished later on

(6) In the original: Yodena, it seems that it is a mistake because the correct one will be mentioned later on

(7) In local Slavic language Podin it seems that this village vanished later on

(8) In local Slavic language: Radoje it seems that this village vanished later on

(9) Radilovic village: it remained in its place till the end of the eighteenth century, as per Sabanovitch: Hazim Sabanovic, "dvije najstarije vekufname u bosni pof II Sarajevo 1952, p 10

(10) The word Yongaliq: is mentioned in Turkish language, it means "field of clover"

(11) Varos is Hungarian expression in middle Europe, it means the residential district

Miljacka river, a part called Bazagorringa⁽¹⁾ near Ateeq and Arosh, and place called Kopodenga⁽²⁾ and Benez Bodenga⁽³⁾, a place called Belawga⁽⁴⁾ on the river of Qosho⁽⁵⁾ Decreman Ogagi⁽⁶⁾ containing two farms⁽⁷⁾ on both sides of the river, to the borders of the property of Leban Bin Bogen⁽⁸⁾ and in the west to the graves of non believers and the mill which he bought from Qasatekler in Bolna⁽⁹⁾, below it there is one farm and above it there are two farms⁽¹⁰⁾ bordering to the east the Muslim graves and to the south the graves of Qasatekler and to the west a place called in Turkish: Surtisira⁽¹¹⁾ to the item⁽¹²⁾ which is a place in the village of Belawi⁽¹³⁾. All the mills are in one house on the river Welzanga⁽¹⁴⁾ in the direction of Wesoka⁽¹⁵⁾ near Laboghoshta⁽¹⁶⁾ the farm⁽¹⁷⁾ called Beloqa⁽¹⁸⁾ and

(1) In local Slavic: Zagornica, it seems that it vanished later on

(2) In local Slavic: it may be Koputnica, but its place can not be determined now

(3) It may be Nisputnica in local Slavic, but its place can not be determined now

(4) It is Bilavica in local Slavic and there is the street called Bilavica in the same place at the present time

(5) Koseva river is one of the tributaries of Milack river

(6) This word is mentioned in Turkish and it means quarry to get stones for the mills

(7) Here we notice the mixed name Bogcin (Turkish + Slavic) used by the first generation of local Muslims

(8) In the original: it has two farms

(9) It is to be noted here that in the work "Qasatekler" the Turkish suffix "lr" is used in the plural form. This means that we talk about Kasatic family who were known at that time in this area. The village of Bolna continued to be used in the Othmani sources till the middle of the sixteenth century. Now we find Kasatic place in the village of Zunovnica near Sarajevo. It may have taken this new name later on as per the words of Dr. Sabanovitch:

Sabanovic, dvije vakufname, p12

(10) In the original: with two farms above

(11) In Turkish it means "mountain scythe"

(12) The meaning is not clear here

(13) It is Blazuj in local Slavic

(14) Zeljezinca in southern Slavic means one of the tributaries of Bosnia river. The name remained till the nineteenth century where it became known as Fojnica

(15) In local Slavic: Visoko, it is a city located in the north west of Sarajevo where the two rivers Fonetsa and Bosnia meet

(16) In local Slavic: Ljubogoste, it is situated to the east of Sarajevo now

(17) In the original: farm

(18) In local Slavic: Luka

the farm⁽¹⁾ bought from Belban Bin Bogin named Bibros Qrosela⁽²⁾ bordering the valley to the east to the borders of Asqa Qleq⁽³⁾ and two Gerni and Barh⁽⁴⁾ and Qoza Rewek⁽⁵⁾ and Sori Dia⁽⁶⁾ to Qela Tebrwik⁽⁷⁾ bordering in the west Serti Sera to Gaer⁽⁸⁾ Radoman Zawradlo⁽⁹⁾ and Radawa⁽¹⁰⁾ and to the north to the stone called Bogan⁽¹¹⁾ to Alwadg stone⁽¹²⁾ ending with the eastern said borders near the place⁽¹³⁾ and Praiko⁽¹⁴⁾. The wages are determined as per the needs of properties⁽¹⁵⁾. Waqf is legally correct and true.

The person deciding this Waqf as charity on condition that collecting the revenues and benefits of Waqf should be done first. It is necessary to maintain it and repair it. The person who decides this Waqf determined the amount of eight dirham every day for maintaining and repairing Waqf.

He also determined the amount of two dirham daily for those who looks after the interest of maintaining and cleaning the Waqf together with soup in the morning and in the evening every day and a half dirham for bread. He also determined the amount of ten dirham for those who will buy meat and cook every day. Half the amount will be cooked in the morning and the other half in the evening. He also determined the corn for soup in sufficient quantity for this Zawya, which will be given to the little orphans residing in this Qasaba. He also

(1) In the original: farm

(2) In southern Slavic: Brus, it is still known by this name, it is situated near Trebevic

(3) In southern Slavic: Skaknic, today, it is situated near Trebevic

(4) In Slavic: Crni Vrh, it means the black summit, it seems that it vanished later on

(5) In southern Slavic: Kozarevic, now it is the village of Kozarevici situated to the south of Trebevic

(6) This name was mentioned in Turkish language. It means "difficult summit" there are many places around Trebevic carrying similar names

(7) The Turkish work "Qela" is mentioned here, it means "tower". In local Slavic Trebevic is a place where there is a tower "Kula" which may be related to the said tower

(8) The Turkish word "Gaer" is mentioned here, it means valley

(9) In local Slavic: R.Zavratilo

(10) In local Slavic: Radava

(11) In local Slavic: Vagan. Now we have a village there carrying this name near Trebevic

(12) In local Slavic: it is read Videz

(13) In the original: site

(14) It is understood from the context that it is the place to be leased Rajko

(15) In the original decide the wage for the properties needs

determined the people who will use the mills at such times⁽¹⁾ will have sufficient bread. He also appointed servant to serve this Zawya to cook its food against two dirham every day and soup in the morning and in the evening as well as half dirham for bread. He also appointed another servant to close and open its door, keep its furnisher and other things and everything suitable as food, against two dirham every day and soup in the morning and in the evening as well as half dirham for bread. He also determined four dirham every day for the person who gathers sticks, he determined five dirham for those who looks after the interests of Zawya including floor carpets and fuel for the lamps as well as salt and other things suitable for food. He allocated one dirham daily for one of the Muslim judges in this area to become superintendant. He determined one tenth of all the endowments revenues to "Almetwali". Dismissing and appointing the servants of such endowments was authorized to Almetwali. Essa Bey make a condition that the servants of this Zawya will be slaves who become free or their sons, generation after generation, no one will assume such job to escape from the service of this Zawya otherwise this will be Haram for him and he will be unjust. Regarding the jobs of the deputy of Almetwali, the clerk and sheik, he allocated the amount satisfactory to Almetwali. There jobs will depend on the endowments revenues and each one of them will be given soup in the morning and in the evening as well as half dirham for bread. He allocated soup in the morning and the evening and at any time together with half dirham for bread to the person who prepares corn in this Zawya. He allocated one dirham daily for "Almotamad" together with soup in the morning and in the evening as well as half dirham for bread. If it is necessary to build in the said endowments, such building can be constructed in the urbanized place or in the non urbanized place. Almetwali will build in such place, he allocated a pension for the slaves that became free as well as the sons of the liberated slaves when they become old or sick and can not work or if they are poor⁽²⁾ and they can take soup from this Zawya as well as bread in a manner sufficient to their needs. On both of the two Eids, three sacs of rice will be cooked

(1) In the original: these two papers

(2) In the original: poor



with fats together with meet in a sufficient manner and given to people with soup in all times and in Pros⁽¹⁾ there is one place in the hand of the liberated gardener.

And the boundaries Pros⁽²⁾ to control him and his sons as long as they are punctual.

The rest of such revenues will be spent for maintaining the buildings build by the person who made this Waqf in the conquerors house, Askop⁽³⁾, to protect it from disasters. If it is damaged, then it needs funds and if it is not damaged, no money will be paid.

He made control and supervision for him all through his life, if he dies, then his son called Mohammad junior, son of the person who made Waqf, will be responsible for controlling and supervision of Waqf, later on supervision and control will be assumed by the sons of the person who made Waqf as long as they are characterized by piety and religious enough then to the sons of his sons generation after generation, the most reasonable of them males and females then to the liberated slaves of the person who made Waqf, then to the sons of the liberated slaves of this charitable man generation after generation.

The charitable person made all this Waqf out of his hand free from delivery obstacles and cut the Waqf away from himself and from his funds. He made Salah Eftikhar Alayan Khawaga Senan Aldin Alqormani "Mutawalian" of this Waqf and delivered it to him to maintain it and dispose of it using these conditions as per the Holy prophet legitimate Suna and register the said Waqf at the concerned body the above mentioned man who made Waqf has no recourse on the said Waqf⁽⁴⁾ and the claim of possession by the deputy Fakhr Alfawaris Alaqzan Khosh

(1) In the original: Alpros

(2) In the original: Alpros

(3) It is Skopje which is the present capital Macedonia Republic. Its independence was announced in the year 1991. It was known since the Roman age. Essa Bey established a similar Waqf in it. This contributed in turn to establishing new city beside the old city. It became particularly known at the end of the Othman rule in Balkan (1888-1912) when it became the center of Qosoh region (Kosovo)

(4) In the original: endowments

Qadam and Boda⁽¹⁾. The said deputy has legal attorney from the said Almetwali at the ruler signing above to the effect that the person who made the said Waqf is as per the place stated and did not refrain from its possession⁽²⁾ he was adhering to the necessity of Waqf as per the saying of the great Imam, may God bless his soul

Almetwali refused to return it to its possession depending on the opinions of the old scientist, may God bless their souls. They filed this matter⁽³⁾ to the ruler who gave a ruling that the Waqf is correct and necessary as per the words of the group of Imams, may God bless their souls. It was a legal and correct ruling that was registered by the deputy and so the said Waqf became mandatory Waqf agreed upon and cannot be replaced or changed or suspended after that in any manner nobody who believes in God and the Day of Judgment may change anything in this Waqf or change its conditions and anyone who tries to rebut or revoke it whether heir or ruler or sultan or other will bear the result of his sin and will be subject to the wrath of God Almighty who will judge him, punish him and revenge from him. He will be⁽⁴⁾ one of those who are misled in this life and will be subject to the curse of Allah His angels and all people. The reward of this Waqf is in the hands of God Almighty, God is our avenger.

Executed in Jumada Alola in the year eight hundred and sixty six witnesses

Mawlana Sham Aldin, Boshgrad judge ⁽⁵⁾

Mawlana Sheikh Ali Aldin, Beslah judge ⁽⁶⁾

Ali Faqeeh Aljendi

Mawlana Sulayman Faqeeh Bin Awad

(1) Vojvoda is Slavic title which was used at the commencement of Othmani rule to indicate those who assume important positions in the Othman administration in Balkan (Sunjaq Bey, Oag Bey, Sobashi, Sunjaq Bey property manager, etc)

(2) In the original: his possession

(3) In the original: this

(4) In the original: he made

(5) In local Slavic: Visegrad, is a town on Drina river (which separates Bosnia and Serbia) in is known for the big bridge build by the architect Senan by order from the greatest "Sadr" Mohammad Basha in 1577-1578. He was honored by Efo and Ritch in his novel titled "bridge on the river Drina"

(6) It may be Selac in local Slavic but it can not be determined nowadays



Iskandar Wayoda

Mawlana Mohyee Aldin Bin Mohammad Alimam

Hamza Bin Ogor Albawab

Mawlana Qawam Aldin Bin Qasem Albawab

Katkhoda Org Bin Hesar Beyi

Mawlana Ayoob Khawaga

Mohammad Bin Hamza

Mohammad Bin Yosouf

Hassan Bin Orog

Husain Bin Orog

Mahmoud Sobashi

Eizazda

Mohammad Bin Hassan

Sulaiman Bin Hamza

Ibraheem Bin Mosa

...And other attendees

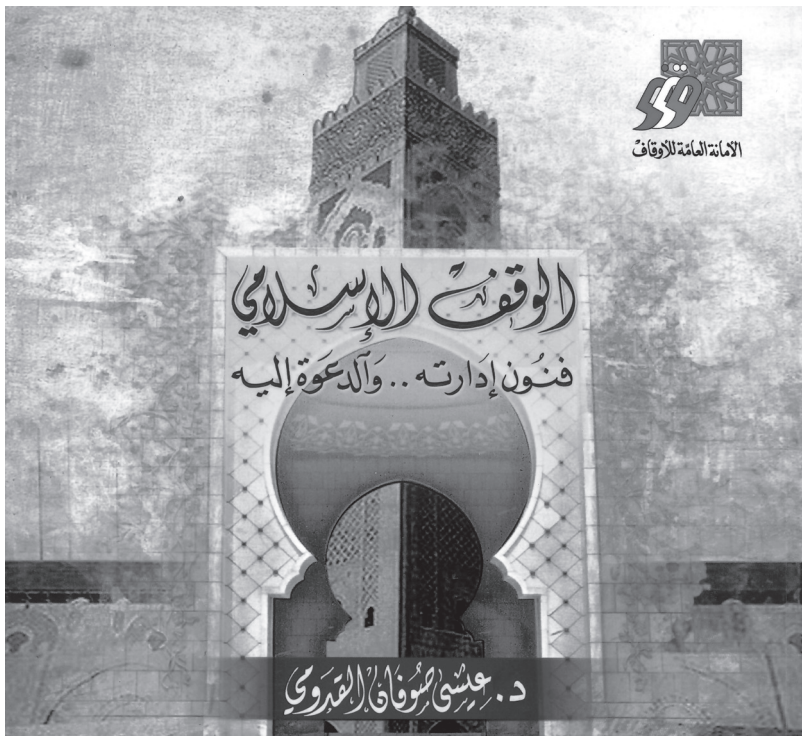
Book Review



Islamic Waqf Book...Art of Management in Reaching God.

By:Dr. Essa Sofan Alqadoumi

Presented by: Dr. Mahmoud Rafeeq Alzweed



The book has 235 rectangular pages. It consists of an introduction, target of book and six units (the crux of the book)In addition to this, there are some exercises and drills to develop skills and raise abilities.

The author explains that through this book, he targets at realizing some aims including revival of Islamic Waqf , finding the Muslem who is proud of his religion and who takes Waqf works initiative, activates and uses Waqf as per the modern age requirements together with stressing the necessity to develop the employees abilities to manage Waqf institutions as per up to date technological vision that satisfies the needs of society and individuals, promotes the present status and plans the features of bright future

Book content:

The book includes six units. The title of first unit is Waqf Basic Concepts And Principles This unit deals with definition of Waqf ,its legitimacy, its types, its rule, its pillars, importance of respecting the will of the person intending to make Waqf and necessity to follow the Sunnah of the prophet ; peace and blessing of Allah be upon him.

The title of the second unit is Arts of Waqf Management. In this unit, the author states that Waqf business is science and art. It is a source of power for the nation. The author draws main frames for successful Waqf institution stressing the necessity to motivate the employees in Waqf sector functionally, to overcome problems and obstacles. The author tackles the new organizations of Waqf sector and the various prerequisites for the success of Waqf institution as well as the success and distinction requirements of Waqf business together with the necessity to carry out feasibility study for any charitable Waqf project.

The third unit is entitled Calling for Waqf in Up to Date Form in which the author tackles the successful means of “ daawa “ and the importance of the role of media in spreading the Waqf rules. The author explains the legal, psychological and social content of Waqf information mission within a clear strategy and a plan depending on correct implementation and evaluation. Then the author explains the elements of successful campaign, skills and arts of Waqf business planning, methods and tools of calling for Waqf, social links in Waqf information project elements in Waqf institution, bases of successful announcement and Waqf

information methodology.

The fifth unit is entitled Means Of Addressing and Persuasion and Change of Concepts The author explains the culture of Waqf addressing and means of addressing and persuasion, the necessity of affecting the hearts of others, persuading people as well as changing their concepts. Then the author mentions bright historical waqf models that had pioneering role in the march of Islamic civilization.

In the sixth and last unit, the author mentions practical applications and models including writing essays on Waqf culture and some exercises regarding successful marketing of Waqf projects together with displaying some live situations The author displays the Waqf document of Tankazi school which is considered as a model method for establishing Waqf. The author mentioned the Jordanian Yarmuk University as an instance of practical application; expressing the administrative properties of the charitable institution, the organizing values of the institution, the committees affiliated to the trustees council and the future policies of the institution in light of strategic planning.

The conclusion of the book includes ten messages to revive the role of Islamic Waqf in the nation. This is followed by list of references.

Last but not least, this book rendered good service to charitable Waqf work in the Arab and Islamic worlds regarding acquainting people with Waqf mission. It is necessary to spread Waqf culture within media frame and as per well studied plan. It is hoped that this book will be benefited from by researchers in building legal integrated modern matrix for Waqf issues and arts of managing waqf as well as the importance of spreading waqf culture within a successful marketing plan.

In addition to being a practical reference in Waqf, as aforesaid, the main characteristic of this book may lie in its fine production, its good pictures, its simplified and easy style and the linking of scientific material with the legitimate evidence from the Holy Book and the Sunnah together with linking knowledge with contemporary reality and giving explanatory examples

Thus, the book is qualified to be scientific reference for every researcher in the field of Waqf affairs and charitable voluntary work. All this is made available in an attractive colourful shape that helps the reader to enjoy reading without feeling tiresome

News & Coverages

Visit of the Secretary General to the Head of Islamic Mashykhah and Mufti of Albania

Within the framework of joint cooperation and exchange of information in the field of Waqf, Mr. Secretary General Dr. Abdul Muhsin Al-Jarallah Al-Kharafi paid an official visit to head of Islamic Mashykhah and Mufti of Albania, Mr. Sleem Mutsha which attracted a number of important projects as Awqaf Atlas, Transferring and exchanging of Waqf experiences and training of personnel in the field of Waqf. and the visit also opened the way to attract a number of researchers from the Republic of Albania to write new research in fields of Waqf which had not been covered before. To be published in the upcoming issues of Awqaf Magazine



Dr. Abdul Muhsin Al-Kharafi presenting Awqaf Magazine (issue 24) to Mr. Saleem Mutsha

Visit of Deputy Secretary General for Management and Supporting Services to Endowments Directorate in the Ministry of Endowments and Islamic Affairs in the Sultanate of Oman

Within the framework of communication and building cooperation bridges with our brothers in the Arab Gulf states arrangements were made for the visit paid by Mrs. Eman Mohammed Al-Hemaidan; Deputy Secretary General for Management and Supporting Services to Mr., Dr. Saleh Bin Nasser Al-Qasimi Endowments Directorate in the Ministry of Endowments and Islamic Affairs in the Sultanate of Oman

During the meeting the twelve projects of the coordinating states were viewed for the purpose of exchanging information regarding them between the two bodies. The most important of these projects is the glossary of “outstanding people in Waqf”. They also discussed attracting a number of Omani researchers to write new research in fields of Waqf which had not been covered before so as to be published in the upcoming issues of Awqaf Magazine.



Mrs. Eman Mohammed Al-Hemaidan presenting Awqaf Magazine (issue 25) to Dr. Saleh Bin Nasser Al-Qasimi

Third International Debate of Awqaf Magazine Held in Moroccan Kingdom

Awqaf directorate held its third international debate in Rabat under the title “Waqf investments between the social revenues and the legal and legitimate controls” under the auspices of His Majesty King Mohammad the Sixth, may God support him, in coordination with the Secretariat General of Awqaf in the state of Kuwait and the Islamic Development Bank in the Kingdom of Saudi Arabia and Alhasania Hadeth House, and the Ministry of Awqaf and Islamic Affairs in Moroccan Kingdom during the period from 24 - 25 March 2014 AD.

Awqaf magazine will issue a special version concerning the researches submitted in the debate.



تحت الرعاية السامية لأمير المؤمنين صاحب الجلالة
الملك محمد السادس أيده الله

تنظم الأمانة العامة للوقف
بالتعاون مع البنك الإسلامي للتنمية
وزارة الوقف والشؤون الإسلامية
ومؤسسة دار الحديث الحسنية
الندوة الدولية الثالثة لمجلة أوقاف

الاستثمارات الوقفية

بين المرحود الاجتماعي والضوابط الشرعية والقانونية

من 24 إلى 25 مارس 2014 م / 24 - 25 جمادى الأول 1435هـ

الرباط - المملكة المغربية





Kuwait International Competition of Waqf Researches Announces its Results

Awqaf Secretariat General, represented by Studies and Foreign Relations Department announced the results of Kuwait international competition for Waqf researches in its eighth session in the year 2013 which was held under the kind auspices of His Highness the Crown Prince Sheikh Nawwaf Al-Ahmad Al-Sabah, may God protect him, the competition tackled two subjects, they are:

- **First subject:** returning the usurped endowments and the missing endowments in Islamic countries and the legal, administrative and social mechanisms (analytical study)
- **Second subject:** Waqf and Islamic unity

The following researchers won this competition. Their names are:

1- Obaid Bo Bakr

2- Dr. Reda Mohammad Essa

Awqaf Secretariat General will enter the two successful researchers works within the list of books that will be printed through the scientific publication plan of the Studies and Foreign Relations Department.



AWQAF DEED

In recognition of the waqf thought and philosophy in establishing the projects and extending social services in the framework of sustainable and self-supported system , KAPF established AWQF journal deed. Therefore, this journal will not depend on pricing its issues , rather it seeks to realize the aims and objectives for which it was created . it seeks to provide the journal free of charge to all waqf-related research, concerned people and research centers.

On The other hand, KAPF is on the lookout for financing AWQAF through soliciting contributions, whether in the form of subscriptions , fixing an issue price or otherwise in an attempt towards authenticating the journal and enabling it to approach waqf as a specialty. This is meant to quality waqf to take part in social development by bearing part of this responsibilities in extending vital developmental services.

Deed purposes:

The purposes can be put down as follows:

- Contributing to upgrading waqf researches so that the journal might rank with the prestigious refereed journals .
- Laying emphasis on the typical dimension of waqf , together with identifying its characteristics and the role entrusted to it.
- Advocating methodology in approaching issues based on the link between present and future , and therefore boosting thought in practical models.
- Linking its subjects to the waqf concerns in the entire Islamic world
- Providing the greatest number of researches, universities and research centers with this journal free of charge .
- Encouraging efficient people to specialize in waqf-related issues.
- Establishing a network for all people interested in Islamic thought , particularly waqf thought , and facilitating communications and interaction between them.

AWQAF Nazir

- KAPE is the Nazir of AWQAF DEED.
- KAPE is Keen to develop AWQAF and solicit contributions thereto.
- KAPE is Keen to provide all facilities for publishing the journal, attending to the staff in charge of carrying out this mission in conformance with the strategy of promoting the waqf sector advocated by academic refereed journals.