



**IN THE NAME OF ALLAH,
MOST GRACIOUS, MOST MERCIFUL**

**{O you, who believe, spend what we have given you before the day comes when
there is no sale, no trouble, no intercession, and the unbelievers are the oppressors}**

Al Baqarah (2:254)

**PROMOTION OF ENDOWMENTS
(IMPEDIMENTS AND SOLUTIONS)**
**An Analytical Study of the Legal,
Administrative, and Procedural Problems
Pertaining to Endowment**

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TRANSLATOR'S NOTE

'Waqf' or 'Endowment' plays a vital role in the Muslim communities around the world. It is an important aspect of Islam and plays a pivotal part in the development of the society as a whole. It allows the poor, the destitute and the backward class of the society to fulfil their needs and offers them an opportunity to develop themselves and come out of their abominable condition. It can be looked at through the prism of spirituality, social upliftment, unity and social bonding, finance, infrastructure, healthcare, and education. 'Waqf' endowment system has enormous potential to support the society and in the modern economic system, its role has become all the more relevant.

Unfortunately, this area of Islamic activity has been lying dormant for years together. There is an urgent need to revive and harness this great resource, which can do wonders for our Islamic world and can easily bring happiness, growth, and development to all sections of our society.

The book in translation is a study of the current situation of 'Waqf' and the pervading factors that harm the very philosophy of 'Waqf'. It also comes up with certain plausible solutions, which the concerned bodies might incorporate in their future planning.

This translation is a modest attempt on my part to bring the book, with all its desired meanings and messages, to the English-speaking world. While making it read like English, a sincere effort has been made to remain as close to the original as possible. References to the scriptures and specific laws of different countries has made the task more challenging. I have enjoyed working with this challenge and I hope the readers will find it a good reading from all aspects. The difference in styles of the two languages has also been an interesting hurdle to overcome.

However, as is true of all translations, it is extremely difficult to fully represent the original text in the target language. The present translation too is not any different and therefore, some losses are liable to occur at some levels of the translation. Although I have tried my best to make sure that the imported sense of

the text has come across to the readers, I would like to apologize for the inadvertent losses that the reader might notice.

I hope to receive a positive response from the readers and expect that they would enjoy reading the book and benefit from the study and recommendations.

Please note that ‘Waqf’, ‘Awqaf’ and ‘Endowments’ have been used for the same sense all through the book. This is because these words have been used interchangeably by different people over different places and periods of time.

INTRODUCTION

‘Waqf’ is an inherent system of the Islamic law. It entails permanent dedication of an individual’s property and surrendering it to the ownership of Allah in a manner that the generated income of the property is solely donated to charity organizations. ‘Waqf’ is considered to be one of the important features of the Islamic society and also one of the most prominent systems in achieving social and economic development.

Islamic jurists have shown great interest in the affairs of ‘Waqf’. Hence, they formulated laws that govern its transactions. The laws aimed at preserving and developing its assets and continuing to extend the generated income to the specified beneficiaries in accordance with the targeted areas as mentioned by the donor in the endowment policy or ‘Waqf’ document. Due to the rapid development of contemporary life in the modern era, it had become imperative to put in place laws that guarantee and safeguard ‘Waqf’ assets and institutions so as to realize the legitimate aims and objectives in various areas.

Endowment Objectives

‘Waqf’ has both general and specific objectives. The general objective of ‘Waqf’ is to create a permanent and continuous resource to achieve a permissible purpose for a specific interest. The specific objectives of ‘Waqf’ are many:

- To ensure the security of the asset, its continual utility and to avail its benefits over a long period of time.
- To guarantee the continual utilization of the returns emanating from the donated objects for the sake of the donor and the recipient.
- To have the desire to be granted from Allah the return or the reward for the perpetual charity done in compliance with the sayings of the Almighty Allah, “And whatever good thing you spend, it is to your own good; and you do not spend but to seek Allah’s pleasure; and whatever good things you spend shall be paid back to you in full, and you shall not be wronged.”⁽¹⁾

(1) Surah Al-Baqarah, (2:272).

‘Waqf’ is considered to be one of the important pillars of the Islamic society in its religious, social, scientific, and political fields. Also, it has become a major support for education, jihad for the sake of Allah, the protection of the downtrodden, and the source of living and compassion for the destitute of the society. Besides, it has also become a source of finance and development for many economic and developmental enterprises⁽²⁾.

There are many factors that have led to the decline in interest in ‘Waqf’ and its institutions. The factors that have led to this deterioration are appropriations and the transactions inside the ‘Waqf’. This erroneous regime continued until ‘Waqf’ got almost totally obliterated from the memories of the people of the nation. The institution of Waqf has retreated from its role and it has just turned into mere assets and objects. In its role, it has been reduced to a mere fruitless orchard⁽³⁾.

Importance of the Subject Study

The main objective of establishing rules and regulations pertaining to endowment is to achieve protection and preservation of ‘Waqf’ and its development. It is, therefore, imperative to abide by the Islamic legal obligations. The aim is to endlessly provide its benefits to the beneficiaries, as well as to hold all those people responsible who are duty-bound to administer and invest ‘Waqf’ assets. In addition, the aim is also to make them responsible first to Allah, the Almighty and then to the donor, the beneficiaries and the society as a whole for any misconduct or negligence in the management and investment of these assets.

‘Waqf’ regulations themselves may be one of the most important obstacles in the path of promotion of endowments and so, they keep ‘Waqf’ from achieving its legitimate Islamic objectives. Therefore, these regulations require revision and updating from time to time in order to keep pace with the developments of the modern era and to achieve the effective protection of ‘Waqf’ assets in actual terms, and not to be merely governed by laws, regulations, and theoretical decisions.

Study Plan

The study has been divided into three main chapters:

- In the first chapter, the study deals with the legal nature of ‘Waqf’, its representation and the importance of organizing ‘Waqf’ regulations. Most

(2) Al-Raisouni, Ahmed. *The Islamic Endowment, Its Scope and Dimensions*. Cairo: Dar Al-Kalima for Publishing and Distribution, 2014. Page 18.

(3) Al-Maghrabi, Muhammad Al-Fateh Mahmoud Bashir. *Endowment Economics and Management*. Cairo: United Arab Marketing and Supplies, 2011. Page 9.

importantly, it deals with the Islamic and legal objectives in organizing and managing its regulations and the actions towards developing them. It also deals with the established statutory models in organizing and promoting the endowment and the realization of its objectives.

- In the second chapter, the focus of study has been on the practical obstacles to the promotion of 'Waqf' in actual fact. This chapter unfolds in three sections: the first one deals with the statutory obstacles to the promotion of 'Waqf'; the second section discusses the administrative obstacles; and in the third section there is a discussion of the procedural obstacles in the path of promoting the endowment.
- In the third chapter of the study, we will come up with some proposed solutions for the promotion of 'Waqf'. It unfolds in three basic topics. The first is devoted to the discussion of the statutory solutions for the promotion of 'Waqf'. The second topic presents the judicial resolutions to remove obstacles to the promotion of 'Waqf'. In the third section, we will learn about the administrative solutions for the development and promotion of the 'Waqf'. Then, the study concludes with the most important results and recommendations.

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