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THE CONCEPT OF WAQF. THE ROLE AND IMPORTANCE OF WAQF INSTITUTION IN SOCIETY

Abstract: Waqf is property and money allocated by individuals for the permanent implementation of social services. The foundation that manages them is a legal entity. The foundation, in turn, is also called by such names as habs, hubs, sadaqa, charity. Throughout history, waqf foundations have built mosques, hospitals, madrassas, and provided the necessary financial support to the needy. Waqfs that eased the burden of the state economically with their social services also lent large sums to the state when necessary. States recognized the importance of waqf foundations in economic and social life, supported them and created all conditions for their free operation.

The issue of waqf is still relevant today. Properly established, the waqf institution will be able to provide significant support to the state in such areas as social assistance, financial assistance, educational and medical services, and serve as an important factor in economic stability.

Keywords: waqf institute, habs, sadaqa, general waqfs, generational waqfs, waqf supervisor, waqf office.

In Islamic law, three terms are used for waqf treatment: waqf, habs / hubs, and sadaqa. Waqf is derived from the Arabic verb “vaqafa” (وقف), which literally means to hold, to keep. Terminologically, it means forbidding the wasting the property that lead to its depletion, and regularly allocating its income to the poor.

The word waqf as a legal term means “endowed property”[1]. In some hadiths of Muhammad (PUBH), the word "habs" is used in the sense of waqf.[2] Imam Shafi'i and

Imam Malik, as well as members of their sects, also used the word "habs / hubs" in the sense of waqf.

There are also places in the sources where the word "sadaqa" is used instead of the word waqf. Sadaqa means " something given to the poor for the sake of Allah, a gift given in the hope of reward." [3] The meaning of waqf is derived from the addition of adjectives such as desecrate (muharram), perpetuated (mu'abbada), or continuing (jariya). [4] In many places in the Hanafi sect, the term "waqf" was used in the beginning, and in some cases the word "waqf and sadaqa" was used. [5] The difference between the words used as terms depends on whether they were used by the Prophet (PBUH) or how close the legal meaning to the lexical meaning, as well as the social names of social foundations that existed in various forms in pre-Islamic times.

Waqf is defined as a legal foundation as follows: A waqf is the prohibition of possession (tamlik and tamalluk) of a property that can be used and is permissible on a permanent basis, and giving the benefit from it to alms in a good way for the sake of Allah. [6] In this case, the property is out of control of the founder and becomes the property of Allah (ie the community). The management of this property will be carried out according to the terms and general principles of the waqf law.

Abu Hanifa's definition to waqf is as follows: A waqf is the removal of property from the disposal of the founder and give its income to the poor or other good deeds. [7] In the Maliki sect, the quality of eternity (tabid) is not required for a waqf. According to this sect, it is permissible to make short-term waqfs. As an example, it is possible to make a waqf by renting a house, shop or land for a certain period of time and spending the rent in a good way.

In Islamic law, waqfs are divided into general waqfs for all and zurriy ("zurr" – generation in arabi) for generations. Modern scholars, on the other hand, divided the waqfs into several types according to the founder, the user of the waqf, and the property of the waqf. As an example, in the book "History of Islamic Institutions" [8], which is

devoted to the history of Islamic institutions, in particular, the organizations of the Ottoman period, they are classified as follows:

1. According to the management system:[9]

a) Waqfs operating under state control. Such waqfs include, first and foremost, waqfs founded by padishash and their families. Moreover, These include waqfs that were taken under state control due to the absence of a trustee or whose trustees died; state-controlled waqfs, where trustees are paid a certain amount of money and do not interfere in the activity of waqf.

b) Waqfs that do not operate under state control. These include waqfs that have state support and intervention, but are run relatively independently by the trustees (the funds are also mentioned in this work), and waqfs run independently by trustees without state control (waqfs founded by great people in history or built in their names belong to this type.) and waqfs that are managed according to Sharia and are completely away from state control.

In the early periods, waqfs were divided according to their administrative form into waqfs run only by the waqif himself and by the mushrif (imam, etc.) appointed by the waqif. Over time, the vasiqas of the waqfs disappeared and the forms of administration became unknown. Then the judges took over their office to themselves and a third administration form emerged. Later, a fourth form of administration, that is government administration, emerged.[10] In the history of Islam, the appointment of administrators to waqfs was not decided by the public or the government, but only by the waqif himself.

2. According to users:[11]

a) Charitable waqfs. Such waqfs are built in the desire to gain the direct pleasure of Allah and serve all people. These include waqfs, such as a mosque, a library, a school, a madrasa, a building, a waqf hospital, or waqfs made by donating income from

land such as an olive grove, a field, a shop, or a bathroom. Such income is allocated directly to a good deed or to a needy person.

b) *Zuriy (generational) waqfs*. They are family waqfs appointed by the founder and run by persons belonging to the founder's family, before the income from endowment the founder has donated is spent on the original idea. Sometimes they may be semi-zurriy waqfs, which are divided between the family and religious, charitable, social institutions. When the descendants of those who have the right to use zurriy or semi-zurriy waqfs are exhausted, these waqfs become charitable waqfs. The scholars who rejected the zurriy waqfs were also in the majority.[12] According to them, waqf built for charitable purposes should serve all those in need, not just a particular family. The problem is that zurriy waqfs can also be used by wealthy members of the family, while the waqf is made mainly for the needy. Abu Yusuf said that the waqf could be used by a waqif or his relatives. Those who followed this view were in the minority. However, even in areas where the Hanafi sect was not widespread, this type of waqf was widespread.

c) *Territorial waqfs*. The income of this type of waqf is used for the needs of the people of a village or neighborhood. Such waqfs are mainly in the form of money. Territorial waqfs were initially set up to pay land taxes that the people had to pay, and later included activities such as digging wells used by the neighborhood or villagers, burying the dead, and marrying young people.

Waqf buildings can be leased to generate income and use for waqf purposes. There are several types of rent.

3. **In terms of lease**, waqfs include a completed contract (waqfs leased for a certain period of time) buildings and lands, which are leased to the same person or another person for the same period after the expiration of the lease. In this case, the rented property does not remain in the possession of the lessee for the rest of its life, nor does it pass to his heirs; one non-completed contract (continuing the agreement with the

tenants' heirs upon expiration of the lease term); long-term (the base of them belongs to the waqf, and the building and trees on it belong to the owner. In return, the owner of real estate pays an annual rent to the founder. Such waqfs can be transferred from one person to another); are divided into two contractual waqfs (such waqfs are divided into pre-paid rent (ijarai mu'ajjala) and loan lease (ijarai muajjala).

4. **In terms of compliance with Shari'a norms[13]**, waqfs are divided into two:

a) *(valid) waqfs that fully meet the conditions of the waqf*. In this case, the person waqfs property that belongs to himself. This property can be movable or immovable. In such waqfs, the right of ownership and the right of disposal are waqfed together. At this point, the term *sahih waqf* is used in the sense of a true and perfect waqf.

b) *(non-valid) waqfs that have partial waqf conditions*. Such waqfs are separated from state-owned lands and formed by the ruler or by the order of the ruler by waqfing something to others.[14] According to the definition in the “History of Turkish Law”, this type of waqf is the assignment of property rights to a state-owned land or tax revenue, or both, to a waqf built primarily to provide social services.[15]

5. **According to their legal status[16]**, waqfs are divided into two types: waqfs that cannot be revoked (neither the founder nor his successor can take back the waqf, nor can a judge cancel it) and waqfs that can be revoked (unnecessarily) (which can be terminated by the founder or his heirs). According to Imam A'zam, unregistered waqfs are among the waqfs that can be returned.

6. **According to the type of property**, waqf is divided into movable (manqul) and immovable (gayrimanqul) property waqfs.

7. **According to goals of organization**, waqf is established for many purposes, such as religious services (mosques), education and culture (schools, libraries), social purposes (caravanserais, homes for the blind).

In addition to the above, in the book "Islamic Foundations: Development, Administration and Growth", the classification of waqfs with their minor differences continues as follows:

8. **According to the status of the founder**, the waqfs are divided rich people's and padishahs' waqfs; also bequeathed waqfs. Bequathing waqfs are based on Muslims bequeathing 1/3 of their property to good causes before their death, relying on their right to bequeath.

9. **According to their economic content**, waqfs are divided into direct (property, the original endowment of which is a mosque, madrassa, hospital) and indirect (property from which the original income is received and this income is allocated for the endowment).

10. **According to the legal form**, waqfs are divided into general, zurriy, joint (both general, hamzurriy), permanent and temporary waqfs.

The role and importance of waqfs in social and economic, enlightenment and spiritual life was incomparable. The waqfs, which were initially set aside only for the poor and needy, later covered all spheres of social life. During the four caliphs, the waqfs of mosques increased, while during the Umayyad period, the establishment of educational institutions (dor al-ulum), the provision of scholarships, and the construction of mosques and charitable houses developed. Commissions were also set up to oversee the waqfs and to improve and develop them.

During the Abbasid period, the establishment and allocation of libraries, the construction of hospitals to provide free services to patients, and the construction of housing for the poor and needy began. Also during this period, a chief was appointed for the office of waqfs and he was called the head of waqfs (sadr al-vuquf). From the time of the weakening of the Abbasid state to the time of the Fatimids and Ayyubids, the activities of waqfs continued to develop. Later, during the Mamluk period, the number of waqfs increased. Gradually, the waqfs became so rich that in 649 A.D., the

state borrowed money from the waqfs for its own needs. The Mamluks also set aside a large number of waqfs for the preservation and protection of the two harems. Road improvement, safety, repairs, etc. are examples of this. The benefit was that there were a large number and large volumes of waqfs that were spent only for two harems.

Waqfs played an important role in the sustainable continuation of economic life. The construction of bridges, caravanserais, as well as activities aimed at ensuring the delivery of commercial products to consumers including the construction of shops, markets were carried out by waqfs.[17]

Even today, in remote villages, in remote areas, there are roads that do not meet the demand and need to be repaired and improved. School children go to school through faulty roads due to the lack of educational facilities nearby. It is the duty of every person to establish waqfs, allocate funds, and support the state in this regard, without waiting for the state to provide such necessary services.

Waqfs such as social service institutions and hospitals have also regularly provided the services needed for the needs of the population. Such waqfs have served everyone equally with tolerance, regardless of religion, ethnicity or social background. Even today, there are many people in every region who have a lot of property and money, while there are also a lot of people who work hard to earn a living, who sometimes can't even afford food, medicine and can't be treated. It is necessary to do the same today, just as the people in their time provided practical assistance to the needy through endowment. Everyone who is able to help the needy should support the state and its people by providing such services in their territory

Education and culture are the most important factor in the development of nations. When the waqfs reached the highest level in history, they established many schools, madrasas and libraries. Special addresses have been built for students to live. Funds have been allocated by people who have the means to support them. As a result of this work, countries have developed, the level of education of the people has risen.

Today, many foreign countries have large-scale grants and scholarship programs to support education. Educational grants are mainly provided by the private sector. In the history of Muslim nations, similar services were performed by waqfs. Even today, it is expedient for waqfs to take responsibility for this type of service, to do great work, to support the state, and in turn, the people to take part in it.

In this regard, it is worth mentioning the good deeds of the Public Charitable Foundation "Waqf", established and operating in Uzbekistan. This foundation preserves our centuries-old national and religious values, studies the invaluable heritage of our ancestors who made a great contribution to the development of world science and culture, and established for the purpose of helping our people to continue the noble virtues and values of enlightenment, tolerance, kindness and creativity. The main tasks of the foundation includes supporting initiatives aimed at increasing the religious, spiritual and intellectual potential of citizens, preservation of our national and religious values; construction, repair, reconstruction, beautification, strengthening the material and technical base of mosques and religious educational institutions; preservation, repair, beautification of shrines of historical and architectural significance, further development of their infrastructure; financing the activities of religious educational institutions, research centers, material and social support of their professors, researchers, specialists and students; material and social support for employees of mosques and shrines, in particular, imams, deputy imams, trustees, muezzins; assisting in the publication and dissemination of religious and enlightenment works by our great ancestors, mature scholars and scholars of our time, who made a significant contribution to the development of Islamic science and culture; further increasing the prestige of the holy shrines in our country in the Muslim world, organizing visits of local and foreign citizens to these places, creating the necessary conditions for visitors; providing material and moral support to vulnerable groups, including people with disabilities.

The Foundation provides campaigns that are named “Support to Science”, “Mosque”, “Ointment”, “Weddings”, “Household”, “Assistance to the Needy”, “Support for Hajj and Umrah”, “Prosperous House”, “Foundation Property and Water” “Life”.[18] These campaigns include distributing books to the public, paying students' contract fees, building mosques, providing financial assistance to those who cannot afford to pay for medical treatment, holding weddings for people who cannot afford weddings or allocating funds for this purpose, providing housing and other material assistance to the needy and provide financial support for people who are unable to perform the Umrah pilgrimage, and build or repair a house for people who need a house or its repair work . These activities are in line with the activities of waqfs that have served the state and the people throughout our history. Further expansion of the scope of the Foundation’s activities will be possible through the widespread involvement of existing assets in economic production and further increase of the Foundation's sources of income through these and other direct allocations.

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