



THE PROSPECTS OF ISLAMIC ENDOWMENT (*WAQF*) SYSTEM IN ACTUALIZING THE SUSTAINABLE DEVELOPMENT GOALS (SDGS) IN NIGERIA

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Abstract

Waqf institution in the Islamic social finance system possesses great potentials in institutionalizing and sustaining charitable works to the betterment of the people and reduction of poverty. Alternative finance has been sought and applied in various sectors such as health care delivery, energy, etc. Alternative finance also deserves to be explored to proffer solutions to the myriad of economic challenges facing Nigeria and many developing countries in Africa. Waqf stands out among the social finance tools that should be harnessed urgently given its potentials. This paper highlighted the achievements of Waqf system in various ancient and modern societies. It also established that Waqf is menaced with challenges principally lack of awareness of its potentials by individuals and governments, and paucity of robust legal and institutional frameworks for the effective administration and management of the same. Solutions are also proffered. The paper follows doctrinal research methodology where by both primary and secondary materials were referenced for critical conceptual analysis, and it is featured with socio-legal approach .

Keywords: Waqf, Finance, trust, Endowment, Zakat

1.0 Introduction

A sector that is often neglected is what is referred to as the third sector. This is voluntary support from individuals and groups through donations, foundations and endowment to provide social amenities or meet the needs of certain sections of the society. They deliver essential services, help to improve people's well-being and contribute to economic growth of the communities. This is the purport

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¹ The Millennium Development Goals Report 2015, available at <https://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%2



of the *Waqf* (endowment) system in Islam.

At the United Nations Millennium Summit held September 2000 at the UN headquarters in New York, 189 UN member states set eight goals and agreed to have them realized by the year 2015.¹ The goals are called the United Nations Millennium Development Goals (MDGs). This Millennium Declaration was signed at the summit and the international leaders in attendance committed to combating disease, hunger, poverty, illiteracy, discrimination against women and environmental degradation.² The MDGs were derived from this Declaration, and specific indicators and targets were attached to them.

After evaluating the successes and challenges of the MDGs in 2013, the UN General Assembly set up a 30-member group to develop a proposal on the SDGs (Sustainable Development Goals). The process culminated in the subsequent adoption of the 2030 Agenda for Sustainable Development, with 17 SDGs at its core, at the UN Sustainable Development Summit in September 2015.³ These goals are aimed at no poverty, zero hunger, good health and well-being, quality education, clean water and sanitation, sustainable cities and communities and partnerships for the goals, among others. The goals fall within the objectives of Islamic law (*Maqāsidal-Sharū ah*) in legislating *Waqf* for Islamic endowment.

It has been observed that these common societal challenges can only be effectively dealt with through cooperation of governments and collective responses of citizenry.⁴ This is where foundations and endowments are germane to the realisation of the SDGs. Resources as well as expertise are needed to achieve these laudable goals. Most governments rely on taxation, local revenues and borrowings to meet national demands, administrative cost and infrastructure. With the third sector being involved, progress in this endeavour can be accelerated and the goals achieved.

1.1 Concept of *Waqf* (Islamic Endowment)

The word *Waqf* and its plural form *awqaf* are derived from the Arabic root verb *waqafa*, which means to cause a thing to stop and stand still.⁵ Technically, it is to retain the ownership of the substance of a property and devote its benefit to the

¹ (July%201).pdf,> accessed 2 July, 2022.

² Ibid.

³ The United Nations, The 17 Goals. Available at <<https://sdgs.un.org/goals>> Accessed 30/1/2025.

⁴ 'What are the Sustainable Development Goals?' available at <<https://www.undp.org/sustainable-development-goals>> accessed 22 June 2022.

⁵ Rohi al-Ba'labaki, *Al-Mawrid* (Dar al-'ilmililma? y? n 1999) 1244; SayyidSabiq, *FiqhSunnah* (20thedn, Darul Fat-h 2015) 4(277).



course of Allah.⁶ *Waqf* is a voluntary, permanent, irrevocable dedication of a portion of one's assets to Allah, citing that such assets can never be gifted, inherited, or sold.⁷

1.2 Pillars of *Waqf*⁸

Islamic Endowment has five pillars:⁹ the endower or settlor or *Wī qif* who has the capacity to contract; the trustee or *mutawalli* (manager) or *Nī zir* (administrator) who is the individual, legal entity or company entrusted with management of the *Waqf* assets;¹⁰ the beneficiary or *mawqūfālayhi*; the Subject Matter or *mawqūf*, which is the subject matter of the *Waqf* created in compliance with *Maqasid al-Sharū ah* (objectives of Islamic law)¹¹ and it is *Halī l* in nature; and the *Sīghah*, which is *Waqf* deed or construction of terms and declaration of founding.

1.3 Types of *Waqf*

Waqf can be categorised in consideration of eight matters: beneficiary (Family *Waqf*(*al-Waqf al-ahlī* or public/welfare/philanthropic *Waqf* (*al-Waqf al-khayrī*) or Joint *Waqf*),¹² time of effect (inter vivos or testamentary), formality (oral, written or by implication/signal), purpose (general purpose (*Al-Waqf al-'Aam*) and specific (*Al-Waqf al-Khass*),¹³ subject-matter (realty or personality),¹⁴ duration¹⁵ (Perpetual *Waqf* (*Al-Waqf al-Muabbad*) or temporary/revocable *Waqf*

⁶ Ibid.

⁷ A. Lahsasna, 'Integration of Waqf Portfolio into Islamic Financial System: An Innovative Approach to Developing Waqf as a Product and a Business Model in the Financial Market', [2018] (34), In Journal of AWQAF, Kuwait Awqaf Public Foundation, 45.

⁸ M.A. Adam, From Vision to Action: The Development and Management of Zakat and Waqf Institutions in Tikau Emirate, Yobe State (2002-2018), (NP 2017) 55-60.

⁹ Sayyid Sabiq, Fiqh Sunnah (20th edn, Darul Fat-h 2015) 4(277-286); Bahari, A. Islamic estate, retirement and Waqf planning (1st edn. IBFIM publications 2014) 203.

¹⁰ Hussein Elasrag, 'Towards a New Role of the Institution of Waqf' available at: <<https://mpira.ub.uni-muenchen.de/80513/>> accessed 21 November 2022.

¹¹ Which is protection of faith, life, intellect, property and progeny

¹² Sabiq 4 (277), Abdar-Rahman Doi, Shari'ah: Islamic Law (2nd ed. London: Ta-Ha publishers Ltd., 2008) 521-524.

¹³ Bahari 351.

¹⁴ U. Hayat and A. Malik, Islamic finance: Ethics, concepts, practice. (CFA Institute Research Foundation 2014) 20

¹⁵ Abdullahi Saliu Ishola and Sharifah Zubaidah Syed Abdulkader, 'The Jurisprudence of Islamic Endowment System (Al-waqf) in Nigeria: Concepts and Ingredients' in AWQAF Journal, (Kuwait Awqaf Public Foundation 2018) 18&19.



(*Al-Waqf al-Muaqqat*)),¹⁶ income-generation (utilitarian *Waqf* or investment *Waqf*) and legality.

1.4 Textual Proofs of *Waqf*

Ambali¹⁷ posits that *Waqf* was never known in the *Jahiliyyah*¹⁸ period. It is purely an Islamic concept.

1.4.1 *Waqf* in the Qur'an

Allah says,

Righteousness does not consist of turning your faces towards the East and the West. But righteous is he who believes in Allah, and the Last Day, and the angels, and the Scripture, and the prophets; who gives money, though dear, to near relatives, and orphans, and the needy, and the homeless, and the beggars, and for the freeing of slaves; those who perform the prayers, and pay the obligatory charity, and fulfil their promise when they promise, and patiently persevere in the face of persecution, hardship, and in the time of conflict. These are the sincere; these are the pious.¹⁹

¹⁶ This classification is only obtainable in Maliki school of law that holds that ownership rights of the *Waqf* item still vests in the *Waqif* and can therefore determine the duration within which the *Waqf* should exist. This is expressed in the Arabic language in the following terms:

، ق ط ع ال ق ف ، ع ن د الم ل ك ي ة ، ح ق الم ل ك ي ة ف ي الع و د الم ق و ف ة ، و ا ن م ا ق ط ع ح ق الت ص ر ف ف ي ه ا

'*Waqf* does not, to the Malikiyyah, cut off the ownership right in the original property, but it cuts off the right of disposal inherent in the property.' This school of law which is the official school in Nigeria influenced the drafters of Zamfara State *Waqf* regulation to define *Waqf* as 'Giving out money, items or properties in part or in whole out of the ownership of oneself, transferring it permanently or for a fixed period of time to the ownership of Allah, and dedicating it all or its proceeds to the use of others or the Muslim Ummah.' Zakat (Collection, Distribution and Endowment) Board Law 2003 A1, section 3. Ibid, p.28. This is contrary to the opinion of the majority of jurists who allow for perpetuity of *Waqf*, and the ownership of such property absolutely vests in Allah. Kano State Muslim Family and Related Matters Bill 1440 A.H. (2019), (Article 547 and 548) however varies this thought as it says, 'Where a formula of *waqf* is validly made the *waqf* shall be binding on the endower, and neither he nor his heirs shall have any right of disposal of the subject matter of the *waqf* through sale, gift, inheritance or any other way that is not in conformity with the principles of *waqf*. Where *waqf* becomes binding, the endower shall have no right to rescind it in whatsoever manner.'

¹⁷ M.A. Ambali, *The Practice of Muslim Family Law in Nigeria* (3rd edn, Princeton Publishing 2014) 412.

¹⁸ Pre-islamic era which was featured with stack ignorance

¹⁹ T. Itani, *The Qur'an English Translation*, (ClearQur'an [ND]), Surah al-Baqara (Qur'an 2 verse 177).



The above verse explains that to give wealth to others, even though the person has love for it is part of righteousness. *Waqf* is one of the ways of giving out charity in order to earn the quality of being righteous in the sight of Allah.

1.4.2 *Waqf* in the *Sunnah*²⁰

Establishment of *awqāf* started from the time of the Prophet Muhammad when he built the first mosques in Madīnah in the first year of *Hijrah*.²¹ The prophetic mosque was built on a plot of land belonging to two orphans. The Prophet wished to pay its price but the orphans insisted it was donated for the cause of Allah.²² It thus became a facility for religious social services. The Prophet (PBUH) dedicated his entrusted seven gardens in al- Madīnah, (given to him by a Jewish man Mukhayrīq from Banu al-Nadir) to feed the hungry.²³ The Prophet (PBUH) also dedicated his piece of land in Khaybar as guest house to shelter the immigrants and the newly converted Muslims.²⁴ Uthman bin 'Affan had also bought a well²⁵ in Madīnah from a shylock Jew and made it a trust property to relieve people of Madīnah of water shortage.²⁶

Abdullah bin 'Umar narrated: In the lifetime of Allah's Messenger (s.a.w.), 'Umar gave in charity some of his properties, a garden of date-palms. 'Umar said, "O Allah's Messenger! I have some property which I prize highly and I want to give in charity". The Prophet replied, "Give in charity with its land and tree on the condition that the land and trees will neither be sold nor inherited, nor given as present or bequeathed; but the fruits are to be spent in charity." So, 'Umar gave it in charity and it was for Allah's Cause, the emancipation of slaves, for travelers, and for kinsmen. The person acting as administrator could eat from it reasonably

²⁰ Or Hadith: traditions of the Prophet Muhammad

²¹ Transaltion of Sahih al-Bukhari, Kitab al-Salat, Hadith 428. Available at <<https://sunnah.com/search?q=%D8%AB%D8%A7%D9%85%D9%86%D9%88%D9%86%D9%8A>>; Doi, Abdar-Rahman, Shari'ah: Islamic Law (2nd edn. Ta-Ha publishers Ltd. 2008) 516.

²² Ibid.

²³ Muqtedar Khan, 'Mukhayriq 'the best of the Jews' available at: <<https://www.islamicity.org/4225/mukhayriq-the-best-of-the-jews/>> accessed 16 November 2021.

²⁴ Sunan Abu Daud, Kitab al-Kharaj, Hadith 2961. available at <<https://sunnah.com/search?q=%D9%81%D8%AF%D9%83>>

²⁵ Rumah well

²⁶ Sunan al-Nassai, Kitab al-ahbas, Hadith 3638. Available at <<https://sunnah.com/nasai:3608>>;Doi (n21) 517. Uthman b. 'Affan said don't you know that Allah's Messenger (PBUH) said, 'Whoever will buy Rumah well will be granted Paradise,' and I bought it!



and fairly, and could let a friend of his eat from it provided he had no intention of becoming wealthy by its means.²⁷

“Abu Hurairah reported Allah's messenger as saying: When a man dies, all his acts come to an end, but three: recurring charity, or knowledge (by which people benefit), or a pious offspring, who prays for him”²⁸ *Waqf* is an institution that would enable Muslims to perform all three of these good deeds. It indeed, assures on-going, recurring charity for many years, even centuries, after the death of the founder; it can finance scholars whose lasting works will benefit mankind for a long period and the rewards, good deeds, that accrue to them would be shared by the *Waqf's* founder who had provided for their sustenance in the first place. Finally, the management of the *Waqf* can be entrusted to the offspring of the founder so that while, on the one hand, careful and loyal management is assured, on the other, the offspring would pray for the deceased since, thanks to his *Waqf*, he or she is not destitute.

Abu Hurairah [may Allah be pleased with him] narrated that: the messenger of Allah sent 'Umar to collect Zakāt. He was told that IbnJamīl, Khalid bin Al-Walīd and Al-'Abbās, the uncle of the Prophet withheld theirs. The Messenger of Allah said, “The only reason for IbnJamīl's resentment is that he was poor then Allah enriched him. As for Khalid, you are being unfair to him; he has endowed his weapons and supplies for the cause of Allah.”²⁹ As for Al-Abbas, I will pay (his Zakāt), and the double.” Then, he said, “O Umar, do you not realise that a man's paternal uncle is like his father?”³⁰

Anas bin Mālik reported that: Abu Talha was the richest man in Medina amongst the Ansar and Beeruha' (garden) was the most beloved of his property, and it was situated opposite the mosque (of the Prophet.). Allah's Apostle used to enter it and drink from its sweet water. When the following Divine Verse was revealed: 'you will not attain righteousness till you spend in charity of the things you love' (3.93), Abu Talha got up in front of Allah's Apostle and said, "O Allah's Apostle! Allah says in His Book, 'You will not attain righteousness unless you spend (in charity) that which you love,' and verily, the most beloved to me of my property is Beeruha (garden), so I give it in charity and hope for its reward from Allah. O

²⁷ Translation of Sahih Muslim, Kitab al-Wasiyya, Book 13, Hadith 4006. available at <https://www.iium.edu.my/deed/hadith/muslim/013_smt.html>

²⁸ Sahih Muslim, Kitab al-Wasiyya (The Book of Wills), Hadith 1631.

²⁹ This is the proof for the permissibility of Waqf of movables. Abu Hurairah (ra') narrated: The Prophet (PBUH) said, “If somebody keeps a horse (for Jihad), then he will be rewarded on the Day of Resurrection for what the horse has eaten or drunk and for its dung and urine.” So, Khalid b. al-Walid was the first one to keep his horse and his shield for the Cause of Allah.

³⁰ Transalction of SunanAbiDaud, Kitab a-Zakat, Book 9, Hadith 1619



Allah's Apostle! Spend it wherever you like." Allah's Apostle appreciated that and said, "That is profitable wealth! That is profitable wealth. I have heard what you have said; I suggest you to distribute it among your relatives." Abu Talha said, "I will do so, O Allah's Apostle." So, Abu Talha distributed it among his relatives and cousins.³¹

Jabir (may Allah be pleased with him) said, "I do not know any Muhajir or Ansar wealthy enough who does not have an endowment"³²

2.0 CONCEPT AND SCOPE OF *WAQF* AND ENGLISH TRUST

Generally, trust relationships are formed when a trustee is obligated based on equity, to hold property, whether it is real or personal possessions for the benefit of some beneficiaries or other designated individuals or entities. Islamic trust however involves dedication of trust property to Allah for the benefit of some beneficiaries.

Islamic trust is generally of two types: Family trust (*al-Waqfal-Ahlī*) and charitable trust (*al-Waqfal-Khayrī*). Other classifications are only for convenience. English trust is rather wider in scope. English trust types can though be generally divided into Express trust which is created by an individual or implied trust which is created by the operation of law. The former could be private trust or public/charitable trust.³³ English trust subsumes other Islamic estate planning tools such as *Hibah* (gift) and *Waṣiyyah* (bequest). It also primarily represents *Wadī'ah* (bailment) and *Wakī lah* (agency). Some its principles in this regard are not Sharia compliant. Trust property whose transfer was not perfected in the lifetime of the grantor would, in Islamic law, be subject to the rules of intestacy (*Mīrāth*) except the charitable trust. Beneficiaries of English trust are largely the dependants of the trustor and his heirs. English trust is thus a mere estate planning tool while *Waqf* is both estate planning and social finance instrument. The focus of the latter is largely the society. Under the laws of *Waqf*, family *Waqf* is generally valid and considered as one of the accepted charitable *Waqf*. In fact, it is encouraged as it would make the beneficiaries of the *Waqf* be less dependent on the government and the *bayt al-mal* because of the availability of the *Waqf* funds.³⁴

³¹ Ahmad bin Hajar Asqalani, *Fat-hul-Bārī Sharhu Sahih al-Bukhari* (Dar al-gaddi al-Jadeed 2012) 5(552). This is the basis for family *Waqf* in Islamic trust.

³² Cited in O.N. Topbas, *Endowment, Charity, and Service in Islam* (Erkam publications 2009) 25.

³³ Law of Trust: Importance of Trust Law in Safeguarding Wealth and Prosperity in Nigeria. Available at <<https://asalawpractice.org/12342-2/>> accessed 7 August 2023.

³⁴ Bahari 392-394.



Cizakca, however, strongly defended the postulation that English trust was actually moulded after the Islamic *Waqf* system which the medieval Europe was exposed to during the Crusades.³⁵ It appears that Cizakca follows Monica in this profound discovery.³⁶ Nada also enunciates this line of thought.³⁷ Elasrag observes 'Historians have established that the Islamic *Waqf* law was borrowed by Europeans, particularly the English during the crusades, when they "visited" the Middle East and become acquainted with Islamic culture'³⁸ Keeton, one of the most revered scholars of Equity Jurisprudence, maintains that the idea of uses (trusts) is fundamental to all the legal systems of the world but its incidences may vary from system to system.³⁹ Irrespective of the debate about its origin, trust has been used in most civilised worlds to promote public and family interests.

2.2 Administration of *Waqf* in Nigeria: Legal Framework and Challenges

The Islamic *Waqf* is though recognised in the Nigerian constitution, its practice and legal framework is left with Sharia Court of Appeal which is allowed by law to adjudicate on Islamic personal matters.⁴⁰ Until recently, there was hardly any legislation on the administration and management of *Waqf* in Nigeria except the constitutional recognition and allowance.

³⁵ The World Bank Group Report, (n2) 2, M. Cizakca, A History of philanthropic Foundations: The Islamic World from the Seventh Century to the Present, (1996). Available at Islamicmarkets.com. Accessed 13 November 2018.

³⁶ M.G. Monica, 'The Influence of the Islamic Law of Waqf on the Development of the Trust in England: the case of Merton College', University of Pennsylvania Law Review, [136]- [1 2 3 1] 1 2 3 2 . A v a i l a b l e a t : <<https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3909&context=penn>> accessed 24 January 2019.

³⁷ M. Nada, God's Property: Islam, Charity, and the Modern State (University of California Press 2021) 1. Hussein Elasrag, 'Towards a New Role of the Institution of Waqf' available at: <<https://mpira.ub.uni-muenchen.de/80513/>> accessed 21 November 2022.

³⁸ Hussein Elasrag, 'Towards a New Role of the Institution of Waqf' available at: <<https://mpira.ub.uni-muenchen.de/80513/>> accessed 21 November 2022.

³⁹ J.O. Fabunmi, Equity and Trust in Nigeria (2nd edn, ObafemiAwolowo University Press Ltd. 2006) 193.

⁴⁰ According to Magda, the increase in the number of waqf properties forced the state to supervise all the waqf. During Hisham b. Abdel Malik's time (65-87 A.H/684-705 A.D), Diwanal-Ahb? s was created to protect all the waqf properties from any form of misuse. In Egypt Tawbah b. Nmir was appointed as the chief judge to supervise and to register all the waqfs in a special sijl/document which is then followed in all Muslim states. From that time, the supervision of the waqf properties was entrusted to the Sharia court, which acted as a supervisory body for all waqfs while founders and the appointed trustees managed their waqfs.



Section 272 (2) provides:

For the purposes of subsection (1) of this section, the Sharia Court of Appeal shall be competent to decide –

(a) any question of Islamic personal Law regarding a marriage concluded in accordance with that Law, including a question relating to the validity or dissolution of such a marriage or a question that depends on such a marriage and relating to family relationship or the guardianship of an infant;

(b) where all the parties to the proceedings are Muslims, any question of Islamic personal Law regarding a marriage, including the validity or dissolution of that marriage, or regarding family relationship, a founding or the guarding of an infant;

(c) any question of Islamic personal Law regarding a wakf, gift, will or succession where the endower, donor, testator or deceased person is a Muslim;⁴¹

(d) any question of Islamic personal Law regarding an infant, prodigal or person of unsound mind who is a Muslim or the maintenance or the guardianship of a Muslim who is physically or mentally infirm; or

(e) where all the parties to the proceedings, being Muslims, have requested the court that hears the case in the first instance to determine that case in accordance with Islamic personal law, any other question.

Section 277 (2) c of the constitution adds that

'The sharia Court of Appeal of a State shall, in addition to such other jurisdiction as may be conferred upon it by the law of the State, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal Law which the court is competent to decide in accordance with the provisions of subsection (2) of this section.

(2) For the purposes of subsection (1) of this section, the sharia Court of Appeal shall be

⁴¹ Emphasis is mine.



competent to decide -
(c) any question of Islamic personal Law regarding
a *wakf*, gift, will or succession where the endower,
donor, testator or deceased person is a Muslim⁴²

In the wake of the return to *Sharū ah* and creation of *Sharū ah* courts of first instance by the 12 *Sharū ah* states in 1999, several northern states established Zakat and *Waqf* Commission but not a legislation on their administration except Zamfara and except the recent bill emanating from Kano State Emirate council titled Kano State Muslim Family and Related Matters Bill 1440 A.H. (2019). Articles 543 to 592 deal with *Waqf* (Endowment): its meaning, pillars, conditions, administration and management. The bill is profound and informed. It could serve as a model law for other States.

Lack of a dedicated legislation on *Waqf* was one of the four challenges to *Waqf* in Nigeria identified by Umar Oseni.⁴³ The other three are the jurisprudential issues, legal impediments in the resolution of *Waqf* issues and lackadaisical attitude of the Muslim leaders.⁴⁴ Another challenge of course is lack of awareness by the government of Nigeria and among the Muslim populace about the potentials and spiritual and economic significance of *Waqf*.

2.3 The prospects of *Waqf* in actualizing the Sustainable Development Goals (SDGs) in Nigeria

Appraising the *Waqf* system in Islam, Nada Moumtaz⁴⁵ observes that *Waqf* revenues were geared towards the relief of poverty, not its eradication, and were built on the assumption that the poor would always be there. *Waqf* sustains a future of the same rather than the better. It is an institutionalized charitable giving that provides what the literature on development would term “sustainable” income for the beneficiary, distinguished from one-time handouts of food and money, which are often as a quick fix that does not solve any need in the long term and instead creates dependencies.⁴⁶ This alignment with notions of sustainable development allows the conscription of the *Waqf* by the United Nation's ESCWA (Economic and Social Commission for Western Asia) as a local model of sustainable development (ESCWA 2013)⁴⁷

⁴² Constitution of the Federal Republic of Nigeria, 1999.

⁴³ Oseni, U, Towards the Effective Legal Regulation of *Waqf* in Nigeria: Problems and Prospects. Available at: Waqfacademy.org/wp-content/uploads/2013/03/Umar-A.

⁴⁴ Ibid.

⁴⁵ Nada Moumtaz, *God's Property: Islam, Charity and the Modern State*, (University of California Press 2021) 39

⁴⁶ Ibid.

⁴⁷ Ibid.



Waqf is a socio-economic charitable institution established by one's property or an asset with the purpose of using its revenue to fulfil a particular need in the society. Once the property has been created as *Waqf*, it can never be given as gift, or to be inherited, or sold. It belongs to Allah and the *Waqf* property always remains intact. *Waqf* or Islamic Trust is an Islamic social finance instrument and estate planning tool which helps in the redistribution of wealth. Islamic social finance instruments include such as *Waqf*, *Zakat* (compulsory charity), *Hibah* (gift) and *Sadaqah* (voluntary charity). They are among the Islamic means of alleviating poverty and promoting social-economic developments.⁴⁸

Waqf is an institutionalised charity.⁴⁹ It aims at organising charitable activities for the purpose of sustainability. It meets the sustainable development goals. It is different from *Zakāt* in the sense that it can be established by both the poor and the rich. It is not limited by *Nisāb* (minimum threshold for the eligibility to pay *Zakāt*) which is a condition for *Zakāt*. It exists in perpetuity since only the usufruct is shared, not the capital -as obtains in *Zakāt*. It therefore has potential to create jobs for people and sustain a section of the society in continuity. It is a viable means of wealth creation, shifting from wealth distribution. It reduces reliance of people on government. It helps in generating home-grown solutions to economic problems instead of relying on foreign insidious aid and exploitative loans. It a means to address high unemployment rate, high illiteracy rate, lack of healthcare, inadequate transport facilities, spread of poverty and the low level of food production which are widespread in Nigeria. It helps to bridge the gap between the rich and the poor, as it reduces reliance of the poor on the rich.

Charity has always opened doors of prosperity.⁵⁰ A nation that cares for the poor and the less privileged through an on-going charitable project will curb crimes and hostility. The Ottoman Empire which ruled over a massive expanse of the world and affected the course of history ensured peace and tranquility in their society through pious foundations (*Waqf*); whether rich or poor, strong or weak, all lived in a state of spiritual brotherhood.⁵¹ By means of pious foundations, the

⁴⁸ The World Bank Group, INCEIF & ISRA Report, 'Maximizing Social Impact Through *Waqf* Solutions' (2019) viii.

⁴⁹ O.N. Topbas, *Endowment, Charity and Service in Islam*. (Istanbul: Erkam publications 2009) 17.

⁵⁰ The Prophet (?) said, "Two angels descend every morning, and one says: 'O Allah, give him who spends something, in place of what he spends.' The other one says: 'O Allah, give destruction to him who withholds'." *Riyad as-Salihin*, Hadith 295.

⁵¹ Topbas33.



Ottoman society reached the highest level of social justice, a standard still sought after by nations today.⁵²

Over the centuries, *Waqf* has been playing a significant role for the nourishing and flourishing of various religious, educational, economic, social, and cultural dimensions of Islam. Currently, it has proven to be a vital institution in the society serving the purpose of maintaining various social organizations as well as assisting poor individuals of the society leading to a significant reduction of poverty.⁵³

It is an established fact that *Waqf* has been a unique institution introduced by Islam which has not existed in Arabia before Islam, either in the form of buildings or lands. It is a dynamic institution which played a very remarkable role all over the vast Islamic world, from the Atlantic to the Pacific. A lot of magnificent works of architecture as well as a wealth of services vitally important to the society have been financed and maintained for centuries through this system, some of which had survived for considerably longer. In the city of Saqaliah alone the number of schools reached 300 *Waqf* schools and accommodating thousands of students.⁵⁴ In Cordoba (366 A.H.), the number of *Waqf* libraries reached seventy *Waqf* libraries. The famous scientific centers such as Dar Al-'Ilm, Dar al-Hikmah and Jami'al-Azhar in Egypt in 400-405 A.H are *Waqf*.⁵⁵ Many scholars and scientists achieved their scientific positions through scholarship from *Waqf* revenue. In Cordoba, fifty *Waqf* hospitals were built.⁵⁶ Al-Azhar Mosque and University in Egypt is one of the oldest universities in the world. It was established over 1000 years ago (precisely, October, 957 CE) as a *Waqf* donation funded by a number of donors.⁵⁷ Zaytuna was the second mosque to be built in North Africa and also serves as a university. It was built by *Waqf* donations around year 703.⁵⁸ Muhammad bin Rashid Al-Makhtum foundation in United Arab Emirates is another. It was founded in 2007 to promote education and research.⁵⁹ National Endowment for Science, Technology and the Arts (NESTA)

⁵² Marvelous Pious Foundations (Waqfs) in History. Turkey: Directorate General of foundations publications (115), pp. 1-66. Available at <<https://www.yumpu.com/en/document/read/63573911/marvelous-pious-foundations-waqfs>>accessed 27 September 2020.

⁵³ Adam, M.A., From Vision to Action: The Development and Management of Zakat and Waqf Institutions in Tikau Emirate, Yobe State (2002-2018), (NP2017) 56.

⁵⁴ Magda.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Bahari 370-371.

⁵⁸ Bahari 371.

⁵⁹ Ibid.



in the UK is another example.⁶⁰ At the founding of the Republic of Turkey in 1923, three-quarters of the country's arable land belonged to *Waqfs*.⁶¹ Around the same time, one-eighth of all cultivated soil in Egypt and one-seventh of that in Iran stood immobilised as *Waqf* property.⁶² In India alone there are more than 100,000 Muslim *awqāf* valued at more than a billion Indian rupees.⁶³

This institution, whereby a privately owned property, corpus, is endowed for a charitable purpose in perpetuity and the revenue generated is spent for this purpose, stands out as one of the greatest achievements of Islamic civilization. All over the vast Islamic world, from the Atlantic to the Pacific, magnificent works of architecture as well as a wealth of services vitally important to the society have been financed and maintained for centuries through this system. It has even been argued that many *Waqfs* had survived for considerably longer than half a millennium and some even for more than a millennium.⁶⁴ Estimate of the value of *Waqf* assets in the world ranges from USD 100 billion to USD 1 trillion. More importantly, *Waqf* lands comprise more than one-third of the cultivable lands of Muslim countries (IDB, 2014).⁶⁵ Cash *Waqf* alone is estimated at USD 35 billion.⁶⁶

Modern advancement in technology has helped Muslim finance experts to experiment some innovative windows and products in Islamic finance and *Waqf*. Modern scholars now talk about *Wakaful* (combination of *Waqf* and *Takaful* (Islamic Insurance)), *Waqf* in-tech, *Waqf* crowd and *Waqf* coin with the aim of exploring the best ways to solve societal problems through the instrumentality of Sharia-compliant means.

The above shows that *Waqf* - if properly established and administered- has great potentials to solve several social and economic challenges which Nigeria is menaced with.

2.4 Ancient Islamic Endowments and the SDGs

Some of the religious, philanthropic and family endowments towards which *Waqf* had been directed in history fall within and above the Sustainable Development Goals. These include the following: *Waqf* for the protection of environment and forestry, for helping the destitute, for establishing meadows for animals, for cemeteries, for the supply of agricultural tools to farmers, for the nd

⁶⁰ Ibid. 372

⁶¹ G. Tahir, Law of Property in Islam, (Random publications 2012) 91.

⁶² Ibid.

⁶³ Doi 98-130.

⁶⁴ Cizakca 10.

⁶⁵ The World Bank Group Report 3.

⁶⁶ Ibid.



repair of roads and bridges, for the treatment of infectious diseases, for silk farming, for women's shelter, for marrying poor bachelors, for supporting the navy, for establishing home for aged people and the invalids, for adult's literacy, for orphans' education, for planting of trees, for evacuation and repair of drainage, for supporting scholars and provision of scholarship, for the refurbishment and building of mosques, for the protection of town aesthetics, for building guests' house, for managing road safety, for contributing outfits and stationery for students, for town illumination, for provision of water supply, for supply of medicines, for Maternity, for the support of widows, for religious propagation, for buying cleaning materials and food for the poor, for supporting the blind, for the establishment of hospitals for the needy, for the eradication of harmful vermin, for provision of emergency aid, for protection of threatened animals, for the establishment of factories and training centers, for providing logistics and support for the police, for the provision of meals on holidays, for human rights protection, etc.⁶⁷

2.5 Example of *Waqf* Deed in History

The endowment deed of Sultan Mehmed II, the conqueror,⁶⁸ reads, among others:

I, the Conqueror of Istanbul and humble slave Sultan Mehmed, have endowed my 136 pieces of shops in the Taslik precinct of Istanbul, which I bought with my own money, with the following conditions:

With revenues of the above-mentioned real estate, I have appointed two men to each street of Istanbul. These men will walk along the street with a bucket of ashes and lime, and they will cover the spits of people with the ash and lime. They will get 20 akchas daily for their service.

In addition, I have appointed 10 surgeons, 10 doctors and 3 orderlies to take care of the people's wounds. They will go out on the specified days of the month, and will knock on every single door without exception. They will check if there is anybody sick, and if there is, they will help them. If there is no cure for their illness, they will take the sick person to Dar-al Ajaza (hospice) at no charge.

⁶⁷ Marvelous Pious Foundations (WAQFS) Throughout History. Available at <<https://www.yumpu.com/en/document/read/63573911/marvelous-pious-foundations-waqs>>

⁶⁸ A Turkish Muslim leader of the Ottoman empire who conquered the Constantinople (now Istanbul) and brought an end to the Eastern Roman Empire. He died on the 3rd May 1481.



God forbid, we witness a famine. In such a case, let 100 weapons be given to the hunters. They will go and hunt the wild animals except during their season of laying eggs⁶⁹ and when they have cubs at the Balkan Mountains, so they will keep feeding the sick. Moreover, families of the martyrs and the poor people of Istanbul will eat from the soup kitchens of my endowment. If they cannot come to the soup kitchen by themselves, their meal should be taken to their houses in the dark without letting anybody know...⁷⁰

3.0 CONCLUSION

The above shows that private institutions actually promoted social welfare through the *Waqf* system. This proves that the revival of *Waqf* could be the panacea for a sustainable development and improved social services and social security in Nigeria. Much of these responsibilities would not be a burden on the government; government may not need foreign loans to finance infrastructure and capital-intensive projects. Family *Waqf* is especially a useful tool in preserving wealth and to redistribute wealth that may be a subject of controversy if left to the rigid hand of *Mirāth*. Generally, *Waqf* system in *Sharī ah* provides an excellent mechanism for social and sustainable development and property preservation. *Waqf* was not known before Islam. The idea of foundations in the Europe which has contributed immensely to the growth of the society was probably a replica of the Islamic system of *Waqf*- as opined by many scholars. *Waqf* can solve some of the myriad economic problems in Nigeria. However, opportunities *Waqf* offers in wealth re-distribution and preservation are not much harnessed. Few states in the North have *Zakī t* and *Hubus* ministries/commissions which have much to be desired. There is hardly an efficient institution for the administration of *Waqf* in the Southern part of Nigeria. It is therefore recommended that aggressive awareness programs be adopted to enlighten the government and the populace especially the Muslims about the significance of *Waqf*, and that strong managerial institutions and robust legal framework are established for the actualization of these goals.