

WAQF in Islam and Others a Comparison Study

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Abstract

This study dealt with the issue of Moslem and non Moslem Waqf – a Comparison Study through moslem evidences and others evidences. The researcher dealt in this comparison study with definition of Waqf and it's start and types and the reasons why it is mandated-a comparison study that is through an introduction and five requirements divided into problems and a conclusion ended up by results and recommendations. The aim of the research is to clarify the points of similarity and the points of differences of Moslem and non Moslem Waqf so it will be a key for researchers to research through those usefull comparisons.

Keywords: WAQF in Language and in Convention, Charity Waqf, Non Moslem Waqf

Introduction

Thanks to Allah (God) and pray be upon the most honorable prophet and his followers lasting up until the reckoning day.

Of the aims of Islamic Sharia is to boost brotherhood and to deepen the concept of solidarity to distribute income and fortune among society individuals rich and poor voluntary distribution and willingly.

Waqf is humanitarian way, charity investment long term, extends to the on coming generations, preserves wealth and direct it to the public benefit and realizes social solidarity of society members.

To realize this goal, the researcher saw to clarify the meaning of Waqf, the date it started, it's types, it's importance for Moslems, and hold a comparison study between the two endownments (waqfs) show the phases of similarity and differences.

Why is That Subject Chosen?

After reviewing the accredited references for both, the researcher see to add a block in building of Waqf in order to cover the positive and negative sides to enhance the positive role and criticize the negative, the researcher hopes to enrich this subject for researchers to generate benefits and resources to be used in charity phases.

Research Questions

The researcher expects to answer the following questions:

- 1-What is moslem and non moslem Waqf?
- 2-When did moslem and non moslem Waqf start?
- 3-What are the types of Waqf of Moslems and non Moslems?
- 4-What is the aim that waqf was mandated for to Moslems and non Moslems?
- 5-What are the phases of waqf spending for Moslems and non moslems?

To generalize benefit and to make it easy for the readers, the researchers see to divide this research to the following requirements:

First Requirement: Definition of Waqf in language and convention in Moslem Waqf and Non Moslem Waqf, here are two issues:

Issue number one: Moslem Waqf in language and convention.

Issue number two: Waqf of non moslems in language and convention.

The Second Requirement: Parts of Moslem Waqf and others Waqf, here are two issues:

First issue: Parts of Moslem Waqf.

Second issue: Parts of Waqf of non Moslems.

The Third Requirement: The start of Moslem Waqf and others, and the aims of mandating Waqf for Moslems and non Moslems, here are four issues:

First issue: The start of Moslem Waqf.

The second issue: The purposes of Moslem waqf mandating.

Third Issue: The start of non Moslem Waqf.

The Fourth Issue: the aims of mandating non Moslem Waqf.

The Fourth Requirement: Phases of spending Waqf money of Moslems and non Moslems, Here are two issues:

First Issue: phases of spending Moslem Waqf money.

Second Issue: Ways of non Moslem spending Waqf money.

The First Requirement: Waqf of Moslems and non Moslems,

There are two issues:

First issue: Moslem Waqf in language and convention.

Waqf in language means: imprison⁽¹⁾ (make public⁽²⁾) and forbid⁽³⁾.

Waqf in convention: the researcher after following definitions in the accredited books, he found plenty of definitions close to each other there are differences due to the partial dealing in some Waqf issues and according to their look into the subject for different considerations⁽⁴⁾. The researcher found out the most brief and clearest and most comprehensive (imprison the origin and make the outcome for the public)⁽⁵⁾. The meaning make public the outcome, the release of the profits of waqf for the designated party and the concerned⁽⁶⁾.

The 2nd issue: Waqf of non Moslems in language and convention.

The Western conventions similar to Waqf are limited to the following:

1- The convention (Endowment) means in language Waqf and grant⁽⁷⁾.

But its concept is the donation from an individual or organization by donating money or property or any continued source of income which is usable by a charity association or a college or a hospital or any other organization⁽⁸⁾.

And in another definition it is a fund kept for ever, and to direct its profits for charity works⁽⁹⁾.

2- Trust in Convention: It means in language/waqf/trust/an investment fund/a deposit money//unite two companies with similar activity aiming monopoly⁽¹⁰⁾.

- But the concept of Trust in its meaning in connection with Waqf, it is a work pertain to wealth or estate or mobile assets, the owner transfers the legal domain on it to the trustee who commences managing and the investment of the money for beneficiaries designated by the owner⁽¹¹⁾.

3- Foundation Convention: in language it means an establishment, and in general an organizational body to practice works, either commercial, government, educational or charity⁽¹²⁾, but in the private meaning it is the name of charity establishment briefly defined as an organizational body based on Waqf to support charity organizations⁽¹³⁾.

Another definition: The establishment is a permanent fund to collect donations for charity, religious, educational, research works and others, or the association which presents financial aid to colleges, schools, hospitals and charity organizations⁽¹⁴⁾.

But in the United States waqf is defined as follows:

Financial assets originated from non profit group in the form of investment fund or other properties with obvious aims as assigned by the doner, most of the waqf is done in a way as to preserve the original amount and the use of the outcome in charity works (15).

In conclusion, after the follow of the language and conventional definitions of the two parties, the researcher found that the two waqf meets represented in large similarity between Islamic Waqf and the Charity system (Trust) of non Moslems.

He found points of difference represented by that: Islamic Waqf is from the heart of Islamic doctrine, while the other part's waqf is based on personal interest and to make reputation and good look purposes.

The Second Requirement is: Parts of Moslem and Non Moslem Waqf, here are two issues:

The First issue: Moslem Waqf parts:

Moslem scientists divided Waqf into three parts:

- 1-Family Waqf that is the doner makes Waqf for his decendants and relatives.
- 2-Charity Waqf that is the waqf which it's outcome is spent on a charity party as the poor, building mosques and hospitals and orphans and others.
- 3-Combined Waqf, It is the waqf frozen to a certain organization for a certain period, then to decendants and relatives , the doner may say, I donate this house for the poor for one year, then to myself and my decendants, or vise versa to relatives and then a charity party. Relatives for a certain period of time, after that to a certain charity organization.(16)

The second issue: parts of non moslem Waqf are (17):

A- Private trust which is established in the favor of one person or a number of persons assigned by the original owner such as his heirs(it is similar to family Waqf).

B- Charity Trust or general trust, the purpose of that Waqf is to achieve society benefit or a large number of society members such as spreading education or fighting poverty.

For that it is mentioned in the charity trust the legal organizing by which an estate property or other is transferred from the owner for another (the trustee) through a contract in the favour of a certain sector or the public (18)(this way it is similar to Charity Waqf).

The Conclusion: after following Moslem and non moslem Waqf parts:

1-There is an agreeing points of Moslem and non Moslem Waqfs, the researcher found out:

And also the charity Waqf and the combined Waqf of non Moslems.

2-A-:There is a difference in the two endownments (waqfs), in regard of the number of parts, it is three parts for Moslems and two parts for non Moslems Charity Trust and private Waqf for two reasons pertain to the heirs.

B- There is a big difference between Islamic Waqf and the private Waqf.

3rd Requirement: The beginning of Moslem and non Moslems Waqf and the aims of waqf mandating. Here are four issues:

First Issue: The Start of Moslem Waqf.

First Waqf started when the prophet made his mosque in Madina a Waqf and the Followers took it as example, here waqf started to be known as a continued SADAKA (donation) or what is known about the prophet when he told Omar Bin Alkhattab, when he wanted to be close to the mighty God by donating a land lot he owned, the prophet told him (if you wish you imprison the origin and make it's fruit a charity) (19).

The second issue: the purposes of Moslem waqf mandating:

- 1- Organizing the continued wage and award in Moslem life and after death, through spending and charity on the phases of charity (20).
- 2- Realizing the solidarity principle between the nation members and availing the balance element between the rich and the poor of the society (21).
- 3- To guarantee preserving wealth and it's protection and to utilize it the longest possible period and to protect it from misuse by who is not able to use it right (22).

- 4- To realize an intensive and comprehensive aims.
- 5- Availing the growing of the scientific means for the society⁽²³⁾.

3rd issue Non Moslem start of Waqf:

1-Trust, trust started in England since the middle ages in the purpose to avoid the high tax which was mandated since the 12th century in the reign of King Henry the 2nd in the year 1536AC, the law of benefits was issued to prevent tax evasion, so they went to the trust ⁽²⁴⁾.

2-Charity organizations (Foundation and Endowment)⁽²⁵⁾. It is available since old ages for religious reasons and in other forms. But it appeared in an enormous way in the year 1880. In the United States, the work in charity started in a group of big companies as an example we mention Benjamin Franklin Charity Organization in the 1791AC and James Smith in the year 1846AC and others.

4th issue: Aims and purposes of non Moslem Waqf mandating, this can be briefed in the following three matters:

1-First matter:Establishing charity organization to ease the danger of poor labourers to compete with other companies ⁽²⁶⁾.

2nd matter to have tax exemption ⁽²⁷⁾.

3rd matter expanding American power to the biggest area in the world ⁽²⁸⁾.

Despite all that nobody can deny that a plenty of public who donate for charity work in the West are motivated by humanitarian concepts and religion this is obvious in the calls made made by charity organizations on the INTERNET urging people to donate ⁽²⁹⁾.

Conclusion, after the follow up of the start and the aims, the researcher found out the following:

1-Islamic Waqf was prior the Western Waqf specially the American.

2-The Waqf in the two Systems Islamic and Western participate in including a plenty of educational, cultural, health and social aims and seek the helping the poor and the in need, but it is noted that the aim of plenty of the western Waqf is seeking reputation and pride not seeking the God's award and obedience to the mighty God.

The Fourth Requirement: phases of spending of waqf money for Moslems and non Moslems. Here there are two Issues:

1-Phases of spending Moslem Waqf money:

Islam organized the phases of spending Waqf money within the legal Sharia restrictions, the most important of the spending phases is worship houses, education houses, public libraries, health care, the poor and the in need and others of different charity phases ⁽³⁰⁾.

The 2nd issue: non Moslem phases of spending Waqf money. After following the phases of spending Waqf Money of the Non Moslems, the researcher found the following:

1-Mandated phases of spending, an example for that:

A- Contribute in the scientific and civilization sides ⁽³¹⁾.

B- Spending for educational, health and social fields ⁽³²⁾.

C-Availing protection for the widows, that is through the entrust of the money left by the dead husband to the wife or children to who can take care of it's investment ⁽³³⁾.

D-Doing a lot of works of Public Benefit which are based on individual and private donations this is called public⁽³⁴⁾ trust.

2-Illegal spending Phases, examples of that:

A-Phases of spending in the Western foundations which they believe it is charity, it is far away off the charity like missionary operations for other religions, the plentiful organizations which care for and protect the homo sexual and the lizbiens, and what pertains to abortion, or what so called birth health which is based on sex liberty ⁽³⁵⁾.

B-The phases of spending for the organization that work for the occupation in Palestine.

C-Phases of Spending for the organizations which work in spreading the thinking of separating religion from the state (36).

D—Phases of spending for the organizations in the purpose of improving the West image and attract sympathy to his foreign policies contrary to people's interest people and the work for sovereignty of American culture (37).

E-Phases of spending used by American intelligence in financing the opponence movements and raising troubles in other states(38).

The Conclusion: After the study in regard of money Spending of Moslems and non Moslems endwonment, the researcher found out:

-Islam put strict ristrictions and connected it with religion and the financial system, so Waqf money will not be wasted or be misused by a personal interests.

-The general purpose Of Waqf Money spending is Charity, with the preservation of the original funds, and restrict the doner and others to use it , the outcome is to be used to spend on a charity party in order to be closer to the Mighty God., charity is a comprehensive name (39).For obedience and charity works lead to be closer to the Mighty God (40).

But the general purpose is to achieve good and the work to ease suffering and booster the poor interests,and environment protection and availing the basic social services (41).

-But in the West, the researcher found legal and illegal aims as mentioned previously.

The End

Finally the researcher reached to the following results:

1-Islamic Waqf played an enormous role in the Islamic History and the support of of Islam Civilization, but the reality of Islamic Waqf in the current application suffers from several weakness phases because of the enteferece in it's management and the shortage of citizen awareness and non compliance of Sharia and good management.

2-The reality of Waqf application in the Western World is characterized by strength, wide spread and good order and the growth of awareness.

3-The noble aim and purpose, and the motive for the Islamic Waqf is religious, it is to be close to the Mighty God and not to achieve life time benefit not for gaining good reputation or to improve the political image or to attract sympathy to state policies (42).

4-Welfare targets, Islamic Waqf is established to realize welfare for all creatures, it is not allowed to have Waqf for evil and disobedience, as the Waqf for homo sexual and lizbiens or the sex freedom.

5-The global range, spending waqf is not limited, like the zakat local spend (43).

6-Human content, the none Moslem can make Waqf(44), it is also possible to make Waqf for other creatures (animals and environment)

7-Flexibilty to meet new phases of spending like the protection of human rights, consumer protection and the care of small projects (45).

Recommendations

1-correct the Waqf flow in the Islamic World this matter requires the abiding with the Islamic FIKH, and to be guided with west Waqf in the fields of financial organization, administration and accounting, how to spend and methods of awareness and transpoerancy.

2-Develop of research and Waqf writings, to move from historical and heritage narration to the modern treatment, specially in the fields of finance, accounts and management, this is a fertile field for research.

3- Preserve the current Waqf gains.

4-The work on creating other resources for charity Waqf, and the work for growing , expending and developing them that is through the modern media TV and Internet.

5-The invitation for the Moslem Ministries of Waqf to establish specialized Waqf agencies to gather whatever pertain to the Waqf projects.

6-Making Waqf management separate from the ministr's administrative work.

- 7-To elect management council to supervise Waqf, which members are known honest and knowledgable, because independence in Waqf works is essential for the success of Waqf projects.
- 8-Spread the Waqf culture, and make people aware of bringing it to life.
- 9-The development of methods of Waqf money investment leading to the growing of it's resources and the increase of it's productive power. we may point out to some new Waqf funds recently established in some Islamic countries, it is an organization style which receives individual donations to spend in a field needed by the society and agree with the recommendation of the doners.

List of Footnotes

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