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The Role of Waqf and Trust Commission (WTC) in Zanzibar: Problems and Prospects

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Abstract

Waqf as institution has played a great role in the past. Several examples are cited to show the socio-economic contributions this institution had played in the past especially in the Muslim communities. This institution offered many notable public services that are today financed by the state or the government, such as education, health care, national security, transportation facilities, the basic infrastructure, food, shelter and jobs. Generally, waqf institutions of Muslim countries like Madina, Turkey (during Othman Empire), Algeria (under French occupation), Egypt, Palestine, Jerusalem, Iraq and Tunisia had a remarkable contribution. Meanwhile, this role did not exempt Zanzibar since 1800s. The significant contribution by the waqf in Zanzibar is considerable as well. However, this institution in the Islands has been facing several problems and as well as the problem of funding the waqf and Trust Commission. This paper, therefore, examines the problems of waqf Institutions and proposes some suggestions to how to address them.

Keywords: *Waqf, Islamic Finance, Trust Commission, Zanzibar*

1. Introduction

Different scholars define waqf (wakf or wakfu- Swahili pronunciation) in different connotations with reference to their central theme of their study concerned. For

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example, Yahya (2008) defines Waqf as “an asset that has been withdrawn from circulation so that its yield can be used for charitable purpose”. The asset becomes inalienable. However, Mahat, Jaaffar and Rassol (2015) see waqf as “an Islamic voluntary financing instrument which has significantly supported the development of economic and social order of the Muslim community in the past”. To Babatunde, Nulambeh, Ibrahim, Harun and Sanoh (2015) waqf means “the dedication of privately owned property (movable or immovable) and/or its usufruct and benefit in perpetuity for the wellbeing of the society”.

In this sense, waqf has served the Muslim world significantly especially in the past. In support of this argument, Rashid (2002: 13-20) gives some historical and earliest examples of waqf (plural, awqaf) during the lifetime of the Prophet. For instance, the land on which the Prophet’s mosque was built in Madina was given as waqf by two orphans (Suhayl and Sahl) living in Madina, Abu Talha gave piece of land to his relatives as waqf, Sa’d bin abi al-Waqqas and Abu Bakri gave their houses as waqf to their children. When Umar got a piece of land in Khaybar (a place near to Madina) sought advice from the prophet which is the best way/means to take advantage of the acquired land (though he was aware of the then prevalent known means of charities like zakat, sadaqat etc., but he still inquired), the prophet advised him to donate the land as waqf and he did so indicating that the land should serve the poor, kinsmen, the emancipation of slaves, jihad, and for the guests and travelers as well as its administrator could eat in a reasonable and just manner. There is also a historic suggestion that, the house of Arqam bin Arqam which prophet used to teach Islam his companions in the dawn of its revival, that companion then decided to give his house as waqf to his descendants. The purchase of water well by Caliph Uthman which was made free for everyone in Madina is another example (Shirazi, Obaidullah and Haneef, 2015)

The above definitions seem to be different from that of Shirazi, et al., 2015 who see waqf as an institution. To them, waqf is “a very important religious and social institution, which has been used for the welfare of the needy, the poor, the family, and the society”. This assertion seems not different from that of Mohsin (2012) and Hashim (2010) who see waqf as an institution which contributed a lot in the socio-economic welfare of the community in the past. Shirazi et al., (2015) believe that the first mosque in Madina built by the Prophet was waqf property which served as a religious institution.

Several examples are cited to show the socio-economic contributions this institution had played in the past especially in the Muslim communities. The study of Mohsin (2012) shows the historical evidence where the institution of waqf significantly contributed to the socio-economic welfare of the Muslims from the time of Prophet

(pbh) to the beginning of the 19th century. According to her, this institution offered many services that are today financed by the state or the government, such as education, health care. The services included, national security, transportation facilities, the basic infrastructure, food, shelter and jobs for many people (Ismail Abdel Mohsin, 2013; Haneef et al., 2015). The rich data explored by Shirazi et al., (2015) demonstrates how powerful this institution was in different parts of the globe. Examples are given in Madina, Turkey (during Othman Empire), Algeria, under French occupation, Egypt, Palestine, Jerusalem, Iraq and Tunisia etc. Table 1 summarizes the contributions of waqf as institutions in the Muslim world.

2. Waqf in Zanzibar

In the context of East African Cost including Mombasa (Kenya) and Zanzibar (Tanzania) since its introduction in 1735 and 1832 respectively, this institution significantly contributed to the socio-economic welfare of the general public especially Muslims (Carmichael, 2007; Hashim, 2010 and Yayha, 2008). In 2008 Yahya did a research on “Financing social infrastructure and addressing poverty through wakf endowments: experience from Kenya and Tanzania”. In his study, he asserts that, “in the context of East Africa, from its early development in the great Swahili city-states, the institution of waqf has survived successive waves of imperial occupation by the Portuguese, the Omanis and the British”. According to him, waqf endowments have been a viable means of enriching people’s lives, providing safety nets and supporting social infrastructures for the poor in these areas.

Table 1: Contributions of waqf as institutions in the Muslim world

Name of the institution	Place/Country
Mosques	The mosque of the Prophet in Madina and in different parts of the world
Madrassa Nizamiya	Baghdad-Iraq 475 AH/1085 AD
Madrassa Nizamiya	Nishapur-Iran
Madrassa Mustansiriya	Baghdad-Iraq
Madrassa Nuriya	Damascus-Syria
Madrassa Salihiya	Jerusalem-Israel
Madrassa al-Azizya	Damascus-Syria
Jamii’ al-Hakim	Cairo-Egypt
Jamii’ al-Azhar	Cairo-Egypt
Jamii’ al-Malik an Nasir Hassan	Cairo-Egypt
Jamii’ al-Mu’aiyadi	Cairo-Egypt

Source: Collected from Rashid (2002: 20)

In Zanzibar, the history of waqf is as old as the introduction of Islam in the Islands by Arabs. At the very beginning, the purposes of waqf were influenced by the emerging needs of the community, building and administration of mosques, learning Islamic Studies Centres (madrasas) and neighborhoods. This shows that waqf was well known in Zanzibar as an institution of the Shari'ah which allows for the dedication of property in support of human welfare and charitable objects of the Zanzibari community (see, <http://awqaaf-znz.go.tz/waqfpractice.php>).

4. Waqf and Trust Commission (WTC)

Since 1905, waqf administration in Zanzibar has been through different stages and levels, through which several amendments were done and acts were enacted. The Table 2 shows the waqf administration in Zanzibar.

Table 2: Waqf administration in Zanzibar

Year	Enacted Act
1905	<i>Waqf</i> Decree No 2
1907	<i>Waqf</i> Decree No 2
1909	<i>Waqf</i> Decree No 15
1916	<i>Waqf</i> Decree No 16
1946	<i>Waqf</i> Validating Decree No 5
1951	<i>Waqf</i> Validating Decree No 6
1965	<i>Waqf</i> Property Decree, Cap. 103 of the Laws of Zanzibar
1965	Presidential Decree No 12
1966	Presidential Decree No 12
1967	<i>Waqf</i> Property Decree No 5
1980	Administration of Wqf and Trust Property Decree No 5
2007	<i>Waqf</i> and Trust Commission Act No 2

Source: Accessed from <http://awqaaf-znz.go.tz/waqfpractice.php>

Therefore, since the establishment of the Act No 2 of 2007, the waqf properties in Zanzibar are under the supervision of the government-controlled and supervised institution called “Waqf and Trust Commission” (WTC). This institution has its own corps of administrators, lawyers, accountants and engineers which can develop policy and manage the asset portfolio (Ibid).

According to the official website of Waqf and Trust Commission⁴, “The Waqf and

4 <http://awqaaf-znz.go.tz/>. Accessed on Monday, 14.03.2016

Trust Commission” (WTC) is a governmental body cooperate having perpetuate succession and a common seal. The Commission was established by Act No.2 of 2007, its core functions are to administer Waqf properties, Trust properties and the estates of the deceased Muslims. It also coordinates Islamic affairs including Hajj (Pilgrimage) activities, Zakat, Charity, national Eid prayers and Barazas (See also, The Wakf and Trust Commission Act No. 2 of 2007). On the other hand, scholars have identified numerous recurring problems this institution faces, some of which are very common in every part of the Muslim world and some are very specific depending on the place the institution of waqf was established or waqf asset was given. Some of these challenges are explained in detailed here:

4. Problems Facing Waqf and Trust Commission in Zanzibar

Waqf and Trust Commission of Zanzibar acknowledges that, this institution faces serious challenges including: - inadequate education, awareness and skilled human resources; lack of involvement, support and participation of the concerned Muslim stakeholders; inadequate record management system; lack of sufficient accountability and transparency and low public awareness on commission’s responsibilities. These problems are explained in details in the following section.

4.1 The problem of administration and mismanagement of waqf properties

Globally, the lack of efficient management as noted by Hashim (2010); Shirazi et al., (2015), Yahya (2008) and Toraman, Tuncsiper and Yilmaz (n.d) is a very common problem facing waqf institutions. The observations of the historical experience from different countries acknowledge the mismanagement and misuse of the waqf assets and/or institutions. In their literature review Shirazi et al, 2015 recognized the rich experience of the role played by the waqf institutions socially, economically, politically, scientifically, culturally and religiously for development of the society concerned. In an article written by Çizakça (2004), there is a rich information about the big role played by the waqf institutions in this history of Turkey since the 15th to 18th century. Even Ottomans introduced and legitimised cash waqfs during the fifteenth and sixteenth centuries after long debates (Çizakça, 2016). Unfortunately today’s revenues of the waqf are not suffice even for the payment of the general maintenance of the mosque. In line with this, it can be argued that, the today’s waqfs are not properly managed. A study conducted by Harun, Isa and Ali (2012) gives several factors that contribute to the problem of lack of administration and mismanagement of waqfs, among others included; absence of documentation and systematic database, inadequate skillful professionals in waqf management, absence of good structural waqf management

and the absence of a clear and consistent procedures about the registration, land management and waqf properties.

Comparatively, there is also a similar information about the mismanagement of waqf properties in Zanzibar. Introduction of civil and common laws under the colonialism leadership in the isles, also, played, an important role to regulate the legal framework of the islands. This reflects the opinion of Rashid, 2011 who is cited in Shirazi, et al., 2015 that, “with colonialism came misery to Awqaf. Thousands were abolished or put to other uses and governed by alien rulers”. In addition to that, in his paper entitled “administration of waqf institutions in the Kenyan Coast: Problems and Prospects” Hashim (2010) found that the lack of efficient management is also due to the lack of logistics. In his analysis, he realized that, the Waqf Commission of Kenyan Coast is unable to ascertain and identify Waqf properties before registering them. In fact, the same problem is found in Zanzibar, where though all waqf properties are supposed to be registered at the Waqf and Trust Commission, yet there is no an accurate and exact number thus officially known existing.

Indeed and with an eyewitness of the researcher of this study when he visited this institution in January 2016 while doing preliminary investigations on waqf, he observed the mismanagement of records. Unfortunately, the records system used in the institution is very old. There is a few exceptional cases where the employees of this institution are computer literates. This raises a concern, does the lack of administration and the mismanagement of the Waqf and Trust Commission in Zanzibar affect the financing activities of the Commission? An empirical study to investigate the situation becomes significant.

4.2 Inadequate education, awareness and skilled human resources

Section 13 (1) of The Waqf and Trust Commission Act No 2 of 2007 gives the institution power of establishing units within the institution that shall be necessary for administration of the Commission, finance, account and financial discipline in terms of revenue collection, expenditure and financial accountability; enforcement, compliance and legal matters. A study by Rahman Chowdhury, Amin Chowdhury and Muhammad, 2012 on the problems facing waqf administration in Malaysia, found that, in Malaysia people involved and trusted in managing waqf assets are not qualified in some cases. The Waqf and Trust Commission in Zanzibar is of no exception because as earlier said, the institution lacks skilled human resources and qualified employees.

You can find for example, those working in accounting unit don't have qualification for accounting and hence they are not accountant professionals. These employees

cannot even write vouchers of their salaries. The series of the conference proceedings by Puad, Rafdi and Shahar (2014) on “issues and challenges of waqf instruments: A case study in MAIS” emphasized on the same issue where lack of professional and technical expertise in running, managing and developing waqf assets constrains the waqf institutions. This situation leads one to questioning the effectiveness on execute of the functions and responsibilities of the institution, hence any attempt to investigate the issue becomes relevantly significant.

4.3 Lack of involvement, support and participation of the concerned Muslim stakeholders

The waqf is not only the spiritual and religious but it is also an important catalyst which has influences on the economic, social, political, educational and community development. Unfortunately, waqf institutions lack support whereby the relevant and concerned Muslims do not involve and participate in the running, managing let alone in donating. If it happens waqf institutions are run by governments, the employees in most cases are unqualified, uneducated and unskilled. Those who are qualified and are professionally educated don not participate in the running, managing of the waqf properties. The rich and wealthy individuals also don't participate in donating their wealth, lands or any assets as waqf endowments. This situation is due to lack of awareness and the problem of accountability and transparency in management of waqf properties. Hence, people tend to look at the past experiences (Yahya, 2008 and Hashim, 2010 and Çizakça, 2008)

4.4 Lack of sufficient accountability and transparency

Another problem facing the institution of waqf is the lack of sufficient accountability and transparency. This problem is mainly due to the unskilled and uneducated workforce employed (mutawallis). The Mutawallis are not accountable for their responsibilities. Several cases have been reported in the loss and misuse of the waqf properties or their carelessness on waqfs. For example, the case study of MAIS⁵ conducted by Puad, Rafdi and Shahar (2014) on the issues and challenges of waqf instrument shows cases where family members misused waqf properties for personal interest. Cases of improper administration and lack of documentation in this study were also reported, whereby some waqfs were just handed over in a verbal declaration.

5 MAIS = Majlis Ugama Islam Selangor. This institution is one of the religious institutions in Malaysia which plays a significant role in developing and managing waqf in the state of Selangor.

Yahya (2008) conducted a study on “financing social infrastructure and addressing poverty through wakf endowments: experience from Kenya and Tanzania”. In his study, he observed that, on behalf of deceased founders, Waqf and Trust Commission of Zanzibar looks after their properties, farms, mosques and other assets on the two main islands of Unguja and Pemba. He also, found that, there is 655 unregistered tenants. This problem is a result of irresponsibility of the institutions employees. Does this affect the financing model applied by the institution and its revenue? In most cases, the value the waqf assets leased for example don't reflect the market value (Ibid).

4.5 Low public awareness on commission's responsibilities

Hashim (2010) notes that, lack of efficient outreach programs that educate the society on the role and importance of Waqf institutions is another problem facing this very important financing model. According to him, this problems is due to the negative image borne in the minds of the people so much so that large part of the society does not know the importance of waqf institutions in their day to day life (Ibid). While examining the perception of Muslim Community in Uganda on the Waqf and its role on socio-economic development Ahmed et al, 2015 conclusively found that, the Muslim Community in Uganda suffers from enormous socio-economic problems. According to them, therefore, knowledge of waqf and its socio-economic role are essential in reviving waqf institution which in turn will assist in improving the social welfare of Muslim Community. They also think that, high level of awareness among Muslim Community in Uganda on Waqf and its socio-economic roles would provide platform for religious authority to encourage Muslims to donate their assets as waqfs for socio-economic development. Though the institution of waqf has been in Zanzibar since the early 19th century but as the time goes on, people become unaware of the responsibility of this institution.

Most of the waqf assets existing were donated very long time ago some of them even a century back. This could simply imply the deterioration of the public awareness on them. One of the issues found from the collection of conference proceedings series by Puad, Rafdi and Shahar (2014) on “issues and challenges of waqf instruments: A case study in MAIS”, among others, was the lack of awareness of waqf among Muslims. According to them, most people believe that waqf is an obligation only for Muslims. Yet, the same can be contributed by non-Muslims. Quoting the survey conducted by MAIS in 2008 which found that 70 percent of Muslims in Malaysia are unaware of the waqf schemes of the MAIS. Based on that fact, they conclude that, Malaysian Muslims still don't realize the socio-economic importance of waqf. Furthermore, since its

incorporation in 2012, many contributors started questioning the bank's effectiveness in managing the fund. This is due to the lack of disclosure on the usage of the fund. As the bank act as collector of fund, it is viewed that the bank should make its cash waqf operation more transparent (Mokhtar et al., 2015).

Proceeding of the International Conference on Masjid, Zakat and Waqf by Abubakar (2014) acknowledges that, despite having a significant number of Muslims in Nigeria, most Muslims in Nigeria don't have basic knowledge of waqf and its socio-economic role in poverty alleviation and development. One of the objectives of this study is to examine this challenge and its implication on the financing scheme of the Waqf and Trust Commission in Zanzibar, hence the study becomes significant.

5. Funding the Waqf and Trust Commission

It is a proven fact that, waqf institutions played an enormous role as one of the very successful financing tools in the past especially in the Muslim Communities. There are plenty examples showing tremendous contributions of waqf in the socio-economic development of those societies. The great experience from Turkey especially during the Ottoman Empire to its decline gives us rich information on the problem studied. Social, religious, economic, cultural, activities were all financed by waqf endowments to the maximum (Çizakça, 2004 and Toraman, Tuncsiper & Yilmaz, n.d.). Followed this, Damascus also had the same financing schemes through waqf endowments where healthcare services, education, cultural activities, helping the poor and the needy (Shirazi, et al., 2015) were truly benefiting from the scheme. The University of Azhar is another example which was founded in 972 and was financed by its waqf revenues (Toraman, Tuncsiper & Yilmaz, n.d.). There are also historical sources which provide a clear picture of the financing role of waqf where governments used to finance education, health care services, orphanage centers, etc. Awqaf of the Ayyubids (1171-1249) and the Mamlukis (1249-1517) in Palestine and Egypt are good examples in this regard (Toraman, Tuncsiper & Yilmaz, n.d. and Mohsin, 2012).

Currently as noted by Hashim (2010), there is a number of waqf properties but the funding of these properties is a major obstacles and hence the majority of these properties have been left idle, with no economic value thus derived. However, in Zanzibar the waqf institutions are supervised by the government-supervising and controlling institution called "Waqf and Trust Commission" which oversees the waqf properties, their revenue earned, and the distribution of the revenue to the concerned and relevant beneficiaries. The Revolutionary Government of Zanzibar, however does not provide any financing

for these properties for their upkeep, maintenance, renovation, etc.

The Waqf and Trust Commission of Zanzibar, relies on fees charged on waqf properties especially from land (clove plantation) and rentals of waqf houses for accommodation and offices. The service fee charged is 10% for any kind of service rendered. Another obstacle in Zanzibar is, tenants in Waqf buildings enjoy concessionary rents based on the government policy of subsidizing all rents for all government-controlled housing. For administrative purposes, such properties are considered public housing, however, they are essentially private property (Yahya, 2008).

In his study Yahya, 2008 found that, the Waqf and Trust Commission collected 34.9 million in 2001. However, the WTC kept 10% (approximately 3.49 million) and then distributed the rest to the beneficiary families and institutions. The WTC expenditure at that time on repairs was 6 million. Unfortunately these relatively small amounts are inadequate to meet administration and maintenance costs of the WTC (Ibid). There is, therefore, a need to empirically, study this problem and any possible attempt and alternative financing model for this institution is significant in this regard.

6. Conclusion and Recommendations

Globally waqf has started to regain its enormous socio-economic contribution of the Muslim Society. Currently, there are a lot of contributions made by the awqaf institutions in Singapore, Malaysia and Kuwait. A study conducted by Mahat, Jaaffar and Rassol in 2015 in Singapore shows that, “S\$130 million was collected from monthly waqf contribution”, this amount was then used to finance the construction of 22 mosques. Unfortunately, Singapore is not a Muslim majority country. This is contrary to Zanzibar whereby 99 of its population is Muslims.

In Malaysia, Tabung Haji was also founded on waqf contributions and later made a lot of investments. Turkey as well, is tremendously doing great contribution in the making of a new era of waqf institutions. This can be seen in its contribution towards socio-economic projects to different communities worldwide. Zanzibar, can benefit from using liquid assets, for example through cash awaqf model. Another model that can be beneficially applied in the Zanzibar context is the application of waqf shares. This model has worked successfully profitably in countries like; Malaysia, Indonesia, Sudan, and in the UK. These regions have successfully benefited from waqf shares.

It is worth noting that, the Wakf and Trust Commission Act No 2 of 2007 under part III of Administration of Wakf and Trust Property, in its subsection accepts that: “The

Commission may enter into agreement with any person, firm or organization to manage any Wakf property in accordance with terms of such agreement”. Hence by practically applying this act, the Wakf and Trust Commission in Zanzibar can accommodate a lot of structural challenges facing it.

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