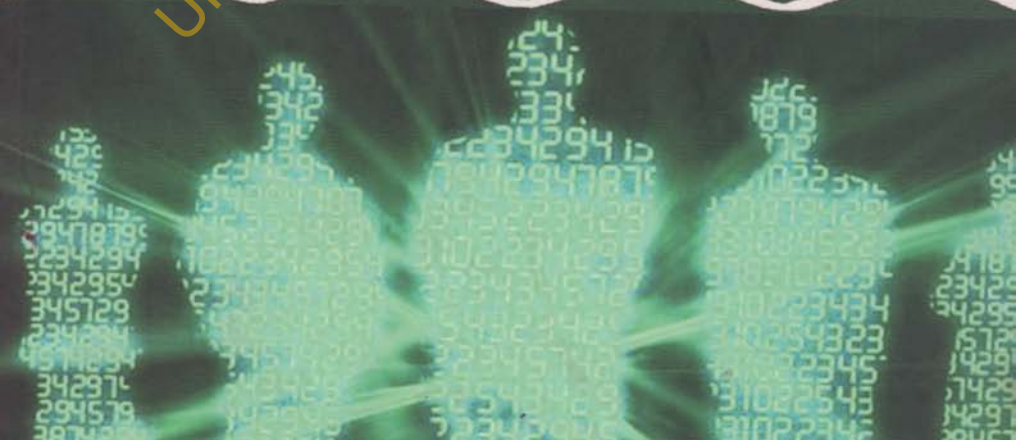


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The Institution of *Waqf* as an Instrument of Peace and Security in Nigeria

Mubarak Ademola Noibi¹

Abstract

This paper addresses the challenge of insecurity which is engendered in Nigeria by gross economic inequality and extreme poverty. As a lasting solution, the paper therefore suggests the redistribution of wealth through the instrumentality of the Islamic institution of *waqf* (charity endowment). The institution of *waqf* would reduce the impact of economic shocks, provide social wages and generate employment for the poor. It would also assist the target group by providing sustainable welfare packages to them. Without doubt, the full utilisation of the institution of *waqf* would reinforce the pillars of love and brotherhood, and stimulate enduring peace and security in the country.

“I wonder how someone without food in their house would not attack people with their sword” (Abû Dharr al-Ghiffârî).

Introduction

Peace and Islam have the same etymological root and so may be viewed as synonymous. One of the attributes of Allah is *as-Salâm* (peace). The five canonical prayers, which occupy a crucial and fundamental position in Islam, are usually terminated with the words of peace. The greetings of Muslims on meeting each other also

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express peace and lastly, the final abode of righteous Muslims in the hereafter is known as the home of peace (*Dar as-Salâm*)¹. In the Qur'ân, *as-salâm* and *as-salm* are the word used for peace while 'a-mi-na is a verb denoting "to become secure". Derivatives of the verb 'a-mi-na, which are contained in the Qur'ân, are *al-'amn* and *al-'amnah* (security). In the Qur'ân, *as-salâm* occurs 42 times while *as-salm* appears in only two places.² As for security, the various forms of the verb 'a-mi-na appear in 22 places while the forms of its derivatives: [*al-'amn* (security), *al-'amnah* (security), *al-'âminûn* (the secured ones), *m'manah* (place of security), *ghayr al m'mun* (not secure)] occur in 26 places: *al-'amn* (5), *al-'amnah* (2), *al-'aminun* (17), *m'manah* (1), *ghayr al m'mun* (1)³. These underscore the importance Islam attaches to peace and security.

In view of the position of Islam on peace and security, the Organisation of Islamic Conference, to which Nigeria belongs, has, in its Cairo Declaration on Human Rights, made the following statement: "Everyone shall have a right to live in security for himself, his religion, his dependents, his honour and his property"⁴. Abu-al-Hasan al-Mawardi (d1058), while discussing about the rule of mundane conduct (*adab al-dunya*), postulates that for human aptitude and estates to be fulfilled, worldly order (*Salah al-dunya*) requires six conditions of which only two are relevant to this study. First, law and order will reign, thereby engendering universal sense of peace and security, and making social existence possible.⁵ Al-Mawardi is of the view that peace and security can only ensue in an atmosphere of justice. He then categorises security into two types: general security and special security, which is peculiar to certain situations and circumstances.⁶

The second principle, according to al-Mawardi, is general economic prosperity and well-being which are often manifested in robust resources and revenue.⁷ Al-Mawardi postulates that general well-being and economic prosperity would go a long way in reducing envy, grudges and hatred among individuals within the community. It would also entrench in people, the habit of assisting and cooperating with each other. In this circumstance, the low and the high classes of people in the community maintain high standard of affinity and cordiality. Al-Mawardi then concluded that well-being and economic prosperity is one of the strongest factors responsible for prosperity

which leads to richness, generosity and security in the society.⁸

Peace and security is no doubt healthy for the growth and development of the society as no community can ever make progress without them. Protection of life is a fundamental measure undertaken in Islam to bring about peace and security in the society.⁹ In Islam, the sanctity of life is sacrosanct and inviolable as Allah has declared that life should not be taken except for a just cause as He says: "Nor take life which Allah has made sacred except for just cause..." (Q17:33).¹⁰ In yet another saying, Allah says:

...We ordained for the Children of Israel that if anyone slew a person, unless it be for murder or for spreading mischief in the land, it would be as if he slew the whole of mankind. And if anyone saved a life, it would be as if they saved the life of the whole of mankind... (Q5:32).

While commenting on the above *ayah*, Mawdudi says that it emphasises the sanctity of human life as that is essential for the preservation of human life. Thus, everyone is expected to regard the life of the other as sacred and help to protect it. One who takes the life of others surely proves that they have little regard for the sanctity of human life. Hence, such a murderer is viewed as the enemy to all and friend to none. On the contrary, one who saves a life is seen as saving the life of human beings in general.¹¹ Islam emphasises the preservation of human lives from being destroyed whether individually or collectively. As an extension to the rule of preservation of life are the organs in the human body.¹² To fulfil the preservation of life, security against attacks on peoples' lives must be guaranteed. There must also be the provision of food and drink, clothing and shelter, and protection against infectious diseases and mortal dangers.¹³

Next to the protection of life is the protection of properties. This is a priority in Islam as it is the property of individuals that often contribute to the growth and development of cultures and civilization. Allah underscores the protection of property when in a number of *ayah*t of the Qur'an, He warned against unlawful acquisition of the property of others (Q2:188, 4:161, 9:34). Prophet Muhammad (SAW)¹⁴ was reported to have also emphasised the protection of property in the text of his last sermon when he said: 'O people!

Surely, your blood, your property and your honour are sacred and inviolable until you appear before your Lord, as the sacred inviolability of this day of yours, this mouth of yours and this very town (of yours)". Muslims are cautioned against violating the right of others to property as such an act leads to bloodshed and threatens the peaceful existence of people in the society¹⁵. Rather, Islam teaches the protection of wealth of individuals and that of the community from being destroyed or shifted to the hands of others without due compensation.¹⁶

Whereas much research has been conducted on the relationship between poverty and inequalities on the one hand and insecurity on the other hand, little seems to have been done in the area of curbing insecurity in Nigeria through Islamic, non-governmental welfare institutions for the poor. This paper aims at filling the gap.

The paper is divided into eight sections. While this section introduces the paper, the second discusses inequality, poverty and insecurity in Nigeria. This is followed by the discussion of the concept of *waqf*. The fourth section deals with the conditions for the establishment of *waqf*. The fifth examines the history of the institution of *waqf*, while the next two sections examine cash *awqâf* and contemporary developments, and that of the socio-economic impacts of *awqâf* respectively. The eighth section is the conclusion.

Inequality, Poverty and Insecurity in Nigeria

There are a number of theories linking crime with poverty and inequalities in the society. According to Ibn Khaldûn, general insecurity such as wars resorts from the desire of certain human beings to take revenge on others. The reason behind such revenge stems from jealousy, envy or hostility among others.¹⁷ Ibn Khaldûn then classifies wars into different types, out of which is hostility, found among the savage nations living in the desert. These savage nations usually sustain themselves by depriving others, especially travellers and traders, of their possessions through the use of arms and ammunition at their (savage nations) disposal.¹⁸ A careful look at Ibn Khaldûn's assertion reveals that those who have no tangible and sustainable means of income but witness a display of wealth without some compensation or generosity towards them may be tempted to resort to violence in order to make ends meet.

While commenting on the dangers of poverty on the society, Al-Qaradawi says that poverty infringes on the peace and security of the society. He claims that it is possible for the poor to persevere if their poverty is natural. However, if the poverty is an artificial one and a few live in affluence at the expense of the masses, then this kind of poverty could arouse the anger of people, causing chaos and destroying the pillars of love and brotherhood in the society. If artificial poverty continues in the society, unlimited hatred is expected to burn in the hearts of men. This would create a division between the rich and the poor, and destructive principles would be formed in the society.¹⁹

There are a number of conventional theories on crime and poverty. These include: economic, strain, social disorganisation, structural, and the culture of poverty theories. Economic theory of crime views crime as a phenomenon that emanates in the society as a result of gross economic inequalities. Thus, when poor individuals with marginal market returns are placed next to a rich individual who receives high returns on their economic activities, there is the propensity of the poor to commit crimes. This is most likely due to careless display of wealth when others are deprived of means of fulfilling their basic needs. The strain theory argues that when the relatively successful individuals are placed together with the relatively unsuccessful, the latter feel frustrated at their situation and the greater the income inequality, the greater the strain and the tendency to commit crime. The social disintegration theory states that crime occurs when the mechanisms of social control are weakened in the society. Social control mechanisms are often weakened by poverty, family instability, racial heterogeneity and residential mobility.²⁰

The structural theory postulates that if there is an extreme concentration of the disadvantaged in neighbourhoods, such residents are more likely to be deprived of jobs and conventional role models. In that situation, there is usually a dearth of the middle class and the working class families to act as social buffers in cushioning the effect of poverty and inequity in the neighbourhood. Further, the inequality and poverty that ensue in such neighbourhoods are likely to facilitate high levels of crime in the society.²¹ The other factors likely to encourage criminal activities within disadvantaged neighbourhoods include lack of watch-dog networks (such as families, neighbours

and other primary groups) to check potential criminal activities of youths, such as truancy and hanging out, and inability to organise community-based internal mechanisms like volunteer patrol organisations. Lastly, local organisations that link individuals with the wider society, such as schools and recreational centres in order to foster mainstream values, are usually not available.²² The theory of the culture of poverty explains that urban slums usually lead to the subculture of fatalism, toughness, smartness and excitement, which end up derailing the youths through conflict with the law. The unequal distribution of opportunities among classes of people determines those likely to deviate and the form such a deviation would take.²³

Observers have noted that the rate of inequality in Nigeria is astronomically high.²⁴ Adding to this difficult situation of the poor is the deplorable level of social services in the country. It is axiomatic that over the years, Nigeria has scored low in the human development scale of the United Nations Development Programme (UNDP)²⁵ as a result of this situation. It has been observed that most of the groups actively involved in criminal activities in Nigeria recruit their members from the army of the poor. In fact, poverty and gross economic disparity have been identified as factors in the increase of crime involving the use of small and light weapons in Nigeria.²⁶ An instance of this is the Maitatsine group, which was the nickname of a heterodox Cameroonian religious teacher, who recruited most of his followers from the readily available army of the poor. In fact, the Almajiri²⁷ system in Nigeria greatly acted as impetus for Maitatsine group to flourish. Through the activities of this group, many ferocious clashes culminating in several deaths occurred in the country.²⁸ Furthermore, another group, Boko Haram has a good majority of its membership drawn from among the extremely poor and young individuals.²⁹ It has also been noted that lack of generosity on the part of wealthy Nigerians, coupled with the careless display of their riches, is a major factor engendering crime in Nigeria.³⁰

The world leaders had shown enthusiasm and the spirit of cooperation in their adoption of the Millennium Development Declaration of 2000, part of which is to eradicate poverty by 2015. Salamon and Anheier have opined that given the enormity and intricate nature of the world's poverty, governments and markets on

their own are not likely to resolve the endemic challenge. Rather, the intervention of the voluntary sector is being increasingly felt as one of the contributors to economic growth and welfare. This voluntary sector consists of civil societies- groups and non-governmental organisations³¹. In view of the arguments stated above, a solution provided by Islam is the institution of *waqf*. It is therefore important to examine this institution.

The Concept of *waqf*

Waqf is an Arabic word derived from the verb *wa-qa-fa*, which means to stand or to stop. *Waqf*, which stands out as its verbal noun with its plural as *awqâf*, means standing or stopping. *Habs* is another name for *waqf*. *Habs* means: holding, keeping, obstructing, confinement or blocking-off. Under the *Sharî'ah*, *waqf* or *habs* means a kind of gift wherein the corpus is detained while the usufruct is set free. Detaining the corpus here denotes the prevention of the gift from being inherited, given out as a gift, sold, lent, mortgaged or rented out. Similarly, the setting free of the usufruct denotes the dedication of the gift for the purpose afore-mentioned by the giver or founder (*wâqif*) without any pecuniary return or gain.³² *Waqf* is a fundamental instrument which serves the purpose of redistributing income in an Islamic economy through non-obligatory means. A *waqf* exists when a privately-owned property is permanently endowed as charity with the revenue generated from it spent for the same purpose (charity).³³

The institution of *waqf* serves different purposes in the society. For instance, there are those dedicated to the aged, the children, provision of water, empowerment of the poor and the needy, production and distribution of the Qur'ân, building and maintenance of mosques, and care for the orphans among others. Kahf has added that contemporary *awqâf* could come in form of intellectual property; it can also be extended to educational software programs, and many other intangible properties.³⁴ *Waqf* proceeds are spent on human capital development and productive and income enhancing ventures, all for the purpose of empowering the poor and eradicating hunger.

The first *waqf* to be established on the surface of the earth could be traced to Prophet Ibrâhîm³⁵ (AS)³⁶ and his son, Prophet Ismâ'il (AS), when they jointly raised the foundation of the first mosque on earth, the Ka'bah in Makkah (Q2:127). The first *waqf* that was

established by Prophet Muhammad (SAW) was the construction of a mosque in Madinah after the purchase of its land. Similarly, the Prophet (SAW) assigned the seven orchards left for him by Mukhayriq who was martyred at the Battle of 'Uhud as *awqâf*.³⁷

Raissouni has rightly noted that *waqf* has to do with the procedure of anticipating and managing the issue related to the hereafter for the person establishing the *waqf*, but a worldly future of the person deriving benefits from it.³⁸ The saying of the Prophet (SAW) has given credence to the establishment of *waqf* with the hope of gaining the reward in the hereafter as it serves as one of the few means of getting rewards after death. This has been the driving force in the establishment of *awqâf* in the annals of Muslims. This saying of the Prophet (SAW) goes thus:

When a person dies, all deed for which they are rewarded come to an end except in respect of three areas: perpetual charity, whose benefit is continuous (*waqf*), knowledge (left by them) from which benefit continues to be derived and the supplication of their righteous children.³⁹

A similar tradition of the Prophet (SAW) sheds more light on the virtues-deeds which fetch rewards for the dead. The seven virtuous deeds that are mentioned here include: beneficial knowledge, righteous children left by them, religious scriptures inherited from them, mosques built by them, guesthouse for travellers built by them, stream or source of water facilitated by them and the perpetual charity that they gave from their wealth while alive and in good health. The tradition reads thus:

Surely, among good deeds which reaches a believer after their death are: (good) knowledge they have spread (taught) to others, a righteous child that they have left, religious scriptures inherited (from them), a mosque they have built, a guest house (for travellers) that they built, a stream that they have made to flow and a perpetual charity (*waqf*) that they gave from their wealth while in good health in their lifetime. Rewards for these reach them after their death.⁴⁰

Among the companions of the Prophet (SAW), 'Umar bin Khaṭṭāb, who later became the second *Khalifah* of Islam, was the first to establish a *waqf*, though it was not expressly called a *waqf*. This is

evident in the *Hadith* that states as follows:

Ibn 'Umar narrated that: 'Umar acquired a parcel of land at Khaybar and went to the Prophet (SAW) asking for his instruction regarding the land. He ('Umar) said "O Allah's Messenger (SAW), I have acquired a piece of land at Khaybar which is the most valuable property that I have ever acquired. He (the Prophet [SAW]) replied, "If you wish you may make the property an inalienable possession and give its produce as *Ṣadaqah* (charity)". So 'Umar gave it as *Ṣadaqah* that must not be sold, inherited, or given away and he gave its produce as *Ṣadaqah* devoted to his poor relatives, the emancipation of slaves, Allah's cause, travellers and guests. It is not a sin if the one who administers it eats (i.e. takes) something from it in a reasonable manner or gives something out of it to a friend to eat, provided he does not store anything as goods (for himself).⁴¹

The fruits from 'Umar's *waqf* were distributed among his family members and the poor. The proceeds were also utilised for the liberation of slaves, provision for guests and the wayfarer, and some reasonable quantity to its caretakers.⁴² Aside from the establishment of 'Umar's *waqf* described above, another prominent *waqf* was the one established by Uthmân bin 'Affân, who later became the third *khalifah* of Islam, in Madinah. This *waqf* came up as a result of difficulties confronted by the community in respect of accessing water. It happened that there was only one well containing fresh water in Madinah and this belonged to a Jewess who sold water from it at an exorbitant rate. It was this that made the Prophet (SAW) to advise any of his companions who could afford to buy the well and make it free for public consumption to do so. Following that advice, 'Uthmân gladly bought the well and made it a *waqf* for the use of all irrespective of religious or tribal affiliations. This incident is recorded in the prophetic tradition as follows:

On the authority of 'Uthmân, who said that the Prophet (S.A.W) entered Madînah while there was no well from which to fetch fresh water except the Well of Rûmah. He then said "Who will buy off the well of Rûmah and then make their water-skins and that of other Muslims fetch in it in exchange for Allah's (reward) awaiting them in *al-Jannah* (paradise). Then I ('Uthmân) bought it with my money."⁴³

There are two kinds of *awqâf*. They are *waqf khayrî* (charitable/

public endowment) and *Waqf 'Ahlî* or *Waqf Dhurrî* (private/family endowment). *Waqf khayrî* (charitable/public endowment) is the kind of *waqf* dedicated to the totality of the masses. It serves everyone and does not discriminate against anybody. This class of *waqf* comes in the form of hospitals, trees planted for the relaxation of passers-by, and bridges among others. 'Umar's dedication of the proceeds from his private land and the purchase of the Well of Rûma in Madinah by 'Uthmân, fall under this kind of *waqf*. Conversely, *Waqf 'Ahlî/Dhurrî* is the kind of *waqf* dedicated to benevolence and cementing of the bonds of kinship with family members. This form of *waqf* prevents the family members of a rich personality from resulting to begging as their needs are catered for from such an endowment.⁴⁴ This kind of *waqf* has its root in the Qur'an where Allah says:

O mankind, reverence your Guardian Lord who created you from a single person, created of like nature, his mate, and from them twain scattered (like seeds) men and women. Fear Allah through whom you demand your mutual (rights) and (reverence) the wombs (that bore you): for Allah ever watches over you (Q4:1).

Commentators on the Qur'an (*al-mufasssîrîn*) have noted that this 'âyah connotes the fear of cutting-off the bond of kinship. Again, among the numerous 'âyât of the Qur'an supporting family *waqf* is the one which states that: "By no means shall you (all) attain to righteousness unless you (all) give (freely) of that which you love, and whatever you give of a truth, Allah knows it well" (Q3:92).

It was narrated that Abu Talḥah, one of the *Ansâr* (helpers) in Madinah, had a beautiful garden, which happened to be the most beloved of his property. This garden was called *bayrûhâ* garden, and was located just in front of the Prophet's (SAW) mosque. In fact, the garden sometimes served his needs.⁴⁵ When the above âyah of the Qur'an was revealed, it propelled Abu Talḥah to seek an audience with the Prophet (SAW). He informed the Prophet (SAW) of his intention to give the beloved garden out as charity in Allah's cause (i.e. a *waqf*). He was also quick to add that the Prophet (SAW) should spend the proceeds of the *waqf* where he deemed fit. Then the Prophet (SAW) said:

Well done! It is a profitable property; it is a profitable property. I have heard what you have said, and I think it would be proper if you give it to your kith and kin.⁴⁶

Analysts have also cited the saying of the Prophet (SAW) encouraging rich individuals not to live their heirs as destitute.⁴⁷ Therefore, founders of family *waqf* have ample, divine evidence for limiting their generosity and the alleviation of poverty to their family circle and thus reducing poverty and income inequality within the family.

Conditions for the Establishment of Waqf

There are a number of conditions guiding the establishment of *waqf*. One of these is that it must be established with the intention of it being perpetual. This view is common among scholars of Islamic jurisprudence. However, the Maliki School holds the view that if it is stipulated by the founder (*wâqif*) that such a *waqf* will return to them after a period, it should be carried out accordingly. A *waqf* must be released from the authority of the *wâqif* to that for which it has been donated. However, if the *wâqif* passes on before the delivery of the possession, the *waqf* becomes null and void⁴⁸. This is because the property originally intended as *waqf* has ceased to be their own and has become that of their heirs.

The *wâqif* should also be mature, sane and should not be under compulsion in giving out the property. They should also be comprehensive in their statement of offer of the *waqf*. Furthermore, the property must be beneficial under the *Shari'ah*. For instance, it must not be a dancing or gambling house or the like. The *Shari'ah* also requires that its benefits should not be short-lived. As such, it should not be food since it will be exhausted over a very short period. This is one of the factors distinguishing it from ordinary charity.⁴⁹

If a *waqf* makes excess gain over and beyond its expenditure, it is allowed that such excess proceed be transferred to a *waqf* with similar functions. Also, a *waqf* can be exchanged for another. This will be applicable when the community served by the *waqf* sells the *waqf*'s building to purchase a better building but with the same function. They could even go ahead to demolish the building in order to build another if it has become weak. However, the exchanged one must be acquired from the proceeds of the original one. 'Umar bin Khattâb did something similar when he moved a mosque to a new area with the old building later serving as a market place.⁵⁰

The Institution of *Waqf* in History

The piety and conscientiousness of Muslims contributed to the establishment of numerous *awqâf* in history. However, these institutions were also established by some people for some personal reasons. Purity was thus mixed with pecuniary and worldly purposes. Some *awqâf* were established as means of seeking safety from environmental disorders. One of the reasons for the establishment of *awqâf* was status. Some founders of *waqf* wanted their names to be immortalised. They then asked that their names be mentioned after each of the five compulsory prayers and *Jumu'ah* (Friday) service at mosques built by them as *waqf*. Others stipulated that the *awqâf* bear their names or members of their families.⁵¹ In Nigeria, some *awqâf* such as schools and mosques bear either the name of their founders or their close relatives with the motive of immortalising them. However, this does not necessarily invalidate the sincerity of purpose of their founders.

Awqâf were also established to gain some political grounds. There are records of it being used to win some political and ideological loyalists. In the area of politics, *waqf* was used to win some political constituencies by Sultan Khasseki whose provision of social wages through *waqf* attracted followers. This resulted in the consolidation of Ottoman ruler's political authority.⁵²

Closely related to that was the use of *awqâf* to spread intended ideologies of their facilitators. This is applicable mostly to educational *awqâf*. In this case, teachers are requested and encouraged to be loyal to them (the founders) and their ideology. These developments resulted in teachers instilling such loyalty and stereotyped ideology in their pupils or students. By so doing, students who graduated from such institutions in their numbers preached and acted on such loyalty and ideologies. These ideologies were in turn preached to the masses.⁵³ In Nigeria, there were cases where communities purchased parcels of landed property for the purpose of erecting mosques but with paucity of funds to achieve their construction. In the process of sourcing for funds, they sometimes stumble on international Islamic foundations that may construct the desired mosques with the condition that the founders would choose the Imams of such mosques. These appointed Imams often propagate the ideology of the foundations.

Moreover, there is a consensus of opinion among the *sunnī* (orthodox) schools of Islamic jurisprudence that a *waṣīyyah* (will) is not to be made to an heir except with the permission of the other heirs. Similarly, value of a will must not be more than one third of the value of the total estate of a deceased if they have any heir. While keeping in line with this injunction, an individual may decide to stipulate in the deed of the *waqf* that their family members or any other person may benefit from it. This action which could prevent the fragmentation of the founder's real estate, served as a conduit for the founders of *awqāf* to cater not only for their choice heirs but also to enrich themselves.⁵⁴ Nevertheless, this action must be discouraged as it is a backdoor to getting around the dictates of the Islamic law.

Furthermore, this unislamic practice is not peculiar to heirs but also to freed-slaves. This is because the *waqīfūn* (*waqf* founders), between the 16th and the 19th centuries, supported their freed-slaves. These freed-slaves played vital roles in the domestic, military and civilian administration in the Ottoman Empire. As contained in the *Shari'ah*, slaves whether freed or not, have no place in Islamic inheritance. However, freed-slaves could inherit, if there are no heirs, either through kinship or marriage, to inherit their masters.⁵⁵ Hence, the *waqf* served as a way of providing for them. This development, in turn, ensured loyalty of freed-slaves to their masters. In addition, freed-slaves were provided for by being made direct beneficiaries of the *waqf*, and by being recipients of positions of administration in them. They could also benefit from the *waqf's* income or be made to stay and live in the *waqf's* buildings.⁵⁶

Waqf equally served the purpose of gender discrimination. This was in line with the *Jahiliyyah* (period of ignorance) practice of denying female descendants the right to inherit. The practice was popular among the affluent who reverted to Islam in its early centuries.⁵⁷ The practise was almost the opposite in the case of some Turkish-reverts who, in their feminist attitude, made the share to both male and female heir equal.⁵⁸ This gender discrimination practices are not in consonance with the spirit of Islam.

Finally, influential farmers and people of substance also established *awqāf* to protect their properties. These powerful people acquired properties through illegitimate means and then converted

them to *awqâf* in order to avoid their confiscation.⁵⁹ They hide under the pretext that embezzled state properties or those usurped from personalities will be beneficial to all through the institution of *waqf*.⁶⁰ By this practice, they applied the principle of “the end justifies the means,” which is not tenable in Islam.

Cash *Awqâf* and Contemporary Developments

Raissouni has asserted that contemporary peculiarities and willingness of average income earners to participate in the establishment of *waqf* has necessitated the reconsideration of the requirement of immovability leading to the inclusion of moveable items. One of these inclusions is cash which comes in the form of firms and investment ventures known as cash *waqf*. Nevertheless, the new institution shares the fundamental condition of immovable *waqf*, which is that the property must support the target population by generating income to support them.⁶¹

Exceptions are no doubt entertained on the general principle of immovability, especially among the Hanafî scholars. These exceptions include the endowment of moveable assets in real estate *awqâf*, such as sheep of a farm and oxen. Imam Zufer, a revered Shâfi' scholar passed a ruling that the cash *waqf* was legal and legitimate. He went further to suggest that endowed cash may form the capital base of a *Murârabah* (trustee project financing) from which profits realised can be dispensed in line with the general purpose of the *waqf* as contained in its charter. To buttress this is the conclusion of a symposium held in Istanbul, Turkey, wherein participants asserted that all the techniques utilised by cash *awqâf* in their transfer of funds to borrowers were carefully scrutinised by the Ottoman jurists, making them legal. In addition, endowed assets could be liquidated and the cash obtained as a result utilised as a capital meant for a *Mudârabah*.⁶² Rashid has claimed that Ameer Ali has included the inclusion of government securities, debentures and stocks as valid for *waqf* since cash *waqf* is acceptable.⁶³

Although cash *awqâf*, emerged in the 8th century (CE), by the 16th century (CE), they had accounted for over half of all new *awqâf* in the Ottoman Empire. These cash *awqâf* had deviated from the pristine teachings of Islam by earning income through *ribâ* (interest) from loans. The profits from cash *awqâf* were spent on different types

of social activities which include mosques, food security, education, maintenance of prisons, and personnel cost of judges in local courts among others.⁶⁴ There are a number of cash *awqâf* invested in the field of social and economic development the world over. As part of these *awqâf* is the Direct Aid Association previously known as League of the Muslims of Africa, with its headquarters in Kuwait. This *waqf* operates as a multidimensional *awqâf* bonds similar to company bonds where individuals can invest their funds in their areas of interest. The *awqâf* bonds include that of education, real estate, care for the orphan, advocacy, and Islamic centres among others.⁶⁵ This idea could apply to Nigeria as it would afford the middle class the unique opportunity of contributing to the establishment of *awqâf*.

Similarly, there is another *waqf* called the SAR charitable institution with headquarters in Virginia, USA. The SAR charitable institution is wide-spread as it has legally independent branches in countries such as Canada, Russia, Turkey, Malaysia, Egypt, Morocco, Zimbabwe and Ivory Coast. This *waqf* has investments in agriculture, real estate and land development, construction, pharmaceuticals, textiles and commerce. The aforementioned *waqf* supports Islamic and social development programmes. These programmes include education, supporting persecuted Muslim minority groups, establishment of mosques and collaboration with some other charitable organisations. There is also the International Islamic University, Malaysia endowment fund which was established in 1999. This *waqf*, which sources its fund from individuals and corporate bodies within and outside Malaysia, provides financial assistance to about 1,500 students from different parts of the Muslim world.⁶⁶ The ability to replicate the like of these *awqâf* and invite existing ones to establish branches in Nigeria would be a right step at reducing inequality, poverty and insecurity in the country.

Socio-economic Impacts of waqf

The institution of *waqf* has achieved the provision of social infrastructures and welfare services through non-obligatory donation from the voluntary sector as against the provision of such through levying of taxation on all and sundry. It relieves government of massive budgetary expenditure on social infrastructures and services, thereby engendering reduction in deficits.⁶⁷ This institution of *waqf* has

brought about a drastic reduction in taxes, leading to enhanced productive and consumption capacities. It equally reduces the cost of goods and services, leading to non-inflammatory growth.⁶⁸ The massive introduction of *awqâf* to Nigeria would relieve government of the burden of struggling to empower the citizens and providing basic local amenities from scarce resources. This move is also likely to minimise the socio-economic shocks usually visited on the citizens by the government. These socio-economic shocks include increase in taxation, and removal of subsidy on consumables and social amenities.

With the *waqf* in place, it is possible, as evident in history, that a person could live all their lives dependent on the institution of *waqf*. This means that with it, there is the possibility of one meeting all their life requirements of goods and services without being involved in any revenue generation venture.⁶⁹ Therefore, it solves the challenges posed by under-supply of social wages, which causes poverty, inequality and crimes in the society.⁷⁰ Analysts have gone further to prove that *waqf* can be utilised in financing the poor through small loans and equity funds aimed at consumption enhancement and boosting productive capabilities.⁷¹

The institution of *waqf* was, in the past, confronted with a number of challenges. These included the use of the institution of *waqf* as a safe haven by lazy individuals who usually sit round the tombs of Islamic mystics (*sufis*) without any jobs whatsoever. This practice, which was common on the Asian continent and some other Muslim communities, could be controlled if emphasis is put on ethical empowerment through the proceeds from *waqf*. In addition, hereditary and non-conscientious appointment of *waqf* managers (*mutawallis*) to manage public *awqâf* often gives rise to corrupt practices. This situation is not likely to occur in the contemporary time owing to the eradication of slavery. Finally, keeping as sacrosanct, the word of the *wâqif* in all circumstances, right or wrong, is a negative aspect of *waqf* which has been challenged by scholars.⁷²

Conclusion

Thus, we may conclude that the Islamic institution of *waqf* is a viable instrument for wealth re-distribution as it has proven to be effective in history. This paper therefore argues that the establishment of *awqâf*

would not only drastically reduce poverty and inequality in the country, but also the propensity of the poor to commit crimes. The *waqf* institution would complement government's efforts in the provision of social wages and empowerment of the masses. It would also reduce government's potential inflationary moves towards meeting its socio-economic obligations. The financing of the poor from *awqâf* funds would lead to the creation of more Small and Medium Enterprises for the employment of the hitherto potential criminals in the country. This paper therefore recommends that Muslim individuals and Islamic bodies establish cash and non cash *awqâf* in different parts of Nigeria. If this is done, criminality would drastically reduce and peace and security would return to the country.

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