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Waqf system and civil society: A reading of the implications and limits of the relationship and the developmental function

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Abstract:
The relationship between religion and politics is one of the most important obstacles to political and economic stability in the Arab world. after adopting the option of nationalism as an ideology and political approach after the first and second Arab revolutions, which was reflected in the level of performance of societal institutions that have always had a leadership in Muslim civilization and the preservation of the societal and institutional structure of the state. Similar to waqf system, which throughout its history formed a balance of the relationship between the state and society, even with the transformations that this system experienced, which led to its development at times, and its decline, shrinkage, and state control over it at other times, especially with the crystallization of the civil society system, whose functions and roles overlapped, to the point of identification in some cases with the Islamic waqf system and its institutions.

Keywords: Waqf, civil society, development, economic function, charitable sector, third sector

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INTRODUCTION

Waqf is an ancient social and religious phenomenon, known by most of the laws and monotheistic religions and human societies, and it became more famous among Muslims - along with zakat - as one of the forms of charity and human giving, and European societies developed it into a stand-alone economic sector in the so-called third economy or charitable economy.

Waqf for Muslims has evolved and changed its concept from ongoing charity and from some properties or funds that were allocated to be places of worship until the concept of Waqf became associated with the mosque and cemetery, until imprisonment became one of the most important social and economic activities that promoted Muslim civilization for many centuries.

Over time, Waqf had an important role in the life of the Islamic community and the prosperity of its civilization, so its purposes expanded and its benefits abounded, and Waqf did not stop at the imprisonment of funds and real estate to build mosques and their architecture and provide them with various benefits, but rather expanded to establish libraries and build schools to spread science and care for students of knowledge, to build hospitals, bimaristans and pharmacies ,Establishing social care centersHelping the poor, sponsoring orphans, and building hospitals. The purposes of the endowment then multiplied until it included other economic fields. such as building schools and hospitals, farming the land, and others. In fact, armies were equipped with endowment funds, and the endowment reached the peak of its prosperity.Waqf continued to perform its function and role in the spiritual, cultural and social life of the Islamic community, as it truly represented a unique Islamic social phenomenon, an economic tool, a cultural tributary and a factor with great influence on the culture of society, which reflected positively on the civilization of Muslims for a long time, until it was destroyed. The decline, weakness and humiliation that Islamic countries have reached due to their falling under the yoke of colonialism, and the situation was not better even after

the independence of these countries Where the culture of endowment has declined.

Waqf have been confined and their role in the cultural, social and economic life of society has declined. However, the function that Waqf are intended to play today in achieving comprehensive development may overlap with the functions of other entities and organizations that derive their intellectual reference and tools of activity from the concept of Waqf as an idea and practice. These entities currently take various forms, and have even created a hidden sector that operates with charitable motives and tools, yet also benefits from government funding in the form of civil society organizations, or so-called charitable associations that seek to provide public benefit to society (the charitable sector).

Hence, the following dilemma arises: If this is the status of endowments in Algeria and many other countries, and given this enormous endowment wealth and the legal system governing endowment management, investment, and development, can the endowment sector rise to the level of a third sector alongside the public and private sectors? Can the endowment sector interact with civil society and unite with it in a complementary relationship to achieve social welfare and economic development, especially given the intertwined relationship between their functions in contemporary Islamic society? What goals can the endowment sector achieve to achieve the desired sustainable development in light of current geopolitical transformations and the trend toward embodying the concept of the Arab state and its implications for the endowment system in contemporary Islamic society?

The first axis: Waqf and the Modern State: A Reading of the Implications and Limits of the Relationship

First: Waqf and the State in the Islamic Perspective and Contemporary Political Thought

Waqf among Muslims is a phenomenon deeply rooted in the conscience, stemming from the impulse to goodness and the values of giving and piety. It has economic impacts and social repercussions, as noted by economists and sociologists, and has been adopted by religious laws and positive legal systems. This calls us to clarify the nature and reality of waqf in Islamic jurisprudence, law, economics, and society.

1. Waqf in Contemporary Islamic Thought: Zahdi Yakan believes that Waqf is the confinement of a property so that it is not owned by anyone, and making it subject to the rule of God Almighty's ownership, and disposing of its proceeds in a charitable manner, either now or in the future (Zahdi Yakan, n.d., p. 61). While Sheikh Muhammad Abu Zahra believes that Waqf is the prohibition of disposing of the property that can be used, while preserving its essence, and making the benefit for a charitable cause from the beginning and the end (Muhammad Abu Zahra, 1971, p. 44). so it is not disposed of by sale, mortgage, or gift, nor is it transferred by inheritance. Dr. Munther Al-Qahf believes that Waqf is the permanent or temporary confinement of money with the intention of repeatedly benefiting from it or its fruits in a charitable manner, public or private. It is a continuous charity as long as it or its principal remains (Mundhir Al-Qahf, 2000, p. 62).

2. Waqf from an economic perspective: The concept of Waqf is one with developmental and economic implications, combining savings and investment. At its economic core, Waqf is a developmental, productive, and investment process that seeks to build productive wealth capable of generating benefits and returns to support the most important aspects of economic, educational, social, and other political activities in the country (Majid Ahmed Al-Marashdeh, 2012, p. 8). In other words, it is a developmental process that includes building productive wealth through a present-day investment process that looks with

benevolence to future generations. It is based on sacrificing current consumer opportunities in exchange for increasing and maximizing social productive wealth, so that its benefits accrue to future generations.

3. The Modern Arab State: Historical and Political Contexts: After the Arab revolutions succeeded in overthrowing the Ottoman Empire, they turned into civil states, and Arab nationalism emerged, as nationalism became a reference for the institutions of the Arab states. Therefore, we will explain the impact of state dominance on religious and social activity.

3.1. The Reality of the Idea of Arab Nationalism: ationalism is the relationship that binds together the individuals of a single nation in a single homeland. Its foundation is the cultural unity created by the will of the nation's people, expressing a set of unified cultural factors (Udaybat Ahmad Hasan Aqla, 2006, p. 16). These values include religion, language, identity, national origin, and a shared destiny. Following the First Arab Revolt, these shared values formed the characteristics of an intellectual and political movement that contributed to the formation of the nation-state following the Arab countries' independence from European colonialism, particularly in the early 1950s.

3.2. Modern State Control over waqf: Since the independence of many Arab countries and their initiation into the phase of institutional and economic development, they have pursued a policy based on providing a legislative and institutional framework to utilize all of the nation's wealth, even those that enjoyed independence due to religion, history, and politics. This has made waqf system the greatest victim of this policy, as it has not been spared the shortcomings of government control over waqf.

Most Arab countries, based on the national concept, moved toward abolishing the private waqf and incorporating the public waqf into state property pursuant to special legislation, legal benefit decisions, or influential individual practices.

The situation remained unchanged, in a clear absence of political will and a regulatory framework for waqf, until the mid-1980s, when interest in revitalizing Islamic waqf institutions and restoring their social and economic role began to emerge.

Second: Features of the relationship between Waqf, society and the state:

The purposes and objectives of the Waqf in the past are no longer the same as those of the present. Rather, these objectives have changed according to the political and structural contexts that have come to characterize the modern state. After Waqf system was independent, it entered since the fifties under the umbrella of the public government sector, where new entities appeared that contributed to absorbing many aspects of social and even economic activity, such that the scope of their activity expanded to exceed regional borders, and it often reached a global scope. However, there is ambiguity about the content, objectives and function of each of them. What is the nature of civil society and its relationship with Waqf? Is it complementary or can each absorb the other?

1. The status of waqf between society and the state: The endowment has transformed, at various stages of the state's relationship with society, such that its center of gravity, in most periods, has become closer to society at the expense of the state. In other periods, attempts have been made to transform it into an added value to the state's authority at the expense of society. In all cases, the endowment has been one of the influential forces that governs the nature of the relationship between it and society (Abdul Rahman Asaad Rayhan, 2009, p. 16).

If we look at the political experience of Muslims throughout history, we find that it closely resembles, to a degree that may even be identical to, the model of a weak state and a strong society. This is because the nature of the concept of politics in Islam does not make the state a guardian of the public interest within limits that may intersect with the lives of individuals except at limited points and over long periods of time. At the same time, and disseminated, preserving its

strength, independence, and continuity, regardless of the state's status—strength or weakness, justice or injustice, effectiveness or corruption (Nasr Muhammad Arif, 2008, p.3). Historical and social studies confirm that waqf system has acquired a fundamental functional position in the structure of the social and political organization of Islamic societies, and that the primary role of waqf system, through this position, has been manifested in contributing to the construction of a common space between society and state. Ibrahim Al-Bayoumi Ghanem believes that the effectiveness of the endowment system in building a common space between society and the state falls within the framework of a solidarity relationship between them. This is because this system was not entirely absorbed in the interest of one party at the expense of the other. It did not lead to strengthening society and weakening the state, nor did it lead to its expansion at the expense of social freedoms. Rather, its role was focused on strengthening the balance between them by contributing to building a common space and not building a confrontational front behind which society takes refuge, in the manner that the philosophy of civil society leads to (Ibrahim Al-Bayoumi Ghanem, 2001, p. 44). The first cognitive principles on the basis of which Waqf system was established, and by returning to the jurisprudential rulings that organized it and controlled its areas of activity, and by comparing the system of public charitable works in which Waqf system is included, which can be called the system of works of solidarity and mutual support, can only make Waqf an intermediary between society and the state.

Historically, waqf has been a source of endless, renewable financial independence for all the civilized activities and social and humanitarian services in society (Nasr Muhammad Arif, 2008, p. 4).

2. The relationship between Waqf and civil society: The relationship between endowments and civil society is close and integrated. The prosperity and development of one leads to the growth of the other, and vice versa.If a sound understanding dictates exploring the means and capabilities that maintain the cohesion of positive interaction between society and civil

society, then Waqf is considered the first of those means and capabilities. But what is meant by civil society? Is its role equivalent to that of Waqf in development? In other words, can civil society and Waqf institutions unite in a complementary relationship, where each is influential in mobilizing, developing, and integrating the other within a comprehensive development process?

2.1 The Concept of Civil Society: The definition of civil society varies depending on the philosophical background and historical formation of the concept. It is sometimes referred to as non-governmental organizations, civil society institutions, public benefit associations, and the third sector. All of these terms agree that they represent social activity and individual and institutional public practices outside the scope of government and the business sector, directed toward the public good. Some of these terms also include the Islamic concept of waqf.

2.2. The Evolution of the Concept of Civil Society: There is no doubt that the birth of civil society, both as a concept and a practice, was a natural outcome of the social, economic, political, and cultural changes experienced by European societies after the European Renaissance. However, the activities of civil society, as voluntary institutions with developmental, relief, and scientific objectives, were not absent from Muslim history and civilization. The first appearance of the concept of civil society, as an idea and practice, dates back to the late sixteenth century, specifically 1594, as a synonym for the term local community. It referred to a group of people living in cities. Some trace the beginnings of this concept to modern Western civilization.

2.3. The Philosophy of Civil Society in Western Political Thought: Some researchers focus on the type of relationship that exists between civil society and the state, where an intertwined relationship arises between members of civil society on the one hand, and between them and the state on the other. These relationships are based on the exchange of interests, understanding, differences, rights, duties, and responsibilities. (Sahli Mabrouk, 2012, pp. 77-78). It is a set of political, social,

and legal structures within which a complex network of relationships and practices is organized between the forces and social formations in society through a group of voluntary institutions that arise and operate independently of the state (Abdul Qader Al-Ran, 2007, pp. 79-80). This leads to the existence of patterns of social, political, economic, and cultural relationships that are the result of interaction between different social forces and formations. These relationships are not of a uniform nature, as they may be cooperative, competitive, or conflictual (Ibrahim Mahmoud Abdel Baqi, 2006, p. 82).

Axis Two: Contemporary Foundations for waqf Development in the Modern Arab State:

In this regard, we must clarify the true nature of the term development, its evolution, and the relationship between it and the endowment, both in terms of its foundation and application.

First: The Nature of Development in the Islamic Approach and Positivist Thought:

Contemporary development thought relies on leveraging all the components and foundations of development in economic thought (the triad of wealth, human capital, and political will) to chart a growth path that benefits the nation.

1. The Reality and Evolution of the Concept of Development:

The term development has been among the most prominent terms in political, economic and Islamic thought since the 1960s.The changes in international conditions during that period led to continuous transformations in the concept of development, particularly after the emergence of the so-called Third World following World War II and the accompanying ideas and theories such as growth, dependency, and the problems of economic backwardness. The following is a detailed overview of the various concepts of development in contemporary thought, distinguishing them from some concepts that may overlap or be similar in language and terminology.

2. The Concept of Development: Development cannot be defined without examining its stages of development, especially when taking into account the circumstances of each country, its particularities, and the priorities of its social, political, and

economic programs. It is also important to emphasize the difficulty of understanding the relationship between endowment and development, which we will clarify through the following elements:

3. Development from an Economic Perspective: Many scholars and experts overlook the human dimension of development and focus on its economic aspects. Economic development is an economic term that refers to the optimal use of natural and human resources to achieve continuous increases in income that exceed population growth rates (Ayachi Sadiq Fadad, 2001, p. 7). It can be conceptualized as a process of quantitative and qualitative change for the better in the standard of living by increasing individual and national income, or by improving the quality of life and its necessities in a way that leads to a better standard of living (Al-Hakim Al-Safi, 2005, p. 123).

Economic development, in this sense, must achieve at least three goals:

- Increasing capabilities and distributing them across the various necessities of life.
- Raising living standards by raising income levels, increasing employment opportunities, improving education, and enhancing culture and human values.
- Expanding the scope of the economy and social capabilities at various individual and public levels, freeing them from dependence on others, and eliminating ignorance and culture.

4. Development in Islamic Thought: Islamic thought did not define the term development, but it did include terms that referred to it, such as empowerment, revival, and architecture.

The term architecture and construction is considered one of the most accurate expressions of development, as it refers to the advancement of various aspects of human life. This term primarily addresses aspects of economic development in its traditional sense, which does not go beyond maximizing various production processes. In Islam, development methods stemming from Islamic beliefs and values must be defined (Nemat Abdel Latif Mashhour, 1998, p. 45). This is because development in

Islam is not merely a production process, but rather a process of sufficiency in production accompanied by justice in distribution. It is not merely a material process, but rather a human process aimed at the development and advancement of the individual in both the material and spiritual spheres, given its characteristics of comprehensiveness, balance, justice, responsibility, and humanity (Al-Daoudi, Wassini Mahjoub Arraibi, Ahmed Boutelja, 2013, p. 6).

Some studies indicate that development indicators are based on average per capita income, the rate of capital accumulation, the degree of industrial complexity, and the per capita consumption of animal protein and electricity. Other studies have emphasized the importance of cultural factors and human skills that take into account human value, freedom, and dignity. In Islamic thought, the connotations of waqf and development are unified. Both aim to preserve the source of wealth, which is called sustainability.

This concept in Islam stems from a faith-based and devotional perspective, and aims to optimize the use of resources and human effort to exploit these resources.

Second: The Position of Waqf in the Development Equation

Waqf sector, with its developmental potential, can play a vital and prominent role in the development process and in addressing the economic challenges facing any Islamic country, in partnership with the public and private sectors. This is especially true if countries work to modernize and develop this sector. Waqf is one of the most important development tools that help achieve balanced development and generate the highest economic returns for society if properly organized.

1. The Developmental Implication of Waqf: There is no doubt that the concept of Waqf is, at its core, a developmental concept, given the expansion of Waqf purposes and their alignment with the renewed goals and objectives of development. It is no secret that Waqf has been the most important development tool in Islamic societies for successive eras, before the experience of Waqf or the charitable sector was transferred to the world. Waqf became an integral part of development in industrialized

countries. Meanwhile, its role in Islamic countries has gradually diminished, becoming marginal and very limited. In some Islamic countries, it has even been combated, both organizationally and security-wise.

Anyone who contemplates the relationship between Waqf and development will find that the relationship between them is essential. This is achieved through the possibility of benefiting from Waqf resources in transferring funds from consumption to investment. Waqf, in its essence and economic reality, is a development process, whether in developing productive assets or in distributing its returns to those who deserve it. Therefore, attention must be paid to its maintenance to preserve its ability to produce goods and services so that it can perform its role in accumulating productive capital allocated to charitable and philanthropic works in society (Fouad Abdullah Al-Omar, 2007, p. 222).

2. The human dimension of the relationship between Waqf and development: Development experiences and policies (economic and social) have proven the failure and ineffectiveness of economic thought and practice based on individualism and a purely capitalist outlook without considering the human being and his spiritual and social requirements. This makes us, as scholars and supporters of waqf system, emphasize the existence of an integrated relationship between the connotations of Waqf and development in thought and practice, as they share the same goals represented in preserving the human being, wealth and natural resources, and the goals of achieving social and economic well-being and human security, which can only be achieved under comprehensive development that seeks comprehensive change and modernization through careful planning whose goal is to raise the economic and social level, which can only be achieved by capable human elements.

Third: The Complementarity of the Relationship between the Development Functions of Waqf and Civil Society

we must question the extent to which a partnership between Waqf and civil society institutions is possible to achieve the desired development goals and bring society to the desired level of well-being. This will be detailed as follows:

1. Partnership as a Strategic Choice between waqf sector and civil society institutions: If we take a careful and close look at the concept of civil society and its development in the context of its historical formation, the intertwining relationship between its functions and roles with the economic and social functions of the waqf in the modern Arab state will become clear to us.If we accept that civil society, in one of its general and common definitions, refers to all institutions that enable individuals to access public expertise and benefits without government expansion and with independence from the coercive apparatus of the state, and that Its subject focuses on the cognitive domain that it specifically addresses, which necessarily requires transcending linguistic meanings and abstract terminological spaces and delving into the manifestations of the era and its social practices. In reality, each of them has a definitive relationship that arose between the waqf system and civil society, regardless of the nature of this relationship (Ali Muhyiddin al-Qaradaghi, pp. 19, 20).

Then, understanding the size, nature, and scope of charitable activity and humanitarian action dominated by civil society organizations makes us easily realize the drying up of funding sources for this activity due to direct or indirect considerations, foremost among which are weak government funding, oversight of external funding sources, individual reluctance, and the lack of non-institutional initiatives. The Awqaf Foundation, like civil society organizations, was established to meet charitable needs of a social nature. They are also distinguished by their lack of pursuit of profit through their activities, which serve the public good and contribute to achieving social change and development. This means the possibility of communication and raises the idea of effective

partnership as a strategic option between the two institutions to carry out many charitable activities through a clear definition of priorities that reflect common interests and goals. This requires waqf sector, in its quest to form a partnership with civil society organizations. The priorities of charitable work are determined by local communities represented by charitable associations and institutions in addition to the public of donors. The endowment sector can, through dialogue and interaction with these local organizations, identify the priorities of charitable and voluntary activity at the local level, so that this partnership achieves integration in the activities of the endowment sector and civil society institutions, due to the continuous need for cooperation between the two parties through the existence of common goals, mutual activities and mutual benefit (Kamal Mansouri, 2011, p. 25), especially since the public interest, development conditions and reasons for privatization and reducing financial costs require the endowment sector to seek the assistance of these institutions and the possibility of assigning or authorizing them to distribute the endowment proceeds and benefit from their expertise (Al-Hawrani, Yasser Abdul Karim, 2001, pp. 45-89).Therefore, We believe it is necessary to return to the endowment, as it is one of the most important financial sources for funding the activities carried out by civil society institutions.

Before the development of civil society and the emergence of modern legislation, the endowment was the most widely used organizational means for social development for many segments of society, and for mobilizing the efforts of civil society to support efforts aimed at raising the standard of living of individuals and society (Fouad Abdullah Al-Omar, 2010, p. 83). Arab-Islamic civilization requires the development of a unique concept of civil society that is consistent with the history, development, and uniqueness of the region. This calls for maximizing the role of voluntary institutions specific to the region, such as waqf, zakat, and charity institutions, to play a prominent role in development. This requires that the wealth of inherited waqf from previous eras not remain under the control of government administrations. Rather, we see the necessity of

involving community activities and non-profit civil society institutions in financing charitable projects to benefit from the movable and immovable waqf funds in a developmental movement in which waqf system and civil society institutions are aligned in a harmonious, integrated process in which the starting points, goals and objectives are united, leading to the formation of a society imbued with the values of giving, generosity and humanity while striving to achieve economic, societal and human security in general. It is an waqf society whose highest goal is seeking reward, being kind to loved ones and attaining religious, worldly and otherworldly benefits. This can be summed up in waqf society and its role in sustainable development.

2. The developmental function of the third sector in the modern Arab state: The third sector has come to occupy an important part of the national wealth and provides many services in several fields and it has become possible for it to be an effective partner in the process of human development as it is an important number in the economic equation in light of the transition from a planned or directed economy to a market economy and the problems and difficulties that accompanied this transition, in addition to the development of the voluntary sector in light of the complete trend to include it and recognize it as a basic partner in the development process (Omar Al-Barakati Al-Sharif, 2008, p. 7); Waqf are considered one of the most important sources of funding for the charitable (takaful) sector, as they achieve self-sufficiency in addition to the extrapolation of an amount of annual income due to the almost guaranteed investment returns (Turki bin Muhammad Al-Yahya, 2008, p. 8). This is due to its development potential and the alleviation of the general burden borne by the state, particularly in its economic dimension. This is also in light of the interest of non-governmental organizations at the global and international levels in the endowment sector, and the efforts to enhance its status and role so that it can take its rightful place and play a pivotal and influential role in political and economic decision-making centers.

Conclusion:

At the end of this study, we have attempted to examine the transformations of waqf system in the modern Arab state following the move toward national independence, and the tendency of each state to codify the provisions of this authentic Islamic system, in accordance with a vision consistent with its political ideology and prevailing economic approach. Some states have even abolished waqf system from their legal systems, while others have removed private or community-based waqfs from their legal systems.

With the development of societal practice and changes in contemporary political thought, civil society institutions have flourished, performing the same functions as waqfs historically. It has become difficult to distinguish between the two, even though waqf system remains alive and well in society's consciousness and economic behavior. It remains resilient, given its flexibility and ability to adapt to modern legal systems, institutional forms, and economic approaches. In light of what we have mentioned, we have reached a number of conclusions, which we summarize as follows:

- Like other established Islamic social systems and institutions, waqf have not been spared from falling under the control and influence of the state, even after their provisions were codified in positive laws and placed under the umbrella of the public sector.
- waqf remain capable of preserving their innovative developmental nature, despite the changing nature of society, its socio-cultural composition, and the nature of its current requirements. This has subsequently impacted the transformation of waqf expenditures and purposes.
- Civil society organizations now perform the same functions and seize vast areas previously covered by waqf (charity, humanitarian, and relief work), leading to confusion between the two sectors of society.
- The charitable sector in general, and endowments in particular, occupies paramount importance. It is not merely a religious act of worship; it is an economic system, a developmental

investment, and a societal behavior. The call to revive and promote endowments and activate their civilizational role does not necessarily mean abolishing the civil society system imposed by current social and political realities, both locally and globally. In light of these findings, the following proposals can be put forward:

- Waqf sector, as a charitable, cooperative sector, can become a self-sufficient economic sector and can effectively achieve social and economic development goals, especially since it is based on the duality of charity and profit.
- Waqf sector can, both now and in the future, constitute a true regulatory vehicle and institutional framework for the so-called third sector.
- There is no harm in borrowing from the Western charitable experience in volunteer and humanitarian work, which was originally established on the ruins of the Islamic waqf experience and has been embraced by Western societies and civil society institutions. This experience could capture the space of Islamic charitable work. Although the term "civil society" is a Western concept, originating in a Western environment as a result of the practices of authentic Western societies, society in the modern Arab state can benefit from various components of the charitable sector, whether endowment or social, as long as the goal is comprehensive development.
- The need to free waqf from state control and remove them from the umbrella of government oversight so that they can regain their independence and reclaim their civilizational and developmental role in society.

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