

The Management and Administration of Waqf Property in Bangladesh: A Study

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Abstract: Waqf literally means to determine the stability of substance to a particular person in which a specific property may be transferred permanently in order to religious or charitable purposes. As there is no specific mode to execute management of waqf property, but it can be executed through oral or written modes. Under the management of this kind of property, a Muslim can use this property and may earn money for the creator's family, children and other descendants, if needed. For the execution and completion of a waqf, a mere bonafide intention and declaration of waqif is sufficient. This is because a Mutawalli cannot exercise any kind of illegal power. For the smooth management of waqf property, the dedication must be permanent and subject matter of waqf must belong to the waqf. Sometimes it is found that a property (for example a mosque or graveyard) may be used for a long time or by immemorial user, in this case the process turned into waqf although there is no proof. However, the researcher emphasizes to find out any loopholes and recommendations for the development of waqf property management and administration in Bangladesh.

Keywords: *Waqf; Property; Bonafide; Mutawalli; Administration.*

Introduction: Waqf is the endless fidelity of any property, portable or irremovable by waqif for the benefit of mortal beings with the intention of attaining the ultimate pleasure of Almighty ALLAH. It plays an important part in the religious and socio profitable development of the Muslims. The vast coffers of waqfs can come a strong instrument not only for the preservation of religious, charitable and humanitarian institutions but also for the educational and profitable upliftment of the community. Islamic law though prescribes some specific provision for perpetration of waqf but in Bangladesh now this waqf is governed by the Waqf Ordinance, 1962. There's a huge lack of strong and efficient supervision provision regarding mutawallis. Every time we set up numerous cases of waqf but the proper perpetration of those waqf is still the most important challenge for the Waqf Administration of our country. Waqf is an important Islamic institution. It's one of the topmost sources of charity devoted for the overall development of the Muslim society. Traditionally it has been playing a significant part for the nutritional and flourishing of colorful religious, educational, profitable, social, and artistic confines of Islam. Waqf operation, development and its proper perpetration is a tremendous concern for the waqf administration. The miracle of corruption in the waqf operation can be discerned across history through abuse, mismanagement, sacking, encroachment and unlawful seizure upon waqf property [1]. Bangladesh is no exception in this case. Utmost of the waqf parcels in Bangladesh are either unrecorded, recorded, not duly maintained and left idle. Some of these precious waqf parcels, especially the lands are being leased out with nominal charges or vended out for insignificant prices. Shy force of waqf administration is one of the major problem towards waqf perpetration of Bangladesh. Numerous of the Mutawalli ignore the waqf rules and constantly violate the vittles of waqf constitution. Numerous of the waqf estate come inclined and misused unlawfully by the unauthorized intervention of the mutawalli's successors. Utmost of the mutawallis are ignorant about their duties and functions under the waqf laws of Bangladesh. Again due to negligence and incapacity of the mutawallis the proper conservation and the fulfillment of its object isn't possible. Still now there's no sustainable waqf operation and enhancement policy formulated for icing good governance and better operation of such a huge waqf parcels. The major objectives of the research are to find out the major obstacles towards proper perpetration of waqf; explore the strategies for effective development of Waqf parcels in Bangladesh; to discover the real practice of waqf management in Bangladesh and to find out the ways of waqf property operation system in Bangladesh.

Methodology: This article was written on the basis of qualitative method. Information of the study was collected from different research journal, Case references, books, legal documents, websites, primary and secondary sources. Mainly, this article was conducted by way of analytical and study-based. The researcher has tried to explain the management and administration of Waqf Property in Bangladesh. Theoretical Appraisal of Waqf The term waqf began from the Arabic word 'wakafa', which literally means boundup or detained [2]. Waqf, in Arabic language, means hold, confinement or prohibition. The word waqf is used in Islam in the meaning of holding certain property and conserving it for the confined benefit of certain philanthropists and proscribing any use or disposition of it outside that specific objects [3]. "Waqf" means the endless fidelity by a person professing Islam of any portable or irremovable property for any purpose honored by Muslim Law as pious, religious or charitable, and

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includes any other talent or entitlement for the forenamed purposes, a waqf by stoner, and a waqf created by anon-Muslim [4]. Meaning of Waqf can be expressed in different points of view similar as verbal point of view Waqf means proscribing movement, transport or exchange of commodity [5]. nonfictional meaning in the Arabic language Waqf means 'confinement or prohibition' [6]. In Legal operation Waqf means the non-negotiability of property power which is of exploitable value, and the direction of its benefits to a certain charitable purpose, formerly and for all [7]. Shari'ah point of view Waqf may be defined as holding a Maal (an asset) and precluding its consumption for the purpose of constantly rooting its usufruct for the benefit of an ideal representing righteousness and/ or philanthropy [8]. According to Ibn Qudama Waqf means leaving the property and earmarking the fruit [9]. In the case of *M. Kazim v Abi Saghir* (1932) AIR Patna 33, the court held that "extermination of owner's power in the thing devoted and its detention in such a manner that the gains may be applied for the benefit of humanity. Waqf extensively relates to land and structures. Also, there are waqf of books, agrarian ministry, and cattle, shares and stocks and cash plutocrat. The legal meaning of Waqf according to Imam Abu Hanifa, is the detention of specific thing in the power of waqf and the devoting of its profit or products" in charity of poor or other good objects". Imam Abu Yusuf and Muhammad say Waqf signifies the extermination of the waqif's power in the thing devoted and detention of all the thing in the inferred power of Allah, in such a manner that its gains may return to or be applied" for the benefit of humanity". In a waqf the property is settled permanently so that its repudiate is always available for an indefinite period. There cannot be waqf for a limited period. When a waqf is created, the property vested in the inferred power of Allah. The result is that its property becomes nontransferable. Indeed according to Abu Hanifa, who holds that property doesn't vest in Allah, the author has no right to transfer the waqf property [11]. Once it's created, the waqf cannot be abandoned. As the property is supposed to vest in Allah, the waqf cannot drop it latterly. The agreement of the property in waqf is unconditional and absolute. The yield and benefits of the waqf property are employed only for similar purposes which are honored as persuasions, pious or charitable under Muslim law. The objects of waqf shouldn't be in conflict with the Islamic principles. isn't necessary to produce waqf but according to the Waqf Ordinance, 1962 a valid and effective waqf must be in written form [10].

Statutes relating to Waqf Property Management: Some of the important Acts passed by competent authority for the recognition, protection, administration and management of waqf property are as follows:

- The Waqfs Ordinance, 1962
- The Waqfs Act, 1954
- The Punjab Muslim Waqif Act, 1952
- The U.P Muslim Waqf Act, 1936
- The Mussalman Waqf Validating Act, 1913
- The Mussalman Waqf Act, 1923
- The Mussalman Waqf Validating Act, 1930
- The Bengal Waqfs Act, 1934

The Waqf Ordinance, 1962 is in force now in Bangladesh and it's applicable for waqf created before or after this Ordinance. Large number of waqf estates in Bangladesh are administered by this Ordinance. Management and Administration The conception, extent and nature of Waqfs in Bangladesh is substantially grounded on the rules laid down by the Holy Prophet (PBH). Waqf in Bangladesh are created primarily as a family agreement of the Waqifs or dedicator's family or descendants with the main objects for charity and religious conditioning as well as security for offspring. Traditionally, the Muslim population of Bangladesh is deeply religious in sentiment having great attachment to the Islamic institutions and culture. These traits are more prominent in the eastern sections of the country due to the influence of Muslim priests and saints who worked in those areas comparatively more considerably, as similar, vast bents for multiple religious and social weal conditioning live there. Though Waqfs indicate fidelity of parcels in the name of Allah, in Bangladesh, keeping the spirit of Divine bliss we've different Purpose acquainted waqfs. In some cases total income of the waqfs goes to the conservation of Kirks, Madrashes, Idgahs, Graveyards, feeding the poor and festivity of different Islamic carnivals, while in other cases, the income is divided in colorful proportions for the purpose mentioned in the waqf documents similar as charity, redemption of obligation, benefit of descendants of the waqifs. Where further than 50 of the net available income of a waqf property is simply applied for religious and charitable purposes, such a waqf is supposed to be a Public Waqf [12]. also, bents where further than 50 of the net available income is meant for waqif's descendants, such a waqf is treated to be a Waqf- al- Awlad [13]. The Department of Waqf inherited by the Government of Bangladesh was a veritably small Organization. The number of officers are 111 only in the waqf administration [14]. In line with the new policy of the Govt. are-organized set up was conceived in 1988, as a result, a workable Waqf Administrative set up will now be functional with Divisional and District position services and it's done in several times with interval. Department of Waqf is headed by the Waqf Administrator and the Department with all its resource Constraints look after colorful religious and Socio-Economic institutions including, 500 Madrasha's has, 10Orphanages, 5 charitable drug stores etc.[15]. A Welfare Fund is established at the head office of waqf administration from where hires and education are awarded to poor and meritorious scholars as well fiscal subventions to destitute Muslims and recently converted Muslims for their instant backing and Rehabilitation. But virtually we yet not saw any similar approaches and perpetration of those effects. It's high time to develop our waqf administration, make the waqf provision more realistic and effective. In order to annihilate the obstacles towards proper perpetration of waqf we've to take time-befitting reform in the waqf administration as well as Waqf Ordinance, 1962. We've to

take proper way to ameliorate the skill of mutawalli. Due to the incapability and negligence of wakif numerous times we see that proper perpetration of waqf come insolvable. So, the loftiest trouble to insure proper perpetration of waqf is demanded. This is the central focus of this study and through this exploration it's suitable to find out the major walls towards proper perpetration of waqf and to suggest some critical and veritably effective way for removing the being problems of waqf perpetration in Bangladesh. Functions of the Waqf Administration In our country there's a waqf administration body which regulates the waqf operation. All the process regarding perpetration of waqf is done under the supervision of this body. It handle the most important functions regarding the enforcement of waqf. still the waqf administration performs the following functions[16]. a) Probing and determining the nature and extent of waqf parcels, and calling from time to time for accounts, returns and information from Mutawallis. b) Waqf properties and income arising there from, to be applied as per objects and purpose for the benefit of any class or persons for similar waqfs were created or intended. c) Giving directions for the proper administration of waqfs property. d) Managing himself, (director) or through the workers employed under this constitution or persons authorized by him, any waqf of which he may take or retain charge under this constitution. e) Doing all similar acts as may be necessary for the proper control, administration and operation of any similar property. f) Fixing the remuneration of a mutawalli, where there's no provision for similar remuneration in the waqf deed. g) Investing of any compensation for the accession of waqf properties under any law for the time being in force, by himself (executive) or by issuing directions for proper investment by the mutawalli. h) Generally doing all similar acts as may be necessary for the due control, conservation and administration of waqfs.

Result Discussion: The waqf in Bangladesh is going gradationally into oblivion this is because of corruption and irregularities in the system of leasing or dealing out of precious waqf estates. There's virtually no attempt to encourage development of waqf parcels in more profitable gambles like erecting marketable complexes, establishing real estate sector etc. rather, the Waqf administration appears to be more interested in granting permission for transfer of Waqf parcels by way of trade or parcel which becomes incontinently manifest when we see frequent degeneration of nearly all portion of some lands in Mirpur of Dhaka and other property have formerly been vended out through direct or circular contracts [17]. The Waqf Administration is to remain much further anxious in action. therefore it could invest the precious time for productive thinking of waqf parcels. Several times the waqf administration has been visited for the sake of collecting data. But it wasn't possible to collect necessary data from the said office. Rather it was told from that office to me that the Deputy Waqf Administrator remained utmost of the times enthralled with action over waqf properties. As the disputed cases arising out of the affairs of Waqf estates bear to be disposed of judicially on recording attestations and giving proper hail like judicial courts and the opinions given by the director are appealable before the District Judge and Supreme Courts, to meet the grievances of the displeased persons the director is to remain 80 of his workshop. The adjunct Commissioner is needed to examine each and every train besides keeping alert on the affair of the staff, accounts and pass on the lines to the director for the final decision. It is largely centralized. The Inspectors Adjudicators posted in the sections cannot give decision or pass any order. All the opinions and orders lie with the director at the Headquarters [18]. This speaks of why the office of Waqf administration remains always packed up with callers, complainants, protectors, responders, enrollment campaigners, and people with numerous further significant and insignificant issues. It is veritably weak in its power and function due to lack of needed vittles in the applicable laws and absence of professed force and its services at all quarter headquarters. The laws and regulations regarding 'Waqf' estates aren't clear and effective making the matter more complicated. Loose practices in handling the affairs of the see states made them disorganized and not able of delivering the services anticipated of them.

Suggestions: In order to apply the waqf property management and administration to make it more effective, the following suggestions are needed: a) A new Waqf Act may be introduced; b) Qualified and adequate manpower may be appointed; c) Development of Urban Waqfs and Issuance of Waqf Bond may be introduced d) National Waqf Advisory Board (NAWAB) may be established e) Staff benefit may be increased f) Waqf Tribunal may be introduced to settle different types of dispute

Conclusion: There are many waqf property in our country that could be employed to bring out the poor member of the population. For the necessary changes in the administration of waqf property in order to make it suitable, Bangladesh should set up its strategic actions with top precedence given to waqf property development. The benefits of waqf systems are far reaching. The challenge for Bangladesh therefore is to pursue the establishment of waqf related institutions. In the present environment of our country, if we want to ensure utmost result of the waqf property management, we've to bring reform on our present waqf related laws. The powers and functions of the waqf administration must be developed to meet the present challenge.

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