

MAQĀSĪD AL-SHARĪAH ON WAKAF SYSTEM

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Abstract. The main purpose of the shariah is realizing the benefit in order to maintain the shariah's purposes. There are three level of human's basic necessity: primary (*ḍarūriyyāt*), secondary (*hājīyyāt*), and tertiary (*taḥsīniyyāt*). The human's basic necessity is divided into five, *first*, protection of religion (*ḥifẓ al-dīn*), *second*, protection of life (*ḥifẓ al-nafs*), *third*, protection of mind (*ḥifẓ al-'aql*), *fourth*, protection of the offspring (*ḥifẓ al-nasl*), and *fifth*, protection of property (*ḥifẓ al-māl*). So it can be said that the aims of shariah can be achieved by fulfilling these five basic necessities of human beings. Waqf as one of the Islamic philanthropies has a big role and purpose to realize the benefit of human being, that is realizing the prosperity reflected by the fulfilment of human's basic needs in accordance with the goals of shariah be it primary, secondary and tertiary.

Abstrak. Tujuan utama dari syariat adalah untuk menciptakan kemaslahatan dalam rangka memelihara tujuan-tujuan shara'. Terdapat tiga tingkatan kebutuhan pada manusia, yaitu: *ḍarūriyyāt* (primer), *hājīyyāt* (sekunder), dan *taḥsīniyyāt* (tersier). Kebutuhan dasar manusia tersebut terbagi dalam lima hal, yaitu: pertama, menjaga agama (*ḥifẓ al-dīn*). Kedua, menjaga jiwa (*ḥifẓ al-nafs*). Ketiga, menjaga akal pikiran (*ḥifẓ al-'aql*). Keempat, menjaga keturunan (*ḥifẓ al-nasl*). Kelima, menjaga harta (*ḥifẓ al-māl*). Oleh karena itu dapat dikatakan bahwa *maqāṣid al-sharīah* dapat dicapai dengan terpenuhinya kelima kebutuhan dasar manusia tersebut. Wakaf sebagai salah satu syariat Islam, mempunyai peranan dan tujuan yang besar untuk mewujudkan kemaslahatan bagi manusia, yaitu untuk mewujudkan kesejahteraan yang tercermin dengan terpenuhinya kebutuhan dasar manusia sesuai *maqāṣid al-sharīah* baik itu *ḍarūriyyāt*, *hājīyyāt* maupun *taḥsīniyyāt*.

Keywords : Waqf, *Maqāṣid al-Sharīah*, *Maṣlaḥah*

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Introduction

The purpose of which Allah revealed the Shari'a to human beings is to give benefit to them and refuse danger and destruction from them. Shari'ah clearly contains good benefits both in the world and in the hereafter,¹ in the form of rejecting dangers (*mafsadah*) and realizing benefits. If a man uses his mind well, he will be able to understand the purpose of the shariah so that he can live his life in God's direction. The purpose of Shari'a comprises general principles which must be maintained: protection of religion (*ḥifẓ al-dīn*), protection of soul (*ḥifẓ al-nafs*), protection of mind (*ḥifẓ al-'aql*), protection of offspring (*ḥifẓ al-nasl*), protection of property (*ḥifẓ al-māl*). These are divided into three levels of objectives: primary needs (*darūriyyāt*), secondary needs (*hājjiyyāt*), and tertiary needs (*taḥsīniyyāt*).

Property is one of the primary needs (*darūriyyāt*) that must be maintained and preserved. The welfare in this world will not stand without it. Even property is one of the pillars that sustains life, as Allah in the Quran, al-Nisa: 5.

وَلَا تُؤْتُوا السُّفَهَاءَ أَمْوَالَكُمُ الَّتِي جَعَلَ اللَّهُ لَكُمْ قِيَمًا وَارْزُقُوهُمْ فِيهَا
وَأَكْسُوهُمْ وَقُولُوا لَهُمْ قَوْلًا مَعْرُوفًا ﴿٥﴾

“And do not give the weak-minded your property, which Allah has made a means of sustenance for you, but provide for them with it and clothe them and speak to them words of appropriate kindness.”

Therefore, property must be spent in accordance with the rules of Islamic law and do not come out from them. The property can be spent for the benefit of himself, his family and even for public interest. One of the form of spending property is *waqf*. *Waqf* is a special worship where the benefits can be felt continuously

¹Izz al-Dīn ibn 'Abd Al-Salām, *Qawā'id Al-Aḥkām Fī Iṣlāḥ Al-Anām* (Damascus: Dār al-Qalam, 2000), 143.

with the preservation of the waqf. It is one of the means to realize the welfare and prosperity in every aspects of community's life.

Waqf as one rule of Islamic law has a purpose and benefit to be achieved, both religious and social purposes. In this paper, the relationship between *waqf* and *maqāṣid al-sharī'ah* and the objectives of *waqf* system will be discussed.

Waqf and Maqāṣid al-Sharī'ah

The definition of waqf and its legal basis

The word *waqf* is derived from Arabic *waqafa-yaqifu-waqfan*, which means "to stop, stand, safekeep".² The word *ḥabasa* and *sabbala* also have the same meaning as the word *waqafa*, "to keep a property safely from which its benefits are utilized for human's welfare, and to something recommended by religion."³

The founders of school of Islamic laws differ in defining *waqf*. Abu Hanifah defines *waqf* as "the detention of a specific thing in the ownership of waqf and the devoting of its profit or products in charity of pors or other good objects"⁴ Whereas the majority of jurists including *al-Ṣāhibānī* (Abū Yūsuf and al-Shaibānī) and the majority of the scholars from Shafi'i and Hanbali school of law define *waqfas* "the extinction of the waqif's ownership in the thing dedicated and detention of all the thing in the implied ownership of God, in such a manner that its profits may revert to or be applied "for the benefit of Mankind."⁵ Malikiyah scholars considered *waqf* as to take the benefits from property, although in the form of rent

² Abū al-Faḍl Jamāl al-Dīn Muḥammad ibn Mukram Ibnu Manẓūr, *Lisan Al-'Arab*, Vol. VI. (Beirut: Dar Al-Shadir, 1990), 4898.

³ 'Abd al-Qāhir Al-Jurjānī, *Kitāb Al-Ta'rīfāt* (Jeddah: al-Haramain li al-Ṭabā'ah wa al-Nashr wa al-Tauzī, n.d.), 253.

⁴ Wahbah Al-Zuhailī, *Al-Fiqh Al-Islāmī Wa Adillatuh*, Vol. 8. (Damascus: Dar al-Fikr, 1985), 153.

⁵ Ibid., 154-155, See also Muḥammad al-Khatīb Al-Syarbīnī, *Mughnī Al-Muḥtaḥ*, Vol. 2. (Egypt: Maṭba'ah Muṣṭafā al-Bāb al-Ḥalabī, 1958), 376.

with certain *ṣiḡhat* within a certain time in accordance with the will of *waqif*.⁶

Related to the legal basis of *waqf*, there is no proposition from the the Quran and Hadith which clearly indicates its legislation. But there are many verses and hadiths that generally encourage believers to spend some of their wealth in the course of Allah. Among these verses are Q.S. al-Ḥajj: 77 and Ali ‘Imrān: 92. Although these verses do not specifically speak of *waqf*, but if seen from the practice of *waqf* itself, that is, “detention of the object and spend its benefits”, it is one form of goodness as mentioned in those verses.

Besides the Quran, there are some hadiths made as a legal basis of *waqf*. For instance, the Hadith narrated by al-Bukhari⁷ that states that Umar ibn Khaṭṭāb asked the advise of the Prophet (p.b.u.h.) about his most valuable land in Khayber, the Prophet (pbuh) told him “retain the thing itself and devote its fruits to pious purposes”. Another hadith is that narrated by Muslim “When a man dies, his deeds come to an end except for three things: *sadaqah jariyah* (ceaseless charity); knowledge which is beneficial; or a virtuous descendant who prays for him (the deceased).⁸ Muslim scholars agreed that *ṣadaqah jāriyah* mentioned in the hadith refers to *waqf*.

The kinds and history of waqf

Generally, *waqf* is divided into to kinds:⁹ a) *Waqf khairi* (public *waqf*) is the proceeds of waqf earmarked to charity and philanthropy. Examples of beneficiaries include the poor and the

⁶ Ibid.,155.

⁷ See Abū 'Abdillāh Muḥammad ibn Ismā'īl Al-Bukhārī, *Ṣaḥīḥ Al-Bukhārī* (Riyadh: Bait al-Afkār al-Dauliyyah, 1998), 256 Hadith No. 2737.

⁸ The text of the hadith:

إذا مات الإنسان انقطع عنه عمله إلا من ثلاثة إلا من صدقة جارية أو علم ينتفع به أو ولد صالح يدعو له

See Abū al-Ḥusain Muslim ibn Ḥijaj al-Qushairī Al-Naisaburī, *Ṣaḥīḥ Muslim*, Vol. 3. (Beirut: Dār al-Kutub al-'Ilmiyyah, 1991), 1255 Hadith No. 1631.

⁹ Al-Zuhailī, *Al-Fiqh Al-Islāmī Wa Adillatuh*, 160.

needy, like Umars *waqf* when he gave his most valuable land in Khaybar for public as mentioned in above hadith. *Waqf khayri* does not limit the parties who want to take advantage of the assets given as charity, not only for families or relatives of *wāqif*; b) *Waqf ahli* (private *waqf*) or *dzurri* is the proceeds of *waqf* designated for the *waqf* founder's children and their off-spring. However, these beneficiaries cannot sell or dispose of the property subject-matter of *waqf*, like Abū Ṭalhah's *waqf* to his relatives as narrated by al-Bukhari in his book.¹⁰

In Islamic history, wakaf has existed since the time of the Prophet when he migrated to Madina in the second year of hijriah. But the scholars differed in determining who was the first person to do so in Islam. Some scholars argue that the person who first did *waqf* is the Prophet himself. He gave his land for *waqf* to build mosque. This opinion is based on the narration which says that 'Umar ibn Syabah from ' Amr ibn Mu'ādz said: "We asked about the origin of *waqf* in Islam. The Muhajirin said Umar's *waqf*." While the Anṣār said "The Prophet's *waqf*."¹¹

¹⁰Hadith narrate by Bukhari: Abu Talha was the richest man in Medina amongst the Ansar and Beeruha (garden) was the most beloved of his property, and it was situated opposite the mosque (of the Prophet (SAW)). Allah's Apostle (SAW) used to enter it and drink from its sweet water. When the following Divine Verse were revealed: 'you will not attain righteousness till you spend in charity of the things you love' (3.93), Abu Talha got up in front of Allah's Apostle (SAW) and said, "O Allah's Apostle (SAW)! Allah says in His Book, 'You will not attain righteousness unless you spend (in charity) that which you love,' and verily, the most beloved to me of my property is Beeruha (garden), so I give it in charity and hope for its reward from Allah. O Allah's Apostle (SAW)! Spend it wherever you like." Allah's Apostle (SAW) appreciated that and said, "That is perishable wealth, that is perishable wealth. I have heard what you have said; I suggest you to distribute it among your relatives." Abu Talha said, "I will do so, O Allah's Apostle (SAW)." So, Abu Talha distributed it among his relatives and cousins. The sub-narrator (Malik) said: The Prophet (SAW) said: "That is a profitable wealth," instead of "perishable wealth."

¹¹Departemen Agama RI, *Fiqih Wakaf* (Jakarta: Direktorat Jenderal Bimas Islam dan Penyelenggaraan Haji, 2007), 4.

Other scholars argue that the person who first did the *waqf* was Umar ibn Khattab. 'Umar had a land in Khaibar, then he consulted to the Prophet, and he encouraged Umar to retain the substance and give its benefit. Then Umar took the advice of the Prophet to inaugurate his land. On this basis, some scholars said that Umar was the first person to do a *waqf* in Islam. After him, other companions such as Abū Bakr, Uthmān ibn 'Affān, 'Ali ibn Abī Ṭālib, Zubair ibn 'Awwām, Abū Ṭalḥah, Aishah and others follow what Umar has done to donate some of their property.¹²

After the time of Khulafā 'Rāshidīn, the practice of *waqf* grew rapidly, starting from the time of the Umayyad dynasty to the Ottoman era. More and more people are doing *waqf*, not just for the poor but it is also used to build educational institutions and libraries, as well as to manage them. During the Umayyad period, the first *waqf* institute was established in Egypt and also in Basra. *Waqf* institution management is under the Department of Justice and the results are distributed to the poor. At the time of the Abbasid dynasty, a *waqf* institution called *ṣadr al-wuqūf* was built to take care of the administration and choose *waqf* management staffs.¹³

Waqf experienced a very rapid development during the Ayyubid dynasty, almost all agricultural lands become *waqf* property that is all managed by the state and become state property. Then it continued during the Mamluk dynasty where *waqf* also experienced developments. At this time, the property that was mostly made as *waqf* is agricultural lands and buildings such as office, lodging and learning buildings.

At the time of the Ottoman, *waqf* grew and expanded so that special arrangement of *waqf* should be made. Among the regulations issued during the Ottoman dynasty was the rules on registering the implementation of *waqf* issued on the 19th of

¹²Ibid., 5-6.

¹³Ibid., 7.

Jumadil Akhir 1280 H, which contained recording of waqf, certification of waqf, management of waqf, and the effort to achieve the ends of wakaf and institutionalize waqf in realizing waqf from the administrative and legislation aspects. Up to 1287, a law was issued which enacted the position of *waqf* lands under the Ottoman.¹⁴

The Definition and Levels of *Maqāṣid al-Sharī'ah*

Etymologically *maqāṣid al-sharī'ah* consists of two words, ie *maqāṣid* and *sharī'ah*. *maqāṣid* is the plural form of *maqṣid* which means something to aim and achieve.¹⁵ Whereas *al-sharī'ah* means “the way to the source of water as life”¹⁶ *Sharī'ah* in terminology implies the rules created by God to guide human beings in organizing relationships with God, human beings, and the whole life.¹⁷

While in terminology, the scholars defined it with different wording. Imam al-Shāṭibī said that *sharī'ah* is the legal rule prescribed by Allah in order to achieve the benefit for people man in religion and the world at once.¹⁸ Ṭāhir ibn ‘Āshūr defines *maqāṣid ‘āmmah* as the insights and wisdoms that are emphasized in all or most of the Islamic legislation. He is not only devoted to certain laws.¹⁹ While Aḥmad al-Raisūnī said that *maqāṣid al-sharī'ah* is the goals, values and benefits that are expected and to be achieved from the Shari'ah.²⁰ Wahbah al-Zuḥailī defines *maqāṣid al-sharī'ah* as the meanings and purposes maintained by

¹⁴Ibid.,10.

¹⁵Aḥmad Al-Raisūnī, *Al-Fikr Al-Maqāṣidī: Qawā'iduh Wa Fawā'iduh* (Sibris: al-Dār al-Baiḍā', 1999), 13.

¹⁶Ibnu Manẓūr, *Lisan Al-'Arab*, Vol. 4, 2238.

¹⁷Mahmūd Shalṭūt, *Al-Islām 'Aqīdah Wa Sharī'ah* (Cairo: Dār al-Qalam, 1966).

¹⁸Abū Ishāq Ibrāhīm Al-Shāṭibī, *Al-Muwāfaqāt*, Vol. 2. (Riyadh: Dār Ibn ‘Affān, 1007), 9.

¹⁹Muḥammad Ṭāhir ibn ‘Ashūr, *Maqāṣid al-Sharī'ah al-Islāmiyyah*, (Jordan: Da'r al-Nafa'is, 2001), 84.

²⁰Al-Raisūnī, *Al-Fikr Al-Maqāṣidī: Qawā'iduh Wa Fawā'iduh*, 13.

sharia and all its laws, or most of its laws, or the ultimate purpose of shari'ah and the secrets laid down by sharia in every law.²¹

From definitions above, it can be said that *maqāṣid al-sharī'ah* is the purpose of Allah as lawmaker in establishing the law against His servants to realize good while avoiding evil or creating benefit in order to maintain the goals of sharia. Allah supposes a law to people for their benefit. Al-Shāṭibī mentioned two *maqāṣid*, first, *maqāṣid al-shāri'* and *maqāṣid al-mukallaf*.²² *Maqāṣid al-shāri'* has four dimensions: a) to create society, b) to be understood and comprehended, c) to provide *taklīf* or burden to be performed, d) to position human being under the law of sharia.²³

Whereas *maqāṣid al-mukallaf* is the purpose of shari'a for human beings to perform deed and must be in accordance with purpose of sharia.

The Levels of *Maqāṣid al-sharī'ah*

Maqāṣid al-sharī'ah is generally divided into three levels: *maqāṣid al-darūriyyāt*, *maqāṣid al-hājiyyāt*, and *maqāṣid al-taḥsīniyyāt*.

a. *Al-Darūriyyāt*

Al-Darūriyyāt is something that must be fulfilled for the creation of the benefit of the world and the hereafter. If it is not fulfilled, the benefit of the world and the hereafter will not be realized, even damage and destruction can occur in the world, and in the afterlife he will get the punishment and real loss.²⁴ To preserve this *maqāṣid al-darūriyyāt*, it can be realized by two ways:

- 1) Keeping its existence in order to stay preserved (*murā'ātuhā min jānīb al-wujūd* or *jalb al-maṣāliḥ*).

²¹Wahbah Al-Zuhailī, *Uṣūl Al-Fiqh Al-Islāmī* (Beirut: Dar al-Fikr, 1986), 1017.

²²Al-Shāṭibī, *Al-Muwāfaqāt*, Vol. 2, 7.

²³Ibid., 8.

²⁴Ibid., 17-18.

- 2) Giving protection to avoid things that threaten its existence (*murā'ātuhā min jānib al-'adam* or *dar'u al-mafāsīd*).

Maqāṣid al-darūriyyāt has five pillars: protection of religion (*ḥifẓ al-dīn*), protection of soul (*ḥifẓ al-nafs*), protection of mind (*ḥifẓ al-'aql*), protection of offspring (*ḥifẓ al-nasl*), protection of property (*ḥifẓ al-māl*).²⁵

- 1) Protection of religion (*ḥifẓ al-Dīn*)²⁶

Protection of religion at the level of *darūriyyāt* means to maintain and carry out religious duties that relate to basic cases, such as faith in God, saying the words of *tawhid*, five time prayers, five times prayer, alms, pilgrimage and so on. If the religious obligation is ignored, it will threaten the existence of religion.

- 2) Protection of Soul (*ḥifẓ al-Nafs*)

Protection of religion at the level of *darūriyyāt* includes the prohibition to do something that threatens and damages oneself, such as killing oneself or other people, and the legislation of *qisas* (retaliation) for murder.

- 3) Protection of Mind (*ḥifẓ al-'Aql*)

Protection of mind at the level *darūriyyāt* includes the prohibition of drinking liquor, drugs and the like, because it can cause damage to the mind. Even in order to preserve reason, Allah forbid to drink *khamar* and all actions that can damage the mind and punish for the perpetrators.

- 4) Protection of offspring (*ḥifẓ al-Nasl*)

Protection of offspring at the level *darūriyyāt* includes the legislation of marriage and prohibition of committing adultery.

²⁵See Al-Jilālī Al-Marīnī, *'Inda Al-Imām Al-Shāṭibī Min Khilālī Kitābihī Al-Muwāfaqāt* (Cairo: Dār Ibn 'Affān, 2001), 261–262.

²⁶Muḥammad Bakr Ismā'īl Ḥabīb, *Maqāṣid Al-Sharī'ah Ta'ṣīlan Wa Tafīlan* (Mecca, 2002), 268–269.

5) Protection of property (*ḥifẓ al-Māl*)

Protection of property at the level of *ḍarūriyyāt* includes laws on the procedure of property ownership and the prohibition of taking people's possessions in a vanity way. In addition, Allah imposes a hand-cutting punishment for thieves and prohibits actions that lead to damage to property, such as gambling.

This *maqāṣid al-darūriyyāt* is a principle from of ethical value and order with its five pillars. The neglect or even the loss of any of the five pillars can have an impact on the defect of the living system. So *al-darūriyyāt* is a basic human need that must be maintained as much as possible.²⁷

b. Al-Ḥājiyyāt

Hājiyyāt is a necessary thing but the level of requirement is below *ḍarūriyyāt*. If this kind of needs are fulfilled, it will make a person easier in living life. Otherwise, if these needs are not met, it will cause difficulties (*mashaqqah*) but not to the level of danger or even damage.

The fulfillment of the benefits of *Hājiyyāt* will give impact on the stabilized system of life, such as the creation of comfort and ease in life. For example, in the case of worship, there is *rukḥṣah* (lightening) for those who have difficulty (*mashaqqah*), as follows:

- 1) Traveling, when someone travels, he is given a *rukḥṣah* to shorten and join prayer (*qaṣr jam'*) and he is also allowed not to fast.
- 2) Sickness, in this situation, people may pray by sitting or lying down, do *tayamum* in exchange for ablution, and for travelers or sick people they are also allowed not to fast, etc.

²⁷Fahmi Muhammad Ulwan, *Al-Qiyam Al-Darūriyyah Wa Maqāṣid Al-Sharī'ah* (Cairo: al-Hai'ah 'Ammah Li al-Kitab, n.d.), 100.

- 3) Under pressure. In this case, forced people may eat food that is unlawful, even say the words of disbelief.
- 4) Forgetfulness. In this situation, the person is free from the sin of forgetting, such as eating at the time of Ramadhan fasting, or greeting before praying, then his prayer is not legally null and void.
- 5) Fools, such as speaking inside or in the middle of prayer because he or she does not understand, then the prayer is not void.
- 6) Deficiency is one kind of difficulty, because everyone should be happy with perfection. Deficiency leads to relief, as children and women who are given much freedom from obligations that exist in adult males, for example: Friday prayers, wars and so on
- 7) Difficulties and *umūm al-balwā* such as prayer with unclean filth that is difficult to avoid. For example blood from scabies or dirt from road dust.

While in the field of *muamalah*, buying and selling the goods on a *salam* basis, *istithnā'* purchase, leasing (*ijarah*), and others are allowed. In terms of marriage, it can be seen in some terms and pillars such as required guardians and witnesses.²⁸ In criminal issues (*jināyāt*), it is like the enactment of fines and redress in some violation cases,²⁹ whereas in customs such as food, drink, shelter and others.

c. *Al-Taḥsīniyyāt*

Taḥsīniyyāt is taking the good and leaving the ugly with rational judgments.³⁰ If this kind of need does not exist, it will not cause any damage or difficulty (*mashaqqah*) to do so. However, it is only judged as inappropriate according to the standard of manners and decency.

²⁸Muḥammad Ṭāhir Ibn 'Āshūr, *Maqāṣid Al-Sharī'ah Al-Islāmiyyah* (Jordan: Dār al-Nafāis, 2001), 306–307.

²⁹Ibid., 307.

³⁰Al-Shāṭibī, *Al-Muwāfaqāt*, Vol. 2, 22.

In the case of worship, this *taḥsīniyyāt* (tertiary) is manifested in various kinds of cleanliness, covering *aurat*, sunnah prayer, charity, and other sunnah worships. In a social order, *ḥājiyyāt* is manifested in social norms and ethics such as ethics of dressing, talking, eating, drinking, and so on. In the context of mu'amalah, this includes prohibition of buying and selling of unclean goods, reducing the balance, and so forth

***Maqāṣid Sharī'ah* in the Waqf System**

The main purpose of the *Sharī'ah* is to realize good and avoid evil, or to take benefits and refuse dangers. Or in other words, it is to bring good in order to preserve the objectives of sharia. There are three levels of human needs: *ḍarūriyyāt* (primary), *Hājiyyāt* (secondary), dan *taḥsīniyyāt* (tertiary). Basic human needs are divided into five things: first, protection of religion (*ḥifẓ al-dīn*); second, protection of soul (*ḥifẓ al-nafs*); third, protection of mind (*ḥifẓ al-'aql*); fourth, protection of offspring (*ḥifẓ al-nasl*); and fifth, protection of property (*ḥifẓ al-māl*). Therefore, it can be said that *maqāṣid al-sharī'ah* can be achieved by fulfilling these five basic human needs.

Waqf aims to realize the benefit for human beings. Thus *maqāṣid al-sharī'ah* becomes the main backdrop in any development, management, or utilization of *waqf* property. *Waqf* is said to be in line with the purpose of Islamic law if it can give prosperity to the community, and the basic needs of community are met. Here is the *maqāṣid al-sharī'ah* in the *waqf* system which includes the five basic human needs either *ḍarūriyyāt*, *hājiyyāt* or *taḥsīniyyāt*:

The protection of religion.

Principles of worship such as reciting the sentence of *sahadah*, the implementation of prayer, alms giving, pilgrimage and others, are indicator for preserving the existence of religion. Therefore, everything that is absolutely necessary both material

and non-material which include facilities or infrastructure to carry out such worship must be available and realized first. *Waqf* is one of the means to worship to Allah. It can lead a *waqif* to the perfection of worship to Allah and bring consciousness for people that the *waqf* property belongs to Allah. This in turn gave birth to the sincere attitude towards what is represented. The role of *waqf* in maintaining the existence of religion includes among others:

- 1) Building mosques and places of prayer as a means to perform worship. Islam called on Muslims to build mosques and live them as revealed by Allah in Q.S. al-Taubah: 18.

إِنَّمَا يَعْمُرُ مَسْجِدَ اللَّهِ مَنَءَامَنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَأَقَامَ الصَّلَاةَ وَآتَى
الزَّكَاةَ وَلَمْ يَخْشَ إِلَّا اللَّهَ فَعَسَىٰ أُولَٰئِكَ أَن يَكُونُوا مِنَ الْمُهْتَدِينَ

The mosques of Allah are only to be maintained by those who believe in Allah and the Last Day and establish prayer and give zakah and do not fear except Allah, for it is expected that those will be of the [rightly] guided.

In the verse, it is emphasized that the mosque is a center of worship as well as praying five times, Friday prayers, *zikr*, *i'tikāf*, even doing religious studies. In this case, *waqf* has a very big role in realizing and upholding the symbols of Islam as well as fostering the religious spirit of society.³¹ The mosque is also a fortress in rejecting everything that damages the faith of Muslims. *Waqfs* also contribute to the maintenance and management of mosques and to providing services for leaders of *salat*, muezzins and preachers. In addition, *waqf* is also empowered to complement the facilities and infrastructure of mosques to support worship, thus increasing the spirit of worship to call on the verses of Allah. Even mosques can also be used as a place to commemorate the big days of Islam, the center of alms collection, and as a animal sacrifice center.

³¹Muhammad Amin, *Al-Auqāf Al-Hayah Al-Ijtimā'iyah* (Cairo: Dār al-Nahḍah al-'Arabiyah, 1980), 181.

- 2) Building printing and publishing religious books including the Quran and Hadith.
- 3) Establishing centers of Islamic studies and religious guidance.

The protection of soul

Eating, drinking, clothing and shelter is a basic need for every individual. These three needs absolutely must be met to maintain the existence of the human soul, and the fulfillment of these basic needs is a fundamental right for every individual. But not everyone can suffice all three. So they need others in meeting their needs. It is clear that *waqf* plays a role in providing assistance to meet the needs of these people. This role includes:

- 1) Building shelters or social institutions from waqf funds that provide shelter, clothing, food and clean water so that their life difficulties can be overcome.³²
- 2) Building hospitals equipped with medical equipment, the availability of doctors and medicines in serving people who require medical services at a low or even free cost.
- 3) Establishing nursing home for the elderly and orphans, and giving aids and social security for the unemployed.

Wakaf has given a considerable role in fulfilling the basic needs of the poors such as clothing, food, boards. Therefore, it can be said that waqf has a purpose and role in maintaining the existence of the human soul.

The protection of mind

The protection of mind is one of the main goals in building a good Muslim man who is able to contribute to serving his community, religion, and even himself. Therefore, Islam also gives a great attention to intellect and how to empower it. In this case,

³²Manṣūr Hānī Muṣṭafā, *Al-Waqf Wa Dauruhu Fī Al-Mujtama' Al-Islāmī Al-Mu'āṣir* (Beirut: Muassasah al-Risālah Nāshirūn, 2004), 51.

waqf has a clear role in maintaining intellect, such as building mosques, schools, educational hospitals, libraries, and paying its teachers from waqf funds.

a) The mosque and its role in the development of science. The mosque is the first waqf in Islam that plays a role in establishing religious symbols and teachings. After that, Muslims began to study the Quran, learn to read and write. Nabawi Mosque in Medina was the first mosque in spreading Islam and also as the beginning of the center of the development of culture and civilization which was then followed by other mosques in the territory of Islam at that time.³³ So the mosque is the first place for teaching in Islamic civilization. The teaching of religion has the importance and urgency to make people respond to God's call and to obey Him according to his nature. In other words, religious teaching plays a role in realizing the goal of Islam to form a righteous Muslim community who have noble behaviour and characters as human nature, and helping them to understand the world and the purpose of life in the world. In addition, the teaching of religion can strengthen human relations with the Qur'an and Hadith, namely by teaching human beings rituals and worship that can achieve the pleasure of Allah and give peace in heart. With the teaching of religion, man can know the laws of sharia which provide restrictions on what can be done and which should not be done either as an individual, a member of the family, and a member of the community. Besides, religious teachings also equip people with morality (religious values and norms) that leads to the good and keep it away from the ugliness in every aspects of life. The teaching of religion also contribute to unifying the thoughts and feelings of each individual and embody a sense of togetherness and complementarity between them as social beings. Religion makes them as brothers who love nurture, help each other like

³³Ah}mad Amin, *D{uha> al-Islam* , Edition VI (Cairo: Maktabah al-Nahd}ah al-Mi{sriyyah, 1961), vol 2, 52.

a building that stands firmly. Therefore, in the mosque halaqahs are established that studied islamic law, mysticism, the Quran and others.

- b) Building pesantren, libraries and educational institutions to study the science of religion.
- c) Providing scholarships for underprivileged students and outstanding learners

The Protection of offsprings

The protection of offspring is the main pillar of life and the cause of prosperity of the earth. With the preservation of the offspring, the people will be strong, able to protect and preserve their religion, soul, honor and wealth. Islam gives attention and order to preserve the existence of descendants as the generation of the successor of Islam. In this case, *waqf* as one of the Islamic philanthropies plays a role in realizing one of the goals of the shari'a. Among the roles of waqf in preserving offspring are:

- a) Establishing a marriage consulting agency that will facilitate the legality of marriage, pre-marriage course, post-marriage household development, and others. Even *waqf* also plays a role in providing assistance to young people who are unable to marry financially.³⁴
- b) Establishing a service and counseling center for women on health, psychology, routine checks to ensure fetal health and safety.
- c) Child care, counseling and health education for children, childcare institutions, basic programs for child health and nutrition, proper cultivation of faith and basic principles of Islam, and providing skills for underprivileged children.

³⁴Ahmad Al-Sa'di, "Al-Waqf Wa Dauruhu Fī Ri'āyah Al-Usrah," *Majallah Auqāf, al-Amānah al-Āmmah li al-Auqāf* VIII, Mei (2005): 150–151.

d) Orphan foundation as a center for the orphans care.

Protection of property

There is no doubt that property is the basic necessity of every individual. Man cannot keep his life alive except with wealth. Islam considers that property is one of the means to realize the goals of the Shari'ah both in the world and the hereafter, individually and in group. With property, one can eat, drink, buy clothes, build a place to live, and even help others.³⁵ There a lot of means to safeguard property, including the command to work, transfer of property, the guarantee of a property damage, legislatuon of punishment, and so forth.

Among the roles of *waqf* in protecting the property are:

- 1) Building Sharia financial and investment institutions
- 2) Building companies, factories, shops, real estate, hotels, farms and estates.
- 3) Opening jobs for Muslims, and others.

Conclusion

Waqf aims to realize the benefit for people, which include prosperity reflected by fulfillment of basic human needs according to *maqāṣid al-sharī'ah*. *Maqāṣid al-sharī'ah* in the *waqf* system includes five basic human needs be it *darūriyyāt*, *hājiyyāt* or *taḥsīniyyāt*. First, the role of *waqf* in maintaining religion (*ḥifẓ al-dīn*) is realized by building mosque and its maintenance and management as a means to perform worship, building printing and publishing religious books including al-Quran and Hadith, establishing the center of Islamic studies and religious guidance. Second, protecton of soul (*ḥifẓ al-nafs*), such as building shelters or social institutions from *waqf* funds that provide shelter, clothing, food and clean water, building hospitals equipped with medical

³⁵Yūsuf Al-Qaraḍawī, *Maqāṣid Al-Sharī'ah Al-Muta'alliqah Bi Al-Māl* (Cairo: Dār al-Shurūq, 2010), 10.

equipment, the availability of doctors and medicine, establishing nursing home for the elderly, orphans, giving aid and social security for the unemployed. Third, protection of mind (*ḥifẓ al-'aql*), such as building mosques as centers of religious knowledge, schools, educational hospitals, libraries, educational institutions, and giving scholarship to outstanding students. Fourth protection of the offspring (*ḥifẓ al-nasl*), such as building a marriage consulting agency, providing assistance to youths unable to marry financially, establishing a mother-and-child care and counseling service center related to health, psychology, routine examination to ensure fetal health and safety, childcare, counseling and health education for children, and building orphan foundations. Fifth, protection of property (*ḥifẓ al-māl*), such as building sharia financial and investment institutions, companies, factories, shops, real estate, hotels, agriculture and estates, opening employment for Muslims, etc.

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