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## Waqf Development in Uganda: A Case Study

Hussein Muhammad Bowa\*

### Preamble

All praise and gratitude are due to Allah, the Lord of the worlds. May the blessings of Allah be upon our exalted Prophet, the Messenger of Allah, Muhammad (SAW) his companions, the member of his family and those who tread their path till the Day of Judgment.

Waqf is an important Islamic Institution that underlies economic development if it is effectively utilized. Historically, it played a key role in the development of Muslim societies. It has been one of the major resources since the early Madinah period to inspire economic growth and its expansion. It served the *ummah* (Muslim community) in almost all fields, such as Religion, Education, Medicine and other socio-economic activities. However, nowadays in Uganda waqf has become dormant and less popular in Muslim community; it no longer serves the needs of the Ummah due to certain problems.

### Definition of Waqf

Waqf is a dedication made by one person for the benefit of others, with the intention that the dedicator be entitled to a continuous reward from Allah the Creator throughout the period of the endowment. It is a pious and perpetual endowment that is free from tax.<sup>1</sup>

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1 Mohammed Obaidullah, *Awqaf Development and Management*, First Edition, Publisher: Islamic Research and Training Institute, Jeddah, Saudi Arabia pp. 4,

### The History of Waqf Development in Uganda

Muslims like members of other religions in Uganda possess numerous properties including land, houses, factories, ranches, farms, and other properties like Mosques, Schools and land on which they are located.

The development of Waqf in Uganda can be traced back to the period of the Islamic entrance in Uganda and most of waqf assets developed are in the form of Lands, Mosques and religious schools.

The first ever waqf in Uganda was the Holy Quran donated to King Suna II (1844-1854) by Sheikh Ahmad bin Ibrahim Al-Amir.<sup>2</sup>

In the colonial times, The Kabakaship of Mutesa I donated vast land to Muslims for mosque construction and Islamic centres, and "Kasubi Mosque" in the Kabaka palace is regarded to be one of the ancient Charities known in Uganda, its history is traced back to Kabaka Mutesa.<sup>3</sup>



Kasubi Mosque-After renovation. The foundation and Mihrab are the only ancient ones  
(Picture taken on Friday 7<sup>th</sup> February 2014)

- 2 Sheikh Abdulqadir Mbogo, at his home Kisenyi on Wednesday 14<sup>th</sup> August 2015. (Recorded)
- 3 B. Kakungulu, *Abaasimba Obusiramu Mu Uganda*, Equator books, 1977, Kampala p. 8.

This was followed by mosques and lands in the King Suna's era then King Mutesa 1 (1854-1884), where Schools were one Kind of Waqf in Uganda. The number of Waqfs went on increment in the following Kingdom Mwanga (1884-1888), Nooh Kalema, (1888-1889) and others.

In the 1900 agreement, colonial rulers distributed the Uganda land to the religious denominations as follows:

- Catholic – allocated Lubaga hill – at Kampala
- Protestants –Allocated Namirembe hill – at Kampala
- Muslims 24 square miles – given through Nuhu Mbogo, which later revised by the government and raised to 48 sq. miles.

It was almost a habit of the Colonial Government that whenever they distributed land they were giving to those three Religious Missions above. That is why wherever you find a Mission land for Christians donated by the Government, you probably find Muslim land even if it would have encroached on or taken by some neighboring community. That is why Awqaf Secretariat at Uganda Muslim Supreme Council (“UMSC”) is battling to repossess those lands or at least some of it.<sup>4</sup>

It is so important to note that, most of lands given to Muslims by the Colonial Government were given in the names of (Muslim Community), and later on, many of them were transferred to Uganda Muslim Supreme Council after its creation in 1972.

The number of waqf assets increased the most during the Prince Nooh Mbogo, the prominent Muslim Leader. By that time, Muslims were encouraged to donate their lands for the purpose of building mosques and religious schools. Muslims generously dedicated their assets for the establishment of mosques and Muslim schools some of which are still in existence.

By 1890, there was a mosque in Kijungute in Bunyoro; which was regarded as the first ever Muslim Headquarter in Uganda, under

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<sup>4</sup> So far UMSC has in its custody more than 500 Land titles Secured during the current Mufti of Uganda Sheikh Shaban Ramadhan Mubajje, who found only Nine land titles in the custody by 2001.

the Prince Nuuhu Kyabasinga Mbogo.<sup>5</sup> 1893 – Kibambula Mosque at Mbarara was initiated and a school was later built at the compound. In 1923, another Muslim Ayubu Nsibirwa – who was one of King's Chiefs - asked the King to give him some land. The king gave him land at Bukoto, he then called Sheikh Abudallah Ssekimwanyi and gave him that Land which he received and constructed a mosque.

In the reign of the former President His Excellency the Late Al-Haji Iddi Amin Daada (1971-1979), Muslims acquired numerous properties which included abattoirs, administration blocks, factories, ranches, farms, lands and others.

We remember that when this leader took over power on 25<sup>th</sup> January 1971, he found Muslims divided into different groups:

- Juma and Zuhur- the group which was performing Dhuhur after Juma prayers.
- Uganda Muslim community (UMC) under the leadership of Prince Badru Kakungulu.
- African Muslim community under the leadership of Nsambu.
- National Association for the Advancement of Muslim in Uganda NAAM Under the Chairmanship of Abdu Ubeid Kamulegeya.

Each of these sectors possessed a number of properties in the form of lands and mosques which turned into Uganda Muslim Supreme Council properties, except the few which were registered under different ownership, those remained untouchable.

After one year in office, His Excellence the Late President (Iddi Amin Daada) issued an instruction to unite all Muslims in Uganda. Hence, Uganda Muslim Supreme Council (UMSC) has emerged by 1972. He then issued a presidential decree donating Old Kampala Hill to the Muslim Community, where the Muslim Headquarter and the National Mosque is located today.

In 1973, the president authorized UMSC to look after 233 Asian properties after the eviction of the Non-Ugandan Asians. These

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5 K. Mukuluwakika, *Entandikwa*, local Publication, Kampala 2008, p. 4.

included plots of land, factories, farms, estates and others. All these totaled to 2350 properties together.<sup>6</sup>

The Asian Muslim Community donated some of those properties to Ugandan Muslims and the government paid them for the other properties. Since then, Muslims possessed many properties. But because of the weakness of Muslims, the majority of those properties were not registered and no land titles were acquired apart from the few. When the current President, His Excellency Gen. Yoweri Kaguta Museveni came into power, he directed the repossession of Asian properties by Ugandans.

Muslims were the greatest losers, since most of the properties they received through the presidential decree were not registered under UMSC and were not transferred to Muslims. And when the current Mufti His Eminence Sheikh Shaban Ramadhan Mubajje was elected in 2000, H.E. the president again recommended Muslims to the then Libyan Leader Col. Muammar Gaddafi to construct the current National Mosque in old Kampala, which is believed to be the second biggest Mosque in sub-Sahara, which all Muslims in Uganda are proud of.<sup>7</sup>

In Uganda today, Muslim properties begin from the village level, and you can find that most counties have Muslim property in the form of land and mosques. By 2011, the number of mosques in Uganda was above Ten thousand, and we can observe the continuation of mosque construction in all over the country.<sup>8</sup>

Because of poor management, negligence, lack of enough skill on land control, greed and other factors, we went on losing those properties one by one through different forms and methods, among which are:

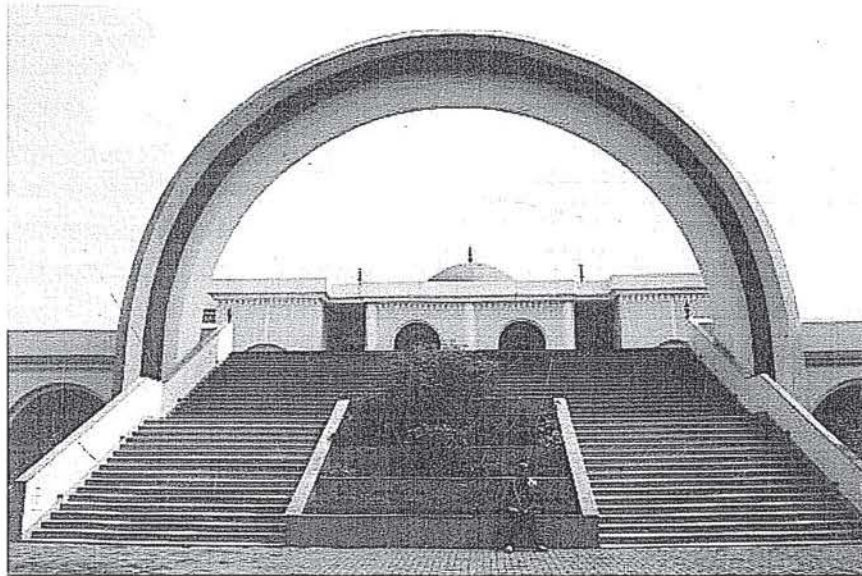
- Selling off some properties by individual Muslims themselves;
- Transfer of some properties to individual Muslim Names;

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6 Document from the Uganda Muslim Supreme Council archive which contains Muslim Properties.

7 H. E. Sheikh Shaban Ramadhan Mubajje the Mufti of Uganda, an interview with him on 11/01/2016.

8 Uganda Muslim Supreme Council Electoral commission document of 2011.



National Mosque at old Kampala Hill

- Selling some properties to pay for Court charges after defeat in some cases;
- Repossession of some properties by Asians;
- Loss of others by losing their land titles;
- Many were claimed back or chopped off by sons /grand sons of the donors;
- Some lands were given away by district land boards to different applicants (Muslims and non-Muslims) after realizing that they were not registered.

Since Awqaf Secretariat at UMSC started its work in 2012, it has experienced a number of challenges and discovered many types of lands and properties with different status categorized as follow:

1. Properties with proper registration and valid titles (safe properties);
2. Lands with running titles but occupied by encroachers;
3. Lands without titles but safe from any encumbrances
4. Lands with expired titles;
5. Lands with encumbrances or controversial status;
6. Lands without land titles taken by encroachers or tenants;

7. Mosque Lands reclaimed by some family members;
8. Lands taken or Sold off by our fellow Muslims.

The above is the current status of the muslim properties, categorized as indicated. This shows that:

- a. Lost huge pieces of land/properties
- b. There is hope to re-claim some of the lost properties
- c. Uganda Muslim Supreme Council is a home to a large number of waqf properties and it stands with more chances to benefit from a concerted effort to develop these properties to full expectation.

#### **Strategies for Effective Development of Waqf Properties in Uganda**

In Uganda, Muslims through the Uganda Muslim Supreme Council and other Islamic organizations have thousands of hectares of land and other waqf properties which need to be properly managed and developed by surveying, registering and acquiring land titles.

The duty of managing and developing waqf assets is under the UMSC (being the umbrella for the Muslim Community in Uganda) together with the concerned Muslim organizations working in the same area. The only challenge is that, wherever you go you find poor Muslims having non utilized big land, which is also not registered.

The lack of enough funds, inadequate technical staff and poor management of funds have hindered the development of a large number of waqf assets, especially land waqf. So far the traditional mode of developing lands has been used by Muslims to develop waqf properties, which really serve a small portion of land in possession.

The mosque above is one of many mosques in different parts of Uganda especially in the remote areas, whereby some of them are sitting on acres of non-utilized land.

A modern mode of financing such as: *Musharakah* (partnership), *Muzaara-a*, *Ijaarat* (leasing) *Murabaha* (cost plus) *mudharabah* (profit and loss sharing) and others should be introduced in order to develop commercial buildings, tree plantation and farming on waqf land, especially after the Parliaments' approval of the Financial

Institutions (Amendment) bill justifying Islamic Banking/Islamic financial institutions on 7<sup>th</sup> January 2016.

We therefore suggest the following strategies:

1. To Establish a national database on Awqaf "Lands and all Muslim properties" that will assist development planning.
2. Paper work on Waqf Development Plan at a national level should be put in place addressing issues like (Land surveying, property registration, and the required funds). This should be organized by UMSC and other concerned Muslim organizations, after which muslims will approach funding organizations i.e. IDB and others to give support on that regard.
3. To allow utilization of Muslim land and properties through partnership with potential developers nationally and internationally.
4. National Waqf Fund should be established through which international Islamic financial organizations can be approached for funding Awqaf projects.
5. Muslims should try to be the most beneficiaries from the current approved Islamic financial system, which can easily boost their income and change their financial status which will assist in the development of Awqaf in the country.
6. Muslims should not only develop waqf lands for establishing religious places but also build shops, commercial properties and farming projects in a bid to overcome the problem of lacking enough funds for waqf development projects.

We hope that these suggestions shall be among the new innovations towards modern and contemporary platform for waqf development in Uganda and elsewhere.

#### **What has the Awqaf Secretariat done?**

The Awqaf secretariat of the UMSC has made efforts and achieved the following:

1. Discovery of additional land titles of the UMSC land. Since the secretariat's inauguration in 2011, a good number of land

titles were discovered rising the number in the archive to (520), yet by the installation of the current Mufti of Uganda His Eminence Sheikh Shaban Ramadhan Mubajje in 2001, the number of land titles found in the archive were nine (9).

2. Awqaf secretariat at UMSC has established a policy for Muslim properties in Uganda. We hope that through that policy many properties are to be secured and will be safely guarded.
3. Awqaf officers on District levels were asked to compile lists of all Muslim properties in their respective Muslim District. This will assist the Awqaf Secretariat to tress all the available properties belong to Muslims.
4. We have employed a surveyor in our secretariat, with whom we shall be moving around the country surveying all Muslim Land per district. And in this regard, we are planning to get our own surveying gadgets to ease the exercise.

#### **Opportunities for Waqf Development in Uganda**

- The future of Waqf development in Uganda is constantly bright and inspired with the full support by the newly approved bill of the Islamic finance. Many institutions would be able to absorb waqf concept in its corporate social activities.
- The availability of Muslim land in Uganda shall be the main factor in this development. Technocrats will need only to guide and sensitize the Muslim community towards the development of this treasury in their hands.
- Good Muslim leadership with open minded scholars who have the will to develop Muslim land and save Muslim properties.

#### **Challenges**

The following are some of the challenges faced by leaders who manage Muslim properties in the country:

**i. Non-registered Lands**

Despite the big quantity of land which Muslim have in Uganda, most of them are not yet registered, not surveyed and has no land titles.

**ii. Poor Management of Properties**

Looking at the huge amount of properties in Muslim hands, there is a great lack of land/property management skills among the Muslim community. This alarming situation led to a great loss of waqfs in the country. Some families repossessed Muslim lands whenever they discover that it is not registered and poorly managed.

**iii. Under-utilization of Lands**

Lands under Muslim possession are bigger than their utilization ability. This attracted the central Government to restructure the land, taking a big part from Muslim land leaving with them a small portion as was the case in Ssembabule where Muslims were left with only 2 square miles, after losing 10.

**iv. Land grabbers**

Because of none-registered status of UMSC properties, grabbers took chance to take Muslim properties and transfer them into their names. This is done by children and grandchildren of the donors, some Muslims and some others.

**v. Inadequate accountability**

There is no accountability to the donors and public community. This has demoralized well-wishers and developers to put their money in land development.

**vi. Continuous fighting between Muslim leaders**

Muslim leaders at all times are not united; we always witness two groups competing for leadership which always lead to losing of properties.

### **vii. Limited Resources**

Above all, a major challenge is lack of enough resources to work on the registration of land, especially those lands with no encumbrances, and they are seeming to be the most type of land we are having under that status. Otherwise, with the available skills, good will and determination, we would have gone extra miles in that direction.

Efforts were made but on a very lower speed because of the reason above.

### **Conclusion and Recommendations**

As we conclude, we want to recommend the following for the betterment and proper development of waqf properties:

1. Joint effort is required to establish corporate governance of waqf between UMSC and all institutions concerned with waqf in Uganda for the proper management, control and utilization of Awqaf, since they all have similar objectives.
2. UMSC to start looking for suitable Muslim developers to become partners/ managers/ or mortgagees to seriously start developing those available Hectares of the redundant lands.
3. UMSC to start surveying its lands by acquiring a special team with tools (owned by UMSC) and start go around the country district by district to survey and recover all Muslim lands.
4. Registration of all Awqaf properties in the country is required. This can easily be done by Awqaf officers on the district level.
5. Sensitization of the Muslim Community about Awqaaf through Seminars and workshops, since lack of awareness amongst the public becomes problematic when there is need to increase and improve waqf assets.

6. Muslim policy on Awqaf should be followed, to ease the management of Awqaf in the country. Thus policy recommendations with respect to improving waqf development and increasing public awareness should be in place.

May Allah the Almighty assist and save Muslim properties from the wrong hands, and lead us to a proper development.