

# 11<sup>TH</sup> GLOBAL WAQF CONFERENCE

*“NEW GENERATION WAQFSHIP”*

7 – 9 September 2023, Istanbul

## EDITORS

Prof. Dr. Ömer Çınar

Dr. Osman Yılmaz

Dr. Mustafa Oğuz Tuna

Dr. Afra Uysal

Res. Assist. Meryem Solmaz Bilici

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**7 September 2023- First Day of the Conference**

**Keynote Speeches (not paper-based)**

11.15 - 12.45

**Mohammad Nuh, Chairman of Badan Wakaf Indonesia, Indonesia**

*"New Era: Waqf Ecosystem Development in Indonesia"*

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*"The Philosophical and Ideological Underpinnings of Waqf"*

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*"Waqf Development and Management - The Singapore Experience"*

**Prof. Dr. Halit Eren, Former Director General of IRCICA (Research Centre for Islamic History, Art and Culture)**

*"Osmanlıdan Günümüze Balkanlarda Vakıf Müessesesi (Waqf Institution in the Balkans from the Ottomans to the Present)"*

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14.00 - 15.30

**Track 1: "Awqaf and Real Estate Management"**

**Prof. Dr. Ismail Omar**

*"The Applicability of Waqf Linked Sukuk for Affordable Housing Financing in Kuala Lumpur: The Case of Redeveloping the Indigenous Malays MAS lands in Malaysia"*

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*“Çalışanlar ve İşçiler Lehine Yardım Vakıfları”*

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**Adam, Hudzaifah Alyaman**

*“Innovative Financing Methods for Waqf Development”*

**Imam Kamaluddin, Syahrudin, Fadhila Tianti Mudi Awalia and Alfarid Fedro**

*“The Mawarith linked Waqf: A Model for Developing of Scramble Asset”*

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*“History and Restitution of Waqf in Bosnia and Herzegovina”*

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**Sunat Atun and Prof. Dr. Mehmet Bulut**

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*“Waqf Investment: A Case Study of Waqf-Featured Fund by Kenanga Investors Group”*

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*“Transforming Global Islamic Banking Practices by Leveraging on Waqf as The Pillar for A New Global Digital Waqf Bank”*

**Dr. Alex Fahrur Riza, Syayyidah Maftuhatul Jannah, Joko Setyono and Akh. Yusuf Khoiruddin**

*“Gen Z Behaviour Towards Digital Waqf Innovation: Evidence from Indonesia”*

**Sellina Gada**

*“Investigating the use of digital platforms for enhancing transparency and accountability in Awqaf in Malawi”*

**Iliyasa Yasini**

*“Educational Waqf: Establishments of IT Hubs in Zimbabwe’s main cities”*

### **Second Parallel Paper Sessions**

14.00 - 15.30

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**Dr. Benaouda Bensaid**

*“Leveraging Artificial Intelligence for Enhanced Waqf Impact”*

**Dr. Abdullahi Saliu Ishola**

*“Beyond Computers: A Conceptual and Model Framework For Globalisation Of Waqf Through Waqftech”*

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*“Waqf Venture Capital: A Proposed Model to Accelerate Growth of Islamic Tech Start-ups and Halal Ecosystem with Social Impact”*

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**Dr. Mohd Nazim Uddin, Nor Azizan Che Embi and Lutfun Nahar**

*“The Cash Waqf Financing Model for Affordable Housing Project on Waqf Land and Sustainable Development Goals (SDGs)”*

**Amyna Fakude**

*“Examining Achievement of a Regulated, Standardised Global Community for WAQF to Advance Towards Sustainable Development”*

**Jawwad Ali and Prof. Dr. Nor Asiah Mohammad**

*“Temporal Waqf: How It May Contribute To SDGs?”*

**Track 3: “Arabic Session”**

**Prof. Dr. Ashraf Dawaba**

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**Assoc. Prof. Muhammad Laeba**

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**Dr. Ramy Rashed**

أوجه من الاهتمام بالوقف في المغرب الأقصى خلال العصر المريني (م ١٤٦٤ - ١٢٦٩ / هـ ٨٦٩ - ٦٦٨)

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**Afif Afnan Ridzwan, Mohd Fadzrel Abu Bakar and Dr. Ridzwan Bakar**

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**Dr. James Jameel Asani**

*“The one million trees project: an environmental protection Waqf for Zimbabwe”*

**Ahli Fatoni, Ferdi Zanuvar Azan and Adam Auwal Sa'ad**

*“Reviving Abandoned Conventional Coastal Pond with Waqf on Perma-Aquaculture in Indonesia”*

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**Prof. Dr. Nor Asiah Binti Mohamad**

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**Dr. Mas’ood Cajee and Dr. Na’eel Cajee**

*“Reimagining the 21st Century Neighborhood Public Library as Waqf”*

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*“Assessing the Sustainability of Pesantren-Based Waqf in Indonesia (Evidence from Darussalam Gontor Modern Islamic Institution East Java)”*

**Allaa AbdelBari and Ridzwan Bakar**

*“Crowdfunding Waqf for Housing: Case from Saudi Arabia”*

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FIRST PARALLEL PAPER SESSIONS

14.00 - 15.30

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Track 1: “Awqaf and Real Estate Management”

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# **The Applicability of Waqf Linked Sukuk for Affordable Housing Financing in Kuala Lumpur: The Case of Redeveloping the Indigenous Malays MAS lands in Malaysia**

Prof. Dr. Ismail Omar<sup>1</sup>

Waqf is an old but evergreen instrument to be used in capitalizing funds for land development projects. Nowadays, waqf has been used to finance many types of development projects world widely. In Malaysia, there are many iconic waqf buildings that have been built and completed on waqf land using Islamic sharia-compliant financing.

Using institutional economic analysis (IEA), the study theorises the importance of waqf linked sukuk in providing financing to undertake development in an indigenous land area within CBD Kuala Lumpur, Malaysia. Fundamentally, the formal and informal rules within the importance of waqf linked sukuk provide a smooth financing aid to undertake the redevelopment projects in the case study areas. Therefore, the significance of the finding is to highlight the applicability of waqf linked sukuk in providing affordable houses and hence, eliminating urban poverty in Kuala Lumpur, Malaysia.

This paper, as a case study, considers a group of amalgamated lots of indigenous Malay Agriculture Settlement Areas (MAS) in Kampong Bahru which is located within the Centre of Business District (CBD) of Kuala

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Lumpur is to be redeveloped using waqf linked sukuk technique of financing. Therefore, in this study, empirical data will be based on IEA's formal and informal rules that initiate the redevelopment efforts. Qualitative data will be collected using interview schedules with landowners and property professionals involved in the redevelopment projects. Data analysis will be undertaken qualitatively to explain the difficulties and solutions thereof.

It means that the primary data is to be collected from landowners and various stakeholders involved in the redevelopment process and procedures with the MAS areas.

Since the price of MAS land is rocketing due to the pressure for the development of good location properties within the MAS areas, prospective land developers, on the one hand, are looking forward to buy and undertake to develop the land with the expectation to maximise profit margin. On the other hand, potential landowners are also looking forward to sell off or enter into a joint venture scheme to redevelop their unimproved lands. Unfortunately, landowners are facing funding difficulties due to the fact that banks are not friendly enough to offer bridging finance on restricted MAS lands. Developers are also having difficulties with the limitation by restricted MAS land and therefore the market is so narrow and limited. On one hand, the main constraining factors are the formal rules of the MAS restriction in interests and the Land Acquisition Act 1960. On the other hand, the passive landowners' behaviour is also restricting the initiatives to undertake redevelopment of the MAS areas. As a result, the whole MAS zones still largely remained idle and unimproved.

In this case study, waqf family will be practically used to ensure the waqf properties are in the hands of the landowners. As a solution, waqf instrument is one of the alternatives to enter into a joint venture with potential land developer using sukuk as a means of providing bridging financing to the project. In Malaysia, sukuk al-ijarah is one of the most important financing schemes for development projects.

Therefore, landowners and land developers are keen to take the sukuk linked waqf redevelopment projects. However, there are difficulties due to the lack of understanding of the conceptual and its practical implementations of the sukuk linked waqf.

As a conclusion, the finding would highlight some difficulties in providing sukuk linked waqf for financing the redevelopment projects in the MAS areas of Kuala Lumpur. In the end, the paper would suggest some practical solutions to strengthen the alternative Islamic syariah compliance using sukuk linked waqf in the redevelopment of indigenous and restricted land in Malaysia.

**Keywords:** Redevelopment of MAS areas, Sukuk linked waqf - difficulties and solutions



## **Islamic Waqf REITs: Exploring the Potential of Immovable Waqf Properties as Income-Generating Vehicles**

Sherin Kunhibava<sup>1</sup>

Prof. Dr. Aishath Muneeza<sup>2</sup>

Dr. Maryam binti Khalid<sup>3</sup>

Zakariya Mustapha<sup>4</sup>

Thong Ming Sen<sup>5</sup>

Islamic Real Estate Investment Trusts (REITs) have gained recognition as an innovative investment vehicle for mobilizing waqf immovable assets. REITs involve the acquisition and management of a real estate portfolio, generating rental incomes for investors. In Islamic REITs, the tenants must engage in Shariah-compliant activities. It should be noted that a portion of the REITs fund can also be invested in other Shariah-compliant asset classes, with limitations on the acceptable percentage of these assets. REITs operate as real estate investment vehicles that conform to Islamic finance principles.

Unlike conventional REITs, Islamic REITs require tenants to carry out activities that are compliant with Shariah guidelines. This ensures that the rental incomes generated from the real estate portfolio are derived from permissible sources. Furthermore, Islamic REITs are subject to restrictions

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on investing in Shariah-compliant asset classes such as cash, deposits, and investment products, with prescribed limits to maintain compliance.

This research proposes the inclusion of waqf properties in Islamic REIT portfolios to generate rental returns. The objective of this paper is to propose the utilization of waqf properties, such as hospitals and universities, within Islamic REIT portfolios, thereby unlocking their income-generating potential while adhering to Shariah principles.

The problem statement that this research seeks to address is how to enable waqf immovable properties to generate income. Waqf properties, typically designated for charitable purposes, often remain underutilized due to funding constraints for maintenance and development. By purchasing these waqf properties using funds collected from investors in Islamic REITs, their income-generating potential can be unlocked. Examples of waqf properties suitable for this purpose include hospitals and universities, which have the potential to generate significant rental income.

The objective of the research will be achieved in the following manner. Firstly, the study aims to investigate the feasibility of including waqf properties in Islamic REITs as income-generating assets. By analyzing the potential benefits and challenges associated with integrating waqf assets into the Islamic REIT framework, the research seeks to provide insights into the viability of this approach. Additionally, the research intends to explore the concepts of a long-term lease and time-sharing lease as mechanisms for transferring waqf properties to Islamic REITs, for this purpose, sukuk structures will be investigated as there are no Islamic REITs that purchase waqf properties. Thus the conceptual model that will be researched is sukuk structures with waqf features, time-sharing and sub-leases.

The methodology used will be qualitative where content analysis will be employed as the primary qualitative research method to examine case studies related to waqf properties and Islamic REITs. This method involves systematically analyzing and interpreting the content of various documents, reports, and online resources to identify recurring themes, patterns,

and underlying meanings. Sukuk case studies are studied to understand waqf, time sharing and sub-lease structures. The case studies that will be studied are the Sukuk Saxony-Anhalt, Sukuk Zam Zam Tower, Sukuk MUIS and Sukuk NZ Waqf.

To transfer waqf properties to Islamic REITs, different approaches can be explored. For example, the concept of a long-term lease, as employed in the Saxony-Anhalt sukuk of 2004, offers insights. This sukuk utilized an ijarah structure, allowing for a sublease of 100 years. Adopting this approach, waqf properties can be transferred to Islamic REITs, aligning with the long-term objectives of the waqf while generating rental income. Another option is the utilization of time-sharing lease arrangements, as seen in the Zam Zam Tower sukuk of 2004. This involved the transfer of part of the lease through time-sharing sukuk Al-Ijara and sukuk Al-Intifaa, enabling the incorporation of waqf properties into Islamic REITs.

This study's originality lies in the integration of waqf assets into the Islamic REIT framework, enabling their income-generating potential to be realized while adhering to Shariah principles. By bridging the gap between waqf properties and Islamic REITs, previously considered "uninvestible" assets can now contribute to generating rental income and supporting the development of waqf properties. This research fills a crucial gap in the literature by exploring the specific mechanisms and strategies for incorporating waqf properties into Islamic REIT portfolios.

**Keywords:** Islamic REITs, Waqf properties, Income generation, Real estate investment, Shariah compliance



# Unlocking the Potential of AWQAAF Institutions: Addressing Housing Challenges in Zanzibar through a Halal Housing Scheme

Zeyd Abdallah<sup>1</sup>

Cassim Issa<sup>2</sup>

Ally Kebby Abdallah<sup>3</sup>

Zanzibar is grappling with significant housing challenges, including limited access to affordable housing and financing options.

This paper proposes the implementation of a Halal Housing Scheme, leveraging the potential of AWQAAF institutions as the optimal solution. The study highlights the failures and obstacles associated with the current housing situation in Zanzibar, including the lack of affordable housing options for low-income individuals and inadequate infrastructure. These challenges have resulted in a growing housing disparity and limited opportunities for socio-economic development. To address these issues, the paper advocates for the adoption of a Halal Housing Scheme, which effectively utilizes AWQAAF institutions. This approach aligns with Islamic finance principles and Shariah-compliant mechanisms, ensuring fairness, equity, and social responsibility.

Through the Halal Housing Scheme, the paper acknowledges the potential benefits it offers, including increased access to affordable housing, enhanced economic activity, and improved well-being for low-income

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1 Halal Housing Scheme Company Limited, Manchester.

2 Halal Housing Scheme Company Limited, Manchester.

3 Halal Housing Scheme Company Limited, Manchester.

residents. By leveraging the strengths of AWQAAF institutions, the scheme provides a sustainable and ethical model for housing provision.

However, the paper acknowledges the obstacles and failures that need to be overcome for successful implementation. These challenges include addressing the limited availability of suitable land, establishing effective community engagement strategies, and ensuring transparent governance and efficient management of AWQAAF funds. By effectively addressing these obstacles, the Halal Housing Scheme coupled with the utilization of AWQAAF institutions presents a promising solution to the housing challenges in Zanzibar. It offers an inclusive and sustainable approach that prioritizes the welfare of low-income individuals and promotes socio-economic development.

In conclusion, the paper highlights the significance of implementing a Halal Housing Scheme by leveraging AWQAAF institutions to address the housing challenges faced by low-income residents in Zanzibar. It emphasizes the need to address failures and overcome obstacles for successful implementation. By doing so, Zanzibar can achieve sustainable and inclusive housing solutions, setting an example for similar initiatives in other regions facing comparable challenges.

# Unearthing Potential: A Comparative Study of Waqf Real Estate Development and Management in Turkey and Malaysia

Dr. Zati Ilham Abdul Manaf<sup>1</sup>

Waqf, an Islamic practice of voluntary endowment for communal benefits, has been an integral institution within Muslim communities for centuries, fostering socio-economic conditions through the dedicated use of real estate for the welfare of society. Traditionally, real estate forms the cornerstone of Waqf, with properties dedicated to the welfare and support of society. However, despite the rising prominence of other forms of Waqf, such as cash Waqf, real estate remains an enormously influential Waqf asset. Hence, this research delves into the effective and sustainable management of Waqf real estate, focusing on the practices of Turkey and Malaysia.

Deeply rooted in its Ottoman legacy, Turkey possesses a rich history of Waqf endowments. Despite its secular constitution, the country has innovatively restored and rejuvenated old Waqf properties, transforming them into functional and commercially viable entities, showcasing an interesting blend of cultural preservation and sustainable use of Waqf assets. Turkey's commitment to Waqf property revitalization is prominent in its successful restoration of historic mosques, such as the Sultanahmet Mosque and Süleymaniye Mosque, as well as commercial sites like the Spice Bazaar. However, through precursory investigation, it is observed that this progress is marked by a relaxation of traditional Islamic restrictions associated with

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Waqf, particularly involving the construction process and the financing of the development, reflecting a unique approach to Waqf management and development.

In contrast, Malaysia, traditionally dedicating Waqf to specified religious and social purposes, is now aiming to exploit the untapped commercial potential of its numerous idle Waqf lands. Of particular interest is the burgeoning initiative to construct housing accommodations on Waqf lands. This endeavor, supported by federal funds, faces unique challenges due to strict adherence to Shariah principles and funding constraints inherent in Waqf. Recognizing these challenges, the Malaysian government is currently drafting specific Shariah-compliant laws to regulate developers involved in such development projects.

Methodologically, this research employs a doctrinal approach, relying extensively on library-based research that includes a review of related statutes, journal papers, books, and conference papers relevant to the subject matter. This is supplemented with information obtained from a seminar presented by academics and a representative from The Directorate of Vakif (Istanbul) from Turkey who provided crucial perspectives on the functioning and practical administration of Waqf in Turkey, enriching the research with practical understanding and experiences.

The study aims to explore whether the path Turkey has carved in managing and administering Waqf real estate could serve as a learning curve for Malaysia. Through the comparison of these two distinct models of Waqf real estate development, the research aims to identify best practices, potential pitfalls, and opportunities. The goal is to provide meaningful and practical implications for policymakers, Waqf managers, and other stakeholders. This research uniquely offers a lens to compare and contrast two different models of Waqf real estate, emphasizing the significance of innovative, context-specific strategies in maximizing the benefits of Waqf properties. It uncovers the strengths, limitations, and unique characteristics of both systems, contributing to a broader understanding and advancement of Waqf real estate management.

Furthermore, this study adds to the growing discourse on the role of Waqf in socio-economic development, advocating for a more sustainable, equitable, and prosperous society. This extended analysis serves not only to highlight historical practices but also to envision a future where Waqf continues to play a pivotal role in societal welfare and sustainable development through commercial and housing projects.

**Keywords:** Waqf, Real estate, Housing, Malaysia, Turkey



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FIRST PARALLEL PAPER SESSIONS

14.00 - 15.30

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Track 2: “Legal Issues Related to Awqaf”

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## Pinpointing WAQF Laws Contrary to Sharia in Pakistan

Dr. Muhammad Zaid Malik<sup>1</sup>

WAQF inclusiveness in the new Islamic economics has been the topic of research by eminent academics and scholars and pragmatic dialogues have been carried out in various international conferences on WAQF. WAQF and its implementations in theory and practice have been a difficult task in Pakistan, as public AWQAF (plural of WAQF) are strictly regulated by the State while private Awqāf, are relatively lightly regulated. Most of the philanthropic activities in contemporary Pakistan take place in the form of various English law institutions such as registered societies, trusts, and not-for-profit corporations. A large number of awqāf properties exist as symbols of religious institutions such as Masajid, religious schools (Madaris), shrines (Mazars), and graveyards (Qabristans). After independence, awqāf have attracted attention for the revival of poverty alleviation.

WAQF Education in the Educational Institutions of Pakistan and the future of WAQF in Pakistan as an excellent Islamic activity, needs a lot of in-depth research and training. In this regard, this paper will study various Acts and laws that regulate WAQF in the Islamic Republic of Pakistan and pinpoint those Laws that are contrary to the Islamic Sharia. For this purpose, following Acts will be thoroughly studied:

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1. The Punjab Muslim Awqāf Act, 1951.
2. The Qanoon-e-Awqaf Islami, 1945. (Promulgated for the former Bahawalpur State, now part of Pakistan).
3. The North West Frontier Province Charitable Institution Act 1949.
4. Mussalman Waqf Act (Sind Amendment), 1959.
5. Islamabad Capital Territory WAQF Properties Act, 2020.

In 1959 the Government of Punjab promulgated the West Pakistan WAQF Properties Ordinance, which granted the government the right to dispossess a Mutawalli (Nazir or the caretaker of WAQF property). This was followed in 1960 by the Awqaf Ordinance and West Pakistan WAQF Properties Rules, which affected wholesale nationalisations. According to the Rules, the endowments were to pass into the hands of the state in obvious violation not only of the Islamic law but also of the Mussalman WAQF Validating Act, 1913 which, as we know, was one of the greatest achievements of the founder of Pakistan.

The main motives for the centralisation of the Awqāf can be summarised as follows:

1. The administration wanted to control the religious elements in the country since Awqāf were often associated with religious activities.
2. The state had an eye on the financial resources of the endowments.
3. Centralization meant bureaucratisation of the religious establishment, which was thus denied any opportunity for autonomy.

By the year 1984, a statistical analysis covering the provinces of Punjab, Sindh, North West Frontier Province, Baluchistan and the Islamabad Capital Territory has revealed that 344 shrines, 648 Masajid, 31,913 acres of cultivable lands, 48,188 acres of uncultivable lands 2,215 shops, 1,869 houses had been nationalised. Thus, the Awqāf were no longer available for

the economic and social well-being of the population. The “neglected and misused” institutions from now on were to be looked after by the central and provincial governments.

The author will use the inductive method in his research and compare the Acts regulating WAQF with the injunctions of Islamic Sharia.

The author will also try to shed light on the true Islamic injunctions that may replace the WAQF laws that are repugnant or contrary to Islamic Sharia.



# What Does Ahkam al-Awqaf Mean in Cyprus? Reading a 2021 Rule on Endowments by the Supreme Court of Northern Cyprus from a Comparative Legal Approach

Dr. Osman Safa Bursalı<sup>1</sup>

In 2021, the High Court of Appeal of Northern Cyprus (Yargıtay) referred an issue concerning Article 148 of the Constitution of the Republic of Northern Cyprus to the Supreme Court of Northern Cyprus (Yüksek Mahkeme). The parties to the case subject to the appeal were natural persons. A representative of the Attorney General's Office of Cyprus as *amicus curiae* and a representative of the Administration of Endowments of Cyprus (Kıbrıs Evkaf İdaresi) attended the case.

The plaintiffs filed a lawsuit against the defendants in the Girne District Court. They filed the appeal against the decision to dismiss and set aside this case. During the hearing of the appeal case, the plaintiffs/appellants demanded that the High Court of Appeal shall refer the matter to the Supreme Court. They argued that the legislation applied in the case before the lower court was unconstitutional. The High Court of Appeal evaluated the request and decided that the presented rule was a factor in the decision. Bringing the issue to the Supreme Court, the High Court of Appeal emphasized that the Supreme Court should interpret a series of articles.

The High Court of Appeal pointed to the determination of the scope and nature of the Fundamental Rules on Endowments (Ahkam al-Awqaf)

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in Article 131 of the Constitution, according to Article 149 of the Constitution. On the other hand, the High Court of Appeal demanded that, according to the Constitution, whether Ahkam al-Awqaf rules are superior to other applicable laws and whether these rules in force and recognized by the Constitution cover the amendments made before 1960. Finally, the High Court of Appeal stated that the Supreme Court should review Article 131 of the Constitution entirely and decide whether Articles 10 and 34 of Chapter 337 of the Law of Endowments (Evkaf ve Vakıflar Yasası) violate Articles 1 and 131 of the Constitution.

After examining the points stated by the High Court of Appeal, the Supreme Court made important decisions regarding the place of Ahkam al-Awqaf in Cyprus. According to the first of the unanimous decisions, Ahkam al-Awqaf, recognized by Article 131 of the Constitution, consists of the rules contained in the book Ahkamü'l-Evkaf, written by Ömer Hilmi Efendi and translated into English by C.R. Tyser and D.G. Demetriades. On the other hand, according to the Supreme Court, these rules are legal sources that contain the laws related to endowments and endowed properties (unanimous decision). Within the scope of the allegations made regarding Article 131 of the Constitution, Articles 10 and 34 of the Law of Endowments, which concern only the case before the court, and on the condition that they are not related to the articles of the Constitution that make special provisions, Ahkam al-Awqaf rules are at the same level as the laws in force, including the Law of Endowments (unanimous decision). According to the majority, the legislation has not changed Ahkam al-Awqaf; these rules are in force as in the book Ahkamü'l-Evkaf. Finally, Articles 10 and 34 of the Law of Endowments do not violate Article 131 of the Constitution (unanimous decision).

In this paper, I will discuss how Ahkamü'l-Evkaf is part of the legislation in force in Cyprus in the light of the Supreme Court's decision above. In this context, I will talk about the concept of "the books of authority" in the Common Law System and introduce the general structure of the book written by Ömer Hilmi Efendi. Next, I will analyze the aspects of Ahkamü'l-Evkaf in the Supreme Court's decision. Finally, I will discuss the book's place in Cyprus' hierarchy of norms.

## Legal Situation of Turkish (Muslim) Waqfs in Greece and Examination of Komotini (Gümülcine) Waqfs

Chountagi Bekir<sup>1</sup>

With the Lausanne Peace Treaty in 1923, a population exchange between the Republic of Turkey and Greece took place. As a result of this treaty, where these two countries are parties, the Turkish population in Western Thrace (Alexandroupoli, Komotini and Xanthi), which was found in Greek territory and in Turkish territory in Istanbul, Gökçeada and Bozcaada Greek population was excluded from the population exchange. Currently, there are approximately 150,000 Muslim Turkish minorities in the Western Thrace region of Greece. Although the rights of these minorities are determined by the Lausanne Treaty, the rights of the Western Thrace Minority with Article 44 of the Lausanne Treaty were protected. The Waqfs in Greece, in this context, it was protected by Article 40 of the Lausanne Treaty, but this was violated in time in the political environment of Greece. In 1967, the junta administration in Greece in 1967 was dismissed the administrative committees of the Komotini and Xanthi Turkish Community Waqfs and the Turkish Waqfs administrations in Greece started to be determined by appointment. The determination of the waqf administration with the election ended from this date.

The waqf is the establishment of the administration of the blessings or real estate donated for religious, human, sacred and help for the sake of Allah. Waqf in the city of Gümülcine (Komotini) has existed since the time

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of the Ottomans and has been established since the beginning of the 14th century. The most important waqfs; Mosque waqfs, school waqfs and madrasah waqfs. At the same time, there are waqfs of imaret and waterways. Waqfs with the annexation of the Greek territory of Western Thrace to the Greek territory are recognized by Law No. 2345/1920 of the Greek Assembly. With this law communities and schools waqfs of the waqfs of the waqfs of 7 or 12 members come to the administration as a result of the elections. In 1923, with Article 40 of the Lausanne Peace Treaty, the Western Thrace Muslim minority is given the right to recognize legal and real protection and guarantees and to establish institutions, schools and high schools for the benefit of all kinds of human, religious and public.

Today, even though the administration of Komotini Waqfs maintains its internal functioning without any problems, there are of course problems that are troubling and requiring solutions except for its own control. Of these, mainly Income tax, the registration of the waqf real estates to the title deed cadastre administration and the debts to the municipality. Following the unjustly pushed to the borrowing, hypothec is placed on their properties. The emergence of this problem emerged in 1973 when the finance did not receive tax payments. (Waqfs wanted to pay, but the payment was not accepted.) Although the finance does not accept payments waqfs submitted rent and income declarations. In turn, new debts were reflected. In 1977, the new Law No. 542/1977 and 1977-1981 were subjected to real estate taxes from the real estate real estates. Although the current law was abolished in 1981, a separate debt was reflected the waqfs for this period. In 1997, the waqf real estates were subject to great real estate tax by law no. 2459/1997. Until the cancellation of this Law in 2007, a large real estate tax return was given and tax payment could not be made again (It has been found that the value of all waqf real estate is between 22-23 million euros and 7/1000 ratio "150.000,00€" debt for each year). The current debt of Komotini Waqfs is as large as 4,888,000€. A mortgage was placed in the real estate of waqf real estates with high value and rental value against this debt.

The main importance of this study is to address the problems of the Turkish Muslim minority in Greece regarding the waqfs through the debts

within the current order and to mention only a part of them. Because there are still many unresolved problems related to waqfs. (Such as the fact that the administration of the waqf is not determined by the Muslim Turkish minority, but appointed by the Greek state). The main problems encountered in the current situation can be listed as the unlawfulness, the refusal to accept the debts to be paid and the confiscation of waqf properties. This study can essentially be considered an analysis of the current situation of the waqfs of Komotini and the processes they have gone through.



## Dispute in Cross-Border Waqf: Mitigation, Resolution, and the Role of Waqf Authority

Shandy Primandasetio Freddy<sup>1</sup>

Prof. Dr. Nor Asiah Mohamad<sup>2</sup>

Waqf is not only representing individuals and public relations but it is a legal entity with power, rights, and duties. It is not a mere religious institution but a body providing for the socio-economy of the ummah. Its benefits run across countries and there is no limit to race, religion, or color. It is the embodiment of rahmatan lil'alamiin, which caters to the poor, the rich, humankind, and even animals. Cross border-waqf is a waqf transaction with international elements. It includes parties from different countries, namely the wakif, nazir, mawquf-alaih, the movement of mawquf and usufruct between countries. As such, different laws will be applicable with different authorities involved in handling the matters. Based on these premises, there is always legal risk in every cross-border waqf activity. Between 1989 and 2017, there were over twenty waqf legal disputes in Malaysia. Indonesia has a higher figure, with over fifty waqf legal disputes in 2022 alone. Resolving disputes in cross-border waqf is more complex because of the international elements. Legal differences between countries have always been a major obstacle in every international transaction, including cross-border waqf. The losses from the disputes may not only appear in the form of finance but social, economic, political, and international linkages. The disputes will certainly tarnish the image of waqf institution. In fact, there is

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a lack or no legal instrument providing specifically for cross-border waqf. Waqf Core Principles (WCP), as one of the latest waqf international best practices, also has no regulation about legal risk mitigation, dispute resolution mechanism, and the role of waqf authorities in resolving disputes in cross-border waqf.

Past literature on cross-border transactions involving European Union (EU) countries reveals that legal and administrative barriers were the most crucial obstacle to cross-border cooperation. This data will help to give clear direction for future research in the area of cross-border waqf obstacles. One study prepared an inventory of 239 border obstacles and identified that national and regional legislation inconsistencies are the primary cause. On the other hand, administrative obstacles pointed to inadequate procedural or administrative practices at the local, regional, or national level. It is foreseeable that the differences between national or regional legislation or international would contribute to a more negative impact on cross-border integration, including waqf, to a certain extent. The potential effect of this situation on cross-border transactions will reduce the intensity of cross-border interaction in almost all areas of integration, adversely affecting the cross-border economy (waqf is one of the sectors), cross-border communication, societal aspects (i.e., social security systems), or even individual donor. Hence, addressing such cross-border obstacles could positively impact many aspects of life, including the waqf sector as a part of the Islamic social finance sphere.

Sharia compliance is another issue that can trigger a dispute in cross-border waqf transactions. Due to the international nature, parties need to ascertain halal aspects in almost all phases of cross-border waqf, starting from the mawquf, which in the modern world is closely related to money laundering and black market risk. If the mawquf is in the form of goods, international halal packaging is also an issue. The involvement of sharia-compliant financial institutions, such as banks and insurance (takaful), is essential in transferring, storing, and investing the mawquf. Examples can be seen in the utilization of sharia-compliant insurance (takaful) in guaranteeing the overseas shipping of the mawquf, a sharia-compliant bank in

managing the mawquf, and choosing a sharia-compliant investment project in the destination country. Finally, the usufruct must also be distributed (directly or indirectly) in a sharia-compliant way. These matters are subject to risk mitigation in cross-border waqf. Failure to mitigate will trigger issues that may lead to the dispute resolution mechanism.

Having acknowledged the above predicaments in cross border waqf and in order to close the above gaps, this paper aims to study dispute mitigation which is commonly practiced in international transactions that can support cross-border waqf. Secondly, considering that disputes are always possible even if the parties have prepared adequate mitigation, examining the best way to resolve the disputes in cross-border waqf is crucial. Determining an appropriate dispute resolution mechanism is very important because waqf is eternal, so the relationship between conflicting parties must be well maintained. Finally, this paper will also investigate the role of waqf authority in conflict resolution that might be useful in cross-border waqf transactions. The research method that will be used is qualitative research. Resources will be obtained from several laws in Indonesia and Malaysia, international laws and rules, as well as results of some research related to waqf. The data will be gathered and interpreted through exploratory and descriptive methods. The finding shows, among others, the importance of contractual clauses about dispute resolution to mitigate legal barriers in resolving cross-border waqf legal disputes. The choice of alternative dispute resolution could effectively maintain the relationship between parties while resolving cross-border waqf disputes efficiently. Lastly, the active participation of the waqf authority as a conciliatory party in resolving cross-border waqf disputes is crucial. In this case, the role of the waqf authority must be looked at closely due to the possible conflict of interest, especially when the waqf authority is related to the disputing waqf transaction. Undoubtedly, this study will refine the Waqf Core Principles (WCP) in the future and provide a basis for a more effective dispute resolution via legal mechanisms, policy consideration, and developing an impactful model.

**Keywords:** Cross-Border Waqf, Waqf Dispute Resolution, Waqf Core Principles.



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FIRST PARALLEL PAPER SESSIONS

14.00 - 15.30

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Track 3: “Türkçe Oturum  
(Turkish Session)-1”

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## Vakıflar Kanunu'nun 17. Maddesi Çerçevesinde İcareteynli ve Mukataalı Taşınmazların Vakfına Dönmesi

Prof. Dr. Ömer Çınar<sup>1</sup>

Osmanlı Devleti'nde icareteynli ve mukataalı vakıflarda mutasarrıfın mirasçı bırakmaksızın ölmesi halinde kural olarak, vakıf malı mahlulen vakfına dönmekteydi. Ancak, 743 sayılı Türk Kanunu Medenisi<sup>2</sup> ve 2762 sayılı Vakıflar Kanunu<sup>3</sup>, mülkiyet ve yararlanma hakkı şeklinde ikili ayrımı kaldırıldığından, söz konusu icareteynli ve mukataalı vakıf mallarını tasfiye etmek için bir düzenleme kabul edilmiştir. Mülga 2762 sayılı Vakıflar Kanunu'nun 29.maddesinde, on yıl içinde taviz bedeli ödenmeyerek terkin edilmeyen icareteynli ve mukataalı vakıf kayıtlarının on yılın sonunda kendiliğinden terkin edilmesini ve mülkiyetin mutasarrıfa geçmesini düzenlemiştir. Ancak söz konusu süre içinde, taviz bedeli ödenmeyen ve şerhi terkin edilmeyen taşınmazlar için Kanunkoyucu, 1945 yılında 4775 sayılı Kanunla<sup>4</sup> 2762 sayılı Vakıflar Kanunu'nun 29.maddesini değiştirmiş ve süreyi on yıl daha uzatmıştır. Bu hükme göre (2762 sayılı Kanun m.29), *“On yıl içinde bu Kanun hükümlerine göre taviz vermek yolu ile icareteyn veya mukataa kayıtları terkin edilmemiş olan gayri menkullerin mülkiyeti on yıl sonunda kendiliğinden mutasarrıflarına geçer ve vakfın hakkı da ivaza dönerek gayri menkulün tamamı bu ivaz karşılığında birinci derece ve birinci sırada ipotek sayılır. Genel Müdürlük o yıl tahakkuk ettirilen icare veya mukataa üzerinden*

1 İbn Haldun Üniversitesi Hukuk Fakültesi Medeni Hukuk Öğretim Üyesi.

2 4 Nisan 1926 tarihli Resmi Gazete. (Yürürlük 4 Ekim 1926).

3 13 Haziran 1935 tarihli ve 3027 sayılı Resmi Gazete.

4 21 Haziran 1945 tarihli ve 6037 sayılı Resmi Gazete.

*hesaplanabilecek olan bu tavizlerle vaktinde ödenmeyen taksitleri mutasarrıfın başka mallarına müracaat yolu ile ve Amme Alacaklarının Tahsil Usulü Hakkındaki Kanuna göre tahsile dahi yetkilidir. Bu madde gereğince mülkiyeti mutasarrıflarına geçmiş olan gayri menkullerde maliklerin Hazineden başka varis bırakmadan ölümleri halinde, mülkiyet mahlulen vakfına rücu eder. Bu Kanunun yayımı tarihine kadar maliklerinin ölümleri üzerine son mirasçı sıfatıyla Hazineye İntikal edip de bu husus tapu kaydına işlenmemiş bulunan gayri menkullerde yukarıdaki fıkra hükmüne tabidir". 14.12.1955 tarihinde taviz bedeli ödenmeyen şerhler terkin edilmiş ve malların mülkiyeti mutasarrıflara geçmiştir. Ancak Kanunkoyucu, 1983 yılında 2888 sayılı Kanunla<sup>5</sup> Vakıflar Kanunu'nun 27. ve 29. maddelerinde değişiklik yaparak, hazineden başka mirasçı bırakmadan ölen kişilere intikal eden vakıf taşınmazlarının mahlulen vakfa dönmesini kararlaştırmıştır. Söz konusu hükümlerle ayrıca, bu maddelerin yürürlüğe girmesinden önce hazineye intikal eden ancak tapu kütüğüne bu konuda kayıt düşülmeyen taşınmazların da vakfına dönmesi düzenlenerek, geçmişe dönük bir uygulama yapılmıştır. Mülkiyeti mutasarrıfına geçen taşınmazların, mutasarrıf mirasçı bırakmadan ölmüşse, taşınmaz Vakfına intikal edecektir. Ancak Kanunun yürürlüğe girdiği 1983 tarihinden önce Hazineye ya da üçüncü kişilere intikal etmiş olan taşınmazlar için kazanılmış haklar saklı olup, bu taşınmazlar vakfa dönmeyecektir.*

Yukarıda belirtilen Kanun hükümleri birlikte değerlendirildiğinde, 2888 sayılı Kanunun yürürlük tarihi olan 24.9.1983 tarihinden sonra aslı vakıf olan taşınmazların Hazineye geçmesine yasal olanak kalmamıştır. Daha önce Hazine üzerine oluşan tapu kayıtlarının iptal edilememesi için de; taşınmazın önce mutasarrıfına geçip özel mülk haline gelmesi, mal sahibinin mirasçı bırakmadan ölmesi ve 2888 sayılı Kanunun yürürlüğünden önce tapuda Hazine üzerine yazılması gibi üç koşulun gerçekleşmesi gerekir. 2762 Sayılı Vakıflar Kanunu, 27.2.2008 tarihinde yürürlüğe giren 5737 Sayılı Vakıflar Kanunu'nun<sup>6</sup> 80.maddesi ile yürürlükten kaldırılmış ve yeni 5737 Sayılı Vakıflar Kanunu'nun 17.maddesi ile "*Tasarruf edenlerin veya maliklerin mirasçı bırakmadan ölümleri, kaybolmaları, terk ve mübadil gibi durumlara düşmeleri halinde icareteynli ve mukataalı taşınmaz malların*

5 24.9.1983 tarihli ve 18171 sayılı Resmi Gazete.

6 27/2/2008 tarihli ve 26800 sayılı Resmi Gazete.

*mülkiyeti vakfı adına tescil edilir.” düzenlemesine yer verilmek suretiyle taşınmazların Hazineye intikal yolunu kapatılmıştır. Söz konusu hüküm yürürlük tarihinden sonrası için uygulanacağından kamu düzeniyle ilgili önceki kazanılmış hakları bertaraf etmeyecektir. Yani 2008 yılından önceki durum için 2762 sayılı Kanununun 29. maddesi uygulanacak ve 24.9.1983 tarihinden önce Hazineye veya üçüncü kişilere intikal eden taşınmazların mülkiyeti Vakfına dönmeyecektir.*

Yargıtay 1. HD'nin, 2016/11704 E. ve 2017/3060 K. sayılı, 31.5.2017 tarihli bir kararında da bu husus şöyle ifade edilmiştir: “...2888 sayılı yasanın yürürlük tarihi 24.9.1983 tarihinden sonra aslı vakıf olan taşınmazların Hazineye geçmesine yasal olanağın kalmadığı sonucuna ulaşılmaktadır. Öte yandan, daha önce Hazine üzerine oluşan tapu kayıtlarının iptal edilememesi içinde; taşınmazın önce mutasarrıfına geçip özel mülk haline gelmesi, mal sahibinin mirasçı bırakmadan ölmesi ve 2888 sayılı yasanın yürürlüğünden önce tapuda Hazine üzerine yazılması gibi üç koşulun gerçekleşmesi gerekmektedir. ... Hemen belirtmek gerekir ki; bütün bu yasal düzenlemeleri içeren 2762 Sayılı Vakıflar Kanunu 27.2.2008 tarihinde yürürlüğe giren 5737 Sayılı Yasanın 80.maddesi ile iptal edilmiş ve yeni 5737 Sayılı Yasanın 17.maddesi ile “Tasaruf edenlerin veya maliklerin mirasçı bırakmadan ölümleri, kaybolmaları, terk ve mübadil gibi durumlara düşmeleri halinde icareteynli ve mukataalı taşınmaz malların mülkiyeti vakfı adına tescil edilir.” düzenlemesine yer verilmek suretiyle taşınmazların Hazineye intikal yolunu kapatmış bulunmaktadır. Esasen, anılan bu hükmün kamu düzeniyle ilgili kazanılmış hakları bertaraf etmeyeceği tartışmasız olup, çekişmelerde bu hususun gözardı edilemeyeceği de kuşkusuzdur...”. ([www.lexpera.com](http://www.lexpera.com))



## Çalışanlar ve İşçiler Lehine Yardım Vakıfları

Prof. Dr. Şükrü YILDIZ<sup>1</sup>

6102 sayılı TTK m. 522, anonim şirketin esas sözleşmesinde, şirketin yöneticileri, çalışanları ve işçileri için yardım kuruluşları kurulması veya bunların sürdürülebilmesi amacıyla veya bu amacı taşıyan kamu tüzel kişilerine verilmek üzere yedek akçe ayırımını öngörebileceğini, yardım amacına özgülünen bu yedek akçelerin ve diğer malların şirket malvarlığından ayrılarak, kurulması zorunlu olan bir vakıf veya kooperatifin malvarlığını oluşturması gerektiği, vakıf senedinde, vakıf malvarlığının şirkete karşı alacaktan ibaret olacağına öngörülebileceği, şirketin bu amaca özgülendiği yedek akçeden başka, yöneticilerden, çalışanlardan ve işçilerden aidat alınmışsa, iş ilişkisinin sonunda, vakıf senedine göre yapılan ayırımdan yararlanamadıkları takdirde çalışanlara ve işçilere hiç değilse ödedikleri tutarları ödeme tarihinden itibaren kanuni faizi ile birlikte verileceği şeklinde hüküm altına almıştır<sup>2</sup>.

Belirtmek gerekir ki, 6762 sayılı TTK m. 468 yer alan işçiler ve çalışanlar lehine yardım vakıflarına ilişkin hükmün, 743 sayılı Medeni Kanun'un vakıflara ilişkin hükümlerin değiştirilmesinde etkili olduğu, "Türk Medeni Kanununun Tesislere ilişkin faslını değiştiren, 1967 tarihli ve 903 Sayılı Kanun" hükümlerinin incelenmesinden anlaşılmaktadır. Bu değişiklik ile birlikte, TTK m. 468'e uyumlu şekilde, 743 sayılı TMK m. 77/a ile 79.

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1 İbn Haldun Üniversitesi Hukuk Fakültesi Ticaret Hukuku Öğretim Üyesi.

2 Benzer bir düzenleme 6762 sayılı mülga TTK m.468'de de yer almaktaydı. Mülga TTK m. 468'in kapsamının, TTK m. 522 maddenin kapsamına göre daha dar olduğu anlaşılmaktadır. Zira, yeni metindeki, şirket yöneticileri ibaresi ile, "... veya kooperatif kurulması zorunludur" ibaresi yer almamaktadır.

Maddelerinde, çalıştırılanlara ve işçilere yardım vakfına ilişkin hükümler öngörülmüştür. Aynı düzenlemenin 4721 sayılı TMK m. 110 hükmünde de benimsendiği görülmektedir.

Önemle ekleyelim ki, anonim şirketler tarafından TTK m. 522 gereğince kurulabilecek<sup>3</sup>, çalışanlar ve işçiler lehine yardım vakıfları, işçilerin şirket karına iştirak etmelerinin özel bir biçimini oluşturmaktadır. Zira, TTK m. 522/1, şirket karından ayrılan bir miktarın, şirket esas sözleşmesinde yer alan hüküm gereği veya TTK m. 523/3 uyarınca esas sözleşmesinde hüküm bulunmasa bile genel kurul kararı ile işçilere yardım vakıflarına aktarılabilir. Böylece, şirket karından ayrılan bir miktar paranın, amacı işçilerin sosyal güvenlikleri ve refahlarını sağlamak olan vakıf tüzel kişiliği eliyle kullanılması mümkün olmaktadır<sup>4</sup>.

Bu vakıflar, çalışanlara ve işçilere, evlenme, doğum, ölüm, işgöremezlik, hastalık ve kazalarda yardım gibi konularda yardım etmek, yani işçilerin ekonomik çıkarlarını gerçekleştirmek amacını taşımaktadırlar. Esasen bu vakıflardan yararlananlar, sadece çalışanlar ve işçiler olmayıp, onların eş, çocuk ve anne ve baba gibi yakınları da olabilmektedir<sup>5</sup>.

Ülkemizde kurulan bu tür vakıfların, işçilere kredi vermesi, konut yardımı yapması, yiyecek ve giyecek verilmesi gibi yararların sağlanmasına hizmet etmesi, işveren ile işçiler arasındaki sosyal barışın sağlanmasına açıkça katkı sağlamaktadır.

Bu vakıflara sağlanan gelirlerin tamamı anonim şirketin karından oluşabileceği gibi, vakıf gelirlerinin şirket karından yapılan özgülleme yanında, yöneticilerden, çalışanlardan ve işçilerden aidat alınması yoluyla artırılması da mümkün kılınmıştır. Bu şekilde kurulmuş bir vakıf bulunması durumunda, iş ilişkisinin sonunda, vakıf senedine göre yapılan ayırimdan

3 TTK m. 610/1 hükmü gereğince, anonim şirketlere ilişkin m. 514 ila 527 hükümlerinin limited şirketlere de uygulanacağından, limited şirketlerinde TTK m. 522 uyarınca çalışanlar ve işçiler lehine yardım vakıfları kurması mümkün bulunmaktadır.

4 Tekinalp, Ünal; İşçi ve Müstahdemler Yararına Yardım Akçeleri ve Yardım Vakıfları, Banka ve Ticaret Hukuku Dergisi, Cilt: IV, 1968, s. 420.

5 Ballar, Suat; Yeni Vakıflar Hukuku, 5. Baskı, İstanbul 2015, s.71.

yararlanmadıkları takdirde, işçilere ve çalışanlara vakfa ödedikleri tutarları, ödeme tarihinden itibaren kanuni faizi ile birlikte talep etme imkanı verilmiştir.

Türk hukukunda Yargıtay konuya ilişkin uyuşmazlıklarda verdiği kararlarında, bu hükmü işçiler lehine yorumlayarak istikrarlı bir içtihat oluşturmuştur.

Çalışmada bu vakıflar, TTK m. 522 ve MK m. 110 kapsamında ele alınıp türleri açıklanacak, işçilerin vakıfların yönetiminde yer alınamayacağı irdelenecek ve vakfa aidat ödeyen işçilerin, iş akdinin sona ermesi durumunda, ödediği bu paraları hangi şartlarda isteyebileceği sorunları üzerinde durulacaktır.



## İslam Vakıf Hukuku ile Türk Vakıflar Kanunu'nun Mukayeseli İncelemesi

Ahmet Faruk Şahin<sup>1</sup>

Vakıfların, sahip oldukları kurbet vasfıyla Allah rızasını kazanmaya bir vasıta olması, vakfedenin ölümünden sonra dahi kendisi için bir “sadaka-i câriye” olması, ayrıca toplumun fakirler başta olmak üzere bütün kesimler açısından barınma, sağlık, eğitim, gıda, bayındırlık hizmetleri gibi asli ihtiyaçları sağlayarak toplumun kalkınmasında önemli rol oynaması sebebiyle İslam tarihi boyunca oldukça rağbet görmüş ve yaygınlık kazanmıştır.

Kur'an-ı Kerim'de vakfın meşruiyetine ilişkin sarahaten bir ifade zikredilmese de fakirlere ve muhtaç durumdaki kişilere yardım etmeyi, sadaka vermeyi ifade eden birçok Âyet-i kerime mevcuttur. Bunların içinden özellikle, “Sevdiğiniz şeylerden Allah yolunda harcamadıkça gerçek iyiliğe ulaşamazsınız” Âyet-i kerimesi (Âl-i İmrân 3/92) ve mescitlerin Allah'a ait olduğunun; Allah'ın mescitlerini ancak birtakım niteliklere sahip kimselerin imar edebileceğinin bildirilmesi (et-Tevbe 9/18-19; el-Cin 72/18) bazı âlimlerce vakıfla daha sıkı biçimde ilişkilendirilmiştir. Hz. Resûl-i Ekrem'in (sav) bir binek hayvanından, silâhından ve vakfettiği arazilerden başka mal bırakmadığı rivayet edilir (el-Buhârî tarih yok). Hz. Ömer (ra), Hayber'de ganimet olarak sahip bulunduğu değerli bir arazisini Resûlullah'ın (sav) “Aslımı alıkoy, gelirini tasadduk et” yolundaki tavsiyesine uyup satılmamak, hibe edilmemek ve miras kalmamak şartıyla ihtiyaç sahipleri için tasadduk etmiştir (el-Buhârî tarih yok). Hz. Osman (ra) da yine Resûlullah'ın (sav)

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tavsiyesiyle Medine'deki Rûme Kuyusu'nu satın alıp bütün Müslümanların yararına tahsis etmiş (et-Tirmizî tarih yok), Hâlid b. Velid (ra) savaş aletlerini ve atlarını (el-Buhârî tarih yok), Hz. Ali (ra) bir arazisini ve Yenbu'da bir su kaynağını vakfetmiş, diğer Sahâbiler (ra) de ev ve arsa gibi mülklerini vakıf haline getirmiştir (el-Beyhakî tarih yok). Câbir b. Abdullah'ın (ra) "Ben muhacir ve ensardan mal sahibi olup da vakıf yapmamış bir kimse bilmiyorum" dediği rivayet edilir (et-Trablusî 1981, 11)

İslâm tarihi boyunca Müslüman âlimlerin katkılarıyla bu temeller üzerinde yükselen İslâm vakıf hukuku, sahip olduğu zengin birikim ile vakıfların büyük bir hassasiyet ile etkin bir biçimde yönetilmesini temin etmeyi amaçlayan bir yapıya sahiptir. Vakıfların yüzyıllar boyunca İslâm dünyasında din, eğitim, sağlık, bayındırlık ve sosyal yardım gibi kamu hizmetlerini Allah rızası temelinde ve sivil inisiyatifler zemininde sağlamasında İslâm vakıf hukukunun da önemli bir rolü bulunmaktadır. Vakıfların topluma sağladığı katkı açısından en önemli örneklerden birini teşkil eden Osmanlı Devleti'de vakfa dair hem Şer'îyye sicillerinde yer alan davaların içeriği, hem de fetva kitaplarındaki vakıf bölümlerinin ulaştığı geniş hacim de bu açıdan dikkat çekici bir bağlantıya işaret etmektedir.

Medeni Kanun'un 1926 yılından kabulünü takiben, İslâm vakıf hukukunun Türkiye topraklarındaki uygulama zeminini önemli ölçüde kaybetmesiyle birlikte vakıfların aslî amaçlarını doğru şekilde gerçekleştirmelerini sağlayan zemin de ortadan kaybolmuştur. Bu zeminin yokluğunda, vakıflar yaygın olmakla beraber eski işlevini büyük oranda kaybetme gerçeği ile yüzleşmek durumunda kalmıştır. Bu durumun ortaya çıkardığı temel sorunlar arasında gelir kaynakları, gider kalemleri, kurbet vasfını yitirmesi ve şartlarına riayet edilmeyen istibdâl uygulamaları zikredilebilir.

Hanefilerce vakfın sıhhat şartları arasında kabul edilen ve vakfı Allah Teâlâ'nın rızasını kazanmaya götüren bir vesile olmakla özdeşleştiren kurbet vasfının yitirmeye başlaması söz konusu sorunların başında gelmektedir. Vakıfların özellikle büyük sermaye sahipleri tarafından paralarını aklamak, vergi gibi giderlerden kendilerine koruma sağlamak amacıyla kurulmaları, kısmen sekülerleşen vakıf anlayışı gibi sebeplerden

günümüzde vakıflar kısmen kurbet vasfını kaybetmeye yüz tutmuştur. Diğer bir yandan, vakıfların gelir ve giderleri hususunda iktisadi iştiraklerinin olmasına izin verilirken bu iştirakler aracılığıyla yapacağı faaliyetlerde İslam Hukukuna riayet etmeleri teminat atına alınmaksızın serbest bırakılmaları büyük bir sorun olarak ortaya çıkmıştır. Bunun yanında vakıfların finansal gelir ve giderlerinin çok önemli bir kısmının faiz gibi İslam Hukuku açısından kabul edilemez bir kaynağa dayalı olması da çok önemli bir başka sorunu teşkil etmektedir. Bunlara ek olarak, İslam Hukuku'nda ciddi şartlara bağlanmış istibdâl uygulaması da günümüz vakıflarında söz konusu şartlara riayet edilmeden uygulanabilmektedir. Bu bağlamda özellikle yasal zemini 1935 yılında yürürlüğe giren mülga 2762 sayılı Vakıflar Kanunu ile atılan ve bu tarihten beri Vakıflar Genel Müdürlüğü tarafından tatbik edilen taviz bedeli ve mazbut vakıf mülklerinin satışı gibi uygulamalar sorun taşımaktadır. Yapılan düzenlemelerle vakfın kuruluşuna konu malların yönetim organları tarafından verilen izinle satılabilir olması da İslam Hukuku açısından oldukça mahzurlu bir durumdur. Bu noktalar dikkate alındığında, yürürlükteki vakıf hukuku ile İslam vakıf hukuku ilkeleri arasında ciddi farklar bulunduğu yadsınamayacak bir biçimde belirginleşmektedir. Vakıfların maddi kaynaklarının büyük oranda toplanan yardım ve üye aidatlarına dayalı olması ve vakıfların mevkuf üzerinden elde edilen gelirlerle hizmetlerini yerine getirmesi geleneğinden kısmen uzaklaşmış olması da vakıfların sürekliliği hususunda sorun oluşturmaktadır. Sonuç olarak bütün bunlar dikkate alındığında, günümüz vakıflarının; bağlı oldukları yasal zemin ve mevcut uygulamaları sebebiyle İslam Hukuku ile uyuşmayan birçok yönü bulunduğu, bu uyuşmazlıkların ise vakıfların aslî işlevlerini yerine getirmesine engel olması rahatlıkla görülebilir.

Yapılan literatür taraması sonucunda literatürde cumhuriyet döneminde vakıflarla ilgili yapılan düzenlemeleri İslâm Hukuku açısından değerlendiren doğrudan bir çalışmaya rastlanılmamıştır. Bu çalışma, vakıflarla ilgili söz konusu yasal düzenlemeleri -özellikle 5737 Sayılı Vakıflar Kanunu'nun- İslam Vakıf Hukukunun temel ilke ve hükümleri üzerinden değerlendirmeyi hedeflemektedir. İslamî hükümler çerçevesinde 5737 Sayılı Vakıflar Kanunu'nun ve daha öncesinde yayımlanan vakıflara dair düzenleme ve

kanunların -2762 ve 903 sayılı kanunlar gibi- İslam Hukuku açısından uygun kabul edilmeyen maddelerinin incelenerek yeni önerilerde bulunulması da çalışmanın bir diğer özgün yönünü ortaya koymaktadır.

**Anahtar Kelimeler:** Vakıf, İslâm Vakıf Hukuku, Türk Vakıflar Kanunu, Mukayeseli Hukuk, Kurbet, İstibdâl.

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FIRST PARALLEL PAPER SESSIONS

14.00 - 15.30

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Track 4: “Innovative Approaches in Awqaf”

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# The Development of Waqf Skill Indicators for the Improvement of Waqf-Based Entrepreneurial Commercialization

Dr. Puteri Aina Megat<sup>1</sup>

Dr. Sami Samir Abdelfattah<sup>2</sup>

**Purpose** - “Waqf-based entrepreneur commercialization” is a business or commercial venture that is established or operated using waqf funds or its principles. Proficiency in developing innovative products or services is vital for the success of the business; however, seeking assistance from experts in the development of the offerings can be costly and hinders the progress of the waqf development. Alternative approaches like waqf skills may offer potential solutions to this challenge.

The term “waqf skills” is coined in this research as the assessments of an individual’s proficiency in executing practical tasks endowed Islamically for charitable purposes, specifically in areas requiring technical knowledge. These assessments can include various essential hard skills such as computer programming, technical expertise, and engineering capabilities. The documentation and recording of these tasks with the intention of donating them as waqf aim to provide perpetual cost-benefit usage for future entrepreneurs to expand the waqf economy.

To address these issues, this exploratory research proposes the following research objectives:

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  - 2 Assistant Professor, Faculty of Islamic Studies, Al-Madinah International University, Malaysia.

1. Explore the possibilities of waqf skills for entrepreneurial commercialization.
2. Identify the important indicators determining the establishment of waqf skills for entrepreneurial commercialization.

**Design/methodology/approach-** This exploratory study utilizes a qualitative approach and employs specific thematic analysis to investigate the potential themes that describe the establishment of waqf skills and examine the indicators' development. Through this research approach, researchers are able to delve deeper and gain an insightful understanding of waqf skills from both Shari'ah and business perspectives. In this study, hypotheses are not formulated, thus a conceptual framework is not presented initially. The conceptual framework emerges during the analysis of the collected qualitative data. The relevant data is gathered through a semi-structured interview process conducted by ten academic scholars and industry professionals who serve as expert informants in the waqf concept. This data is categorized using NVivo into similar themes and patterns, from which the researcher draws conclusions.

**Findings -** Firstly, in line with the interpretation of waqf, the informants specify that there are possibilities of waqf skills for entrepreneurial commercialization. The possibilities from the aspect of:

- a) The concept of waqf skills adds to the three basic principles of waqf property: non-transferability (al-ilzam), irrevocability (al-mu'tamad), and permanence (al-ta'bid).
- b) The documented Waqf skills can be utilized effectively to support entrepreneurial activities by providing the expertise freely. This encompasses various entrepreneurial commercial development stages such as production, distribution, marketing, sales, and customer support.
- c) The willingness to waqf expert skills via digital or physical documentation strengthen the value-added business sustainability. The policies and operating practices of the waqf documentation enhance the long-term competitiveness of enterprises while simultaneously advancing the economic and social conditions in the communities in which it operates.

Secondly, the data collection from the informants' perceptions and experiences suggests the intended indicators of waqf skills as follows:

d) Intellectual property of the skills in the form of technical, services and valuable expertise (Milikiah Fikriah as the nature of Mawquf)

e) Perpetual recorded documentation of the skills digitally or physically (Tawthiq as the formation of Mawquf)

f) Prerequisites or criteria for the aptitudes needed for Sharia-compliant waqf skill activities (Syarat Al-mawquf as the rules of Mawquf)

g) Documented skills that cannot be sold or purchased (Almaharat Al-mawqufah)

h) Intended interest of the documented skills for waqf entrepreneurial commercialization to improve the economic welfare (Niat from waqif)

i) Mutual agreement between the donator and trustee for the skills to be converted into waqf (Muafaqah between waqif and trustee)

**Implication-** The theoretical implication of this research lies in the development of waqf skills indicators for the usage of Islamic endowment entrepreneurs to enhance their business commercialization beyond tangible waqf assets. The indicators may suggest a paradigm shift of thought in the exploration of the novel concept of waqf. The practical implication of this research is to apply the intended waqf skills in a tangible form. By incorporating intangible skills into physical or digital documentation, future generations of entrepreneurs can utilize these skills to sustain their commercialization efforts and strengthen the economic welfare of the ummah (Muslim community).

**Originality-** The originality of this paper is demonstrated through its contribution to academia and industry by proposing a new generation of waqfship concept by coining the term "waqf skills". The paper establishes the waqf skills possibilities in entrepreneurial commercialization and formulates indicators, taking into account its suitability, applicability, and prospects in the market.

**Recommendation-** Based on the findings of this research, it is recommended that efforts be made to develop the “waqf-preneur” model by incorporating waqf skill indicators. The implementation of the model may lead to greater financial rewards, flexibility, scalability, and job creation potential. This can be particularly appealing to entrepreneurs who prioritize financial success and growth opportunities while simultaneously sustaining the waqf economy.

**Keywords:** Waqf entrepreneurs, Waqf skill, Waqf commercialization, Waqf Ilmu

# Innovative Financing Methods for Waqf Development

Adam, Hudzaifah Alyaman<sup>1</sup>

Waqf development projects require significant capital investments, and securing appropriate financing is crucial for their success. Selecting the appropriate form of financing ensures the long-term sustainability of the Waqf as well as protects the interest of its beneficiaries from overexposure to risks arising from the differing forms of financing. This abstract explores the various types of real estate financing options that Warees Investments Pte Ltd and Muis domiciled in Singapore have undertaken for Waqf development projects through real life practical applications. It provides an overview of both traditional and alternative financing methods, highlighting their characteristics, advantages, and potential challenges.

Traditional financing methods for real estate development primarily include debt financing and equity financing. Debt financing involves borrowing funds from financial institutions such as banks, mortgage companies, or private lenders. Developers typically secure loans by offering the property as collateral. However, the traditional view of using Waqf properties as a form of collateral has been frowned upon from the religious point of view and therefore poses significant challenges for the Waqf as it carries the risk of high leverage, which can increase financial vulnerability and limit flexibility in project execution.

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Equity financing, on the other hand, involves raising capital by selling ownership stakes in the development project. Investors, such as individuals, corporations, or trust funds (including cash waqfs), contribute funds in exchange for equity ownership through a joint venture. Equity financing offers advantages such as shared risk and the potential for higher returns. However, it often requires extensive negotiation and may involve complex legal structures and profit-sharing arrangements. A case study involving seven (7) different Wakafs and two (2) investors will be presented on how equity financing is applied in the real-world context.

In recent years, alternative financing methods have gained popularity and one such method that has been utilised previously is a Waqf-based sukuk. Sukuk represents an ownership interest in a tangible asset or project and can be structured to generate income from waqf assets. Waqf-based sukuk enables investors to contribute funds to a waqf project while earning returns from the income generated by the underlying assets. This financing method provides an avenue for diversifying funding sources and attracting investors seeking both financial and social returns. However, the complexity of sukuk issuance and the need for specialized expertise may present challenges in implementing waqf-based sukuk. A case study will be presented on how Waqf-based Sukuk financing is applied for the redevelopment of a particular Wakaf.

An alternative financing method is crowdfunding through institutional investors. This method offers benefits to institutions that have excess funds/surpluses in their reserves and by providing them an opportunity to participate in Waqf financing for development projects allows a win-win situation for both the investor and Waqf for the benefit of the wider community. However, crowdfunding may require significant marketing efforts as well as careful management of investor expectations. A case study will be presented on how crowdfunding financing is applied for the redevelopment of a particular Wakaf.

In conclusion, Waqf development projects require diverse financing options to meet their capital requirements. In addition to traditional

methods like debt and equity financing, innovations such as waqf-based sukuk and waqf crowdfunding offer additional avenues for capital mobilization and community participation. By understanding the diverse forms of waqf financing and their potential benefits and challenges, stakeholders can harness the power of waqf to drive social and economic development in a sustainable manner.

**Keywords:** Waqf development, Equity financing, Sukuk, Crowdfunding, Sustainable future



# The Mawarith linked Waqf: A Model for Developing Scramble Assets

Imam Kamaluddin<sup>1</sup>

Syahrudin<sup>2</sup>

Fadhila Tianti Mudi Awalia<sup>3</sup>

Alfarid Fedro<sup>4</sup>

This article explores the concept of Mawarith (inheritance) and its connection with waqf, a form of Islamic endowment. It highlights the mechanisms of waqf management in producing waqf assets and the potential contribution of Mawarith in addressing inheritance-related challenges. Empirical evidence is presented to support the concept of Mawarith linked waqf as a viable solution. The article emphasizes the urgency and importance of implementing this model, considering the widespread contestation of inheritances and the beneficiaries' desire to develop the inherited assets with charitable intentions towards the deceased. The research objectives are outlined, along with the methodology employed for data collection. The theoretical framework for analysis is discussed, followed by the results of the research. Implications for future research are presented, along with recommendations to address research deficiencies.

Mawarith, or inheritance, is a fundamental concept in Islamic law that determines the distribution of a deceased person's estate among their heirs

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based on specific legal principles. Waqf management entails the establishment and administration of endowments, typically comprising assets such as land, buildings, or funds, with the objective of generating income to support charitable causes. By connecting Mawarith with waqf, inheritances can be channeled into waqf assets, addressing issues related to inheritance disputes and providing a mechanism for preserving and developing the inherited assets. Empirical evidence demonstrates the viability of the Mawarith linked waqf model, illustrating successful implementations and the positive impact on the management and growth of waqf assets. Inheritance remains a contentious issue, with disputes often arising among heirs. The beneficiaries’ desire to utilize the inherited assets for charitable purposes highlights the need for a solution that allows for both the development and the fulfillment of charitable objectives. The urgency and importance of implementing the Mawarith linked waqf model lies in its potential to resolve inheritance disputes, preserve assets, and simultaneously contribute to charitable endeavors, aligning with the values of Islamic philanthropy.

The research aims to explore the Mawarith linked waqf model’s effectiveness in addressing inheritance challenges, assessing its impact on asset development, and examining its alignment with Islamic legal principles and philanthropic goals. The research employs a mixed-methods approach, incorporating both qualitative and quantitative data collection methods. Interviews, case studies, and statistical analysis are utilized to gather comprehensive data. The theoretical analysis draws on Islamic legal principles, theories of philanthropy, and asset management frameworks to assess the feasibility and effectiveness of the Mawarith linked waqf model.

The discussion reveals that the Mawarith linked waqf model provides a viable solution to inheritance-related challenges, offering mechanisms for asset preservation, development, and charitable contributions, while adhering to Islamic legal principles. This research provides solutions to problems in inheritance which are increasingly contested by heirs and even lead to criminal acts. Waqf is here to be a tool so that heirs do not fight over it. They can make it a “dzurru waqf” or other whose assets can be maintained together for a long time so that the results or benefits of the waqf can be felt

and the crime of confiscating inheritance can be avoided with collaboration on inheritance settlements with related institutions and parties, then clearing related waqf assets as sustainable waqf assets for those who die, management and development of related waqf assets, return of waqf proceeds and distribution of waqf proceeds, the points are of course with the settlement of waqf.

The implications of this research include promoting the adoption and implementation of the Mawarith linked waqf model to address inheritance disputes, enhance asset management, and support charitable causes within Muslim communities. Future research should focus on exploring the practical implications and challenges of implementing the Mawarith linked waqf model, further investigating its impact on asset development and preservation, and evaluating its long-term sustainability. Additionally, research can delve into comparative analysis with other inheritance management models to identify best practices and potential improvements.

**Keywords:** Mawarith, Waqf, Asset



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SECOND PARALLEL PAPER SESSIONS

15.45 - 17.00

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Track 1: “Historical Perspective on Awqaf”

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## History and Restitution of Waqf in Bosnia and Herzegovina

Amila Svraka-Imamović<sup>1</sup>

With the arrival of the Ottomans, the institution of waqf officially arrived in our region. The fact that the word waqf is included in the names of some cities, which means that they were created thanks to such an endowment, is the most illustrative of how much the waqf meant for the development of Bosnia and Herzegovina and the creation of urban, and thus political, economic, cultural and religious centers. These cities are, for example, Kulen-Vakuf, Skender-Vakuf, Gornji Vakuf, Donji Vakuf and others.

With the departure of the Ottomans from Bosnia and Herzegovina, numerous problems arose in connection with endowments. In 1883, Austria-Hungary appointed the National Endowment Commission to manage endowment affairs. Thus, in Bosnia and Herzegovina, a single waqf administration begins its work, whose priority task will be to list all existing waqfs. Unfortunately, many waqfs will not be listed due to the improper work of the Austro-Hungarian waqf administration, and due to the economic weakening and disappearance of many waqfs, but also due to various malpractices supported by the fact that some waqf names have disappeared or that there are no witnesses to certain waqfs. Then, in 1894, the Austro-Hungarian administration formed the Land Waqf Directorate as a state institution, so its power was also in the hands of the state. Although the new waqf administration functioned well and maintained and improved the waqf property and carried out its intended task, the Muslims were not satisfied with

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that administration, because they had no participation in its work. Due to this dissatisfaction, the Bosniaks started a struggle in 1899 with the aim of securing the autonomy of management of three key elements that were necessary for the preservation of Bosniak identity, namely religious, endowment and educational affairs.

With the arrival of Bosnia and Herzegovina under the rule of the Kingdom of Yugoslavia, dark days began for the Islamic community and its property. During the Kingdom of Serbs, Croats and Slovenes, later the Kingdom of Yugoslavia, from 1918 to 1939, about four million dunums of land were taken from the waqf! A special attack on endowments and the property of religious communities took place in the first decades of communist rule after the Second World War. In post-war Yugoslavia, the property base of society was forcibly changed by confiscating or limiting private property. After the aggression against Bosnia and Herzegovina and the acquisition of independence of Bosnia and Herzegovina, the issue of passing the Law on Restitution on the basis of which waqf property would be returned arose. This presentation will discuss whether there are any chances that the law on restitution will be passed and what the consequences of this law would be.

# The Impact of the Ottoman Management of Awqaf in Algeria on the French Settlement Policy

Dr. Chouaib Abderachid Ihaddaden<sup>1</sup>

Dr. Asma Akli Soualhi<sup>2</sup>

This study aims to examine two aspects of *waqf* management in Algeria which are during the Ottoman period and French colonialism. Firstly, in the Ottoman period what the endowments knew at this stage is enough to make one call it the stage of endowment prosperity. In addition, the study also focuses on the most prominent *waqf* institutions of the time, because these institutions have witnessed a wide spread at the level of all the departments of the Ottoman rule, as the *awqaf* foundation of the two holy mosques, *awqaf* foundation of the great mosque, Hanafi *awqaf* foundation of subul al khayrat, *awqaf* foundation of the treasury (Baytul mal), *awqaf* foundation of Andalusia people, the *awqaf* of soldiers and barracks and public utilities, and others, this is to explain the importance that the Ottoman regime attached to the *waqf* system on the one hand, and how the state of the *waqf* system was in Algeria during this period on the other hand. Secondly, as for the other side of this study, we explore the transition from the prosperous stage of *waqf* during the Ottoman period to the French colonial period, focusing on the methods employed by the French administration to gradually eliminate the *waqf* system, this is done by using firstly the historical approach, starting with addressing the features of the emergence of the endowment management system in Algeria, and then explaining the path that the Ottoman Empire followed in practicing the endowment

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system through what is stipulated in the Hanafi school in this field with its respect for the Maliki school which is the school followed in the country. After that, we are exposed to the stage in which the endowments spread significantly, due to the social, human, cultural and religious components and the moral values held by Algerian society. After that, we discussed the methods and various policies adopted by the French administration in order to stop the *awqaf* sector and eliminated it because it constitutes a barrier standing in the face of the colonial settlement policy that encourages the transfer of property from the hands of the Algerians to the hands of the settlers. Additionally, the study employs a comparative approach to contrast *waqf* management between the Ottoman and colonial periods. The importance of this study emerges by showing the importance of *waqf* as an administrative tool and an effective economic means that prevent prejudice to the economic potential and social relations of Algerians, this allows for the achievement of the study's main objective, which is to illustrate the role played by the Ottoman Empire in strengthening the *waqf* system in Algeria, as a cultural value of great significance in economic and social life that stood against French colonialist policies. The impact of this period is still evident today through the laws and regulations governing *waqf* owners, overseen by the Algerian Directorate of Religious Affairs and Endowments.

**Keywords:** waqf management, Ottoman period, French colonialism, waqf institutions, endowment sector.

## Islamic Finance Aspects of Cash Waqfs in Cyprus Under Ottoman Rule

Sunat Atun<sup>1</sup>

Prof. Dr. Mehmet Bulut<sup>2</sup>

A Waqf is the donation of a piece of private property or another economic resource to a certain societal need. Donated items lose their private ownership characteristics, (Bulut & Korkut, 2016). Following that, they are dedicated to serving and benefiting humanity (Özcan, 2008:144). Waqf petitions may be extended to the time of the Prophet in Islamic history. The main driving force behind creating a waqf may be the hadith that states, “When someone dies, his deeds come to an end except for three: ongoing charity, beneficial knowledge, or a righteous child who prays for him.” This hadith is cited in the collection of Sahih Muslims (1631). These institutions provide a good example of Ottoman economic pragmatism. For many years, the financial and economic developments in Europe had no impact on the Cash Waqfs (Pamuk, 2004). As a result, they stood in opposition to the mercantilist economic philosophy of Europe to represent Ottoman economic thought. The Cash Waqfs are so distinctive that they created a charity and attended to societal and economic concerns simultaneously. Another significant aspect of the Cash Waqfs in the view of economics, is that they provided micro-finance for the craftsmen, small shopkeepers, and individuals in compliance with the Islamic shariah law. The Ottoman period saw the full institutionalization of waqfs, and the Ottoman State is regarded as the civilization of waqfs. The well-known scholars

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of the Ottoman times, Ebussuud Efendi and Sofyalı Bali Efendi hold that the practice of cash waqfs was legal with respect to Islamic fiqh. The cash waqfs spread among the Ottoman economic structure. Tamçelik (2015) points out that following the acquisition of Cyprus by the Ottomans, waqf civilisation started to flourish immediately. Since then, we can argue that the Waqf culture has -then and now- shown an important impact on the social, cultural and economic life of the inhabitants of Cyprus. We can comment that Waqf civilisation has been the most significant institutional feature of the Cyprus society that came up until today. This paper determines the Cash Waqf practices of the foundation system that was established on the Island since the times it was run under the Ottoman administration. We believe that it is an important fact that Cyprus has long accommodated two ethnically different communities, Turks and Greeks, that also represent the Muslim and non-muslim parts of the society respectively; where the waqfs set up in Cyprus under the Islamic regulations had been adopted by all communities on the Island. According to Tamçelik (2015)'s findings, 19 foundations were established along with the Ottoman administration; where only one was set up by a Muslim. The waqfs of Ottoman Cyprus did not differ from the foundations established in Ottoman Empire. In the coming centuries, hundreds of Waqfs have been established in Cyprus under Ottoman Authority. Previous searches have proved that between the 18th and 19th Centuries, some five cash waqfs have been established in Cyprus. Further, it has been stated that those cash waqfs were established both by men and women and operated under the law of 'muamele-i şer'iyye'. Our research covers the findings of 15th, 16 th, 17 th, 18 th, 19 th, and 20 th centuries. Searches have shown that in certain regions of the Ottoman Empire, such as the Balkans (Rumelia), the samples of waqfs showed that the cash waqfs had provided credits for merchants and entrepreneurs with a low-profit rate (Bulut & Korkut, 2016). According to Çizakça (2000), there are two types of cash waqfs: one offering consumption credits rather than supporting the entrepreneurs or merchants and defined as risk-lover waqfs that provided a low profit-rate credit for merchants. The second type, on the other hand, is defined as more risk-averse and generally tried to give consumption credits to the rich. The purpose of this paper is to investigate to find out whether the cash waqfs in Cyprus

under Ottoman rule have provided micro-credit support to tradesmen or provided credit for consumption, the financial instruments applied and the volume of the cash donated; as well as categorizing the waqf as risk lover, risk-averse or risk natural. It is an obvious fact that the Ottoman state introduced waqf culture to the geographies they ruled thus forming a large geography of waqf civilization.

**Keywords:** Ottoman, Cahs Waqf, Cyprus, Tradesman, Micro-credit.



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SECOND PARALLEL PAPER SESSIONS

15.45 - 17.00

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Track 2: “Türkçe Oturum (Turkish Session)-2”

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## Sürdürülebilirlik Kavramı Çerçevesinde Osmanlı Para Vakıflarının Değerlendirilmesi

Dr. Saime Kavakçı<sup>1</sup>

Dr. Feyza Cevherli<sup>2</sup>

Sürdürülebilirlik ve sürdürülebilir kalkınma kavramları 1970’li yıllarda, dünyadaki mevcut ekonomik kalkınma politikalarının ekonomik olarak sürdürülebilir ve sosyal adaleti sağlayan bir sistem için yetersiz olması üzerine gündeme gelmiştir. Sürdürülebilirlik kavramı literatürde daha çok ekonomik, çevresel ve sosyal olmak üzere üç kategori altında incelenmektedir.

Özel olarak ekonomik sürdürülebilirlik kavramı, günümüz işletmeciliği için önemli bir yer tutmaktadır. Ekonomik açıdan sürdürülebilirlik “sürekli olarak mal ve hizmet üreten yönetilebilir düzeylerde hükümet ve dış borcu koruyabilen ve tarımsal veya endüstriyel üretime zarar veren aşırı sektörel dengesizliklerden kaçınabilen” bir sistem olarak tanımlanmaktadır (Gedik, 2020, s. 197). Günümüzde sürdürülebilirlik kavramı özel olarak çevre ve doğal kaynakların gelecek kuşaklara aktarılması amacıyla literatürde geniş yer kaplamaktadır. Kamuoyunda olumlu karşılığı olan sürdürülebilirlik kavramı aynı şekilde özel, kamu ve gönüllü işletmeler tarafında da ilgiyle karşılanmaktadır.

Finansal sürdürülebilirlik özellikle işletmeler için elzem bir durumdur. Bir işletmenin devamlılığını sağlayabilmesi için işlem maliyetlerini karşılaması ve bunun yanı sıra kâr elde etmesi beklenir. Bunun yanı sıra gönüllü

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kurumlar olan dernek ve vakıfların sürdürülebilirliğini sağlamak hem ekonomik hem de sosyal açıdan önem arz etmektedir. Vakıf ve dernek gibi gönüllü oluşumların finansal sürdürülebilirliğinin zor olduğuna dair kanaat mevcuttur. Çünkü böyle kuruluşların temel hedefi asgari işlem maliyetlerini karşılayarak amaçlarına uygun faaliyetleri yerine getirebilmektir. Dolayısıyla bu kuruluşlar kâr amacı gütmeyizler. Birincil hedefleri daima sosyal faydayı maksimize etmektir. Kâr etmeyen ve iyi yönetilmeyen kuruluşların ise finansal sürdürülebilirliği oldukça zordur.

Vakıf kültürü, Osmanlı'dan Cumhuriyet'e ve oradan günümüze kadar ulaşmış olan kadim bir kültürdür. Bilindiği üzere vakıf kültürü ve vakıf hizmetleri sayesinde Osmanlı ve Türkiye toprakları üzerinde neredeyse tüm ekonomik, sosyal ve kültürel hizmetler vakıflar tarafından karşılanmıştır. Osmanlı kültüründe yaygın olan vakıfların çeşitli fonksiyonları bulunmaktadır. Bu fonksiyonlarından bazıları şunlardır (Özcan, 2003, s. 6-10);

- Altyapı ve bayındırlık hizmetleri
- Dini ve kültürel hizmetler
- Eğitim hizmetleri
- Sağlık hizmetleri
- Sosyal güvenlik ve dayanışma hizmetleri
- Hayır hizmetleri

Osmanlı topraklarında 15 yüzyıl itibariyle en yaygın vakıf türü olan para vakfı ise mal varlığı olarak kişilere ait nakit para ile kurulmuş ve borç vererek sağladığı gelirleri ile kuruluş amacına yönelik faaliyetleri yerine getiren kurumlardır (Pamuk, 2005, s. 78). Para vakıfları kadı sicillerine işlenen vakfiyeler aracılığıyla kurulmuştur. Bu vakfiyelerde vakfın ismi, nakit para miktarı, vakıflara ait sermayenin hangi oranla işletileceği gibi bilgiler yer almaktadır (Kaya, 2010, s. 29).

Çalışma kapsamında Osmanlı topraklarında uzun süre faaliyet göstermiş olan para vakıfları ele alınmaktadır. Para vakıflarının finansal sürdürülebilirlik pozisyonlarını görmek adına, ne kadar uzun süre varlıklarını

korudukları incelenmektedir. Ayrıca vakfedilen nakit paraların hangi sosyal ve çevresel sürdürülebilirlik alanlarında değerlendirildiği tespit edilmeye çalışılmaktadır. Çalışma, Osmanlı tarihinde önemli bir yeri olan para vakıflarının finansal, sosyal ve çevresel açıdan sürdürülebilirliğini ortaya koymayı amaçlamaktadır.

Sosyal bir kurum olarak ele alınabilecek para vakıfları aynı zamanda dönemin finans kurumları olarak da görev yapmışlardır. Dolayısıyla bu kurumların finansal sürdürülebilir bir kurum olup olmadıkları ve ayrıca çevre, sosyal konulara olan katkısını incelemek önemli olmaktadır. Günümüz İslami bankacılığının bir başlangıcı olarak da kabul edilebilecek olan para vakıflarının genel yapısına dair incelemeler, mevcut kurumların işleyişine dair öneriler ortaya koyabileceği gibi yeni kurumların oluşturulmasında da bir perspektif ortaya koyacaktır.

**Anahtar Kelimeler:** Sürdürülebilirlik, Para Vakfı, Finansal Sürdürülebilirlik, Çevresel Sürdürülebilirlik, Sosyal Sürdürülebilirlik



## Vakıflarda Sürdürülebilirlik Adına Kuruluş Sermaye Miktarının Yeterli Düzeyde Belirlenebilmesi

Oğuzhan ARSLAN<sup>1</sup>

Türkiye’de vakıflar Cumhuriyet Döneminden önce var olmuş ve devletin pek çok alandaki yükünü hafifletmiş kuruluşlar olarak dikkat çekmektedir. Günümüzde de yine devletin sosyal ve ekonomik yükünü azaltan vakıflar, toplumda sosyal dayanışmayı dengeleyici bir fonksiyona da sahiptir. Haliyle vakıfların devlete ve topluma bu denli önemli katkısı mevcut iken vakıf adına sürdürülebilirlik kavramının da toplum için hayati derecede olduğu anlaşılmalıdır. Peki vakıfların sürdürülebilir olmaları için neler gerekmektedir?

Vakıfların sürdürülebilir olması için güçlü bir ekonomiye sahip olmaları gerekmektedir. Nasıl ki günümüzde ülkelerin güçlü olmalarının en temel dayanağı güçlü bir ekonomiye sahip olmalarıysa vakıflar için de aynı durum söz konusudur. Vakıfların güçlü bir ekonomiye sahip olmalarının temelinde ise kuruluş sermayelerinin kendi amaçlarına yeterli düzeyde olmaları ve kuruluş sermayelerinin gelir üretme potansiyeline sahip olmaları yer almaktadır.

Türkiye’de bir vakfın kurulabilmesi için 2023 rakamıyla 120.000,00 TL’lik bir sermaye yeterli kabul edilmektedir. Burada vakfın amaçlarının niteliği ya da niceliğinin minimum sermayenin belirlenmesinde hiçbir etkisi bulunmamaktadır. 120.000,00 TL’ye ya da bu değerde bir sermayeye sahip bir oluşum mahkeme kararı ile vakıf statüsü kazanabilmektedir. Böyle bir vakfın sürdürülebilirliğinden bahsetmemiz ne yazık ki mümkün değildir.

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1 Vakıflar Genel Müdürlüğü Müfettişi.

Her şeyden önce her vakfın amaçları ve hizmet verdiği kesim birbirinden farklıdır. Örneğin, eğitim yardımı yapan bir vakıf ile küresel ısınmaya çözüm bulmak isteyen bir vakfın ihtiyaç duyduğu sermaye miktarı aynı değildir. Vakıf amaçları ve ihtiyaç duyulan vakıf sermaye yeterliliği farklı iken rassal bir şekilde belirlenmiş sabit bir kuruluş sermayesinin vakıf kuruluşu için yeterli kabul edilmesi, vakfın sürdürülebilirliğine zarar vermektedir.

Bir vakfın sürdürülebilir olması, toplumda vakıf aracılığıyla destek alan kesimlerin ihtiyaçlarının sürekli olarak belirli bir oranda karşılanmasıyla eşdeğerdir. Bu durum, devletin el uzatmadığı kesimlere vakıf eliyle sürekli bir desteğin verilebilmesi demektir. Ancak sermaye yapısı güçlü olmayan bir vakfın, düzenli ve sürekli bir yardım sağlama yetisi de olmayacaktır. Kuruluş sermayesi güçlü olmayan bir vakıf, amaçlarına hizmet edebilmek için bağış ve yardım toplama çabasına girecektir. Bağış ve yardım toplama çabası, vakfın kendi faaliyetlerini topluma doğru bir şekilde aktarabilmesi ve bunun karşılığında da destek sağlayabilmesi ile doğru orantılıdır. Yani bu konuda pazarlama kabiliyeti yeterli olmayan vakıfların da yardım toplama becerileri çok düşük kalacaktır. Bu durum yine uzun dönemde vakfın amaçlarına hizmet edememesine ve nihayetinde son bulmasına yol açarak sürdürülebilir olmasını engelleyecektir.

Güçlü sermaye yapısına sahip vakıflar oluşturmak için vakfın kuruluş sermaye miktarının doğru bir şekilde belirlenmesi gerekmektedir. Bunun için daha önceden kurulmuş ve belirli bir süre boyunca faaliyet göstermiş vakıfların mali tabloları incelenmelidir. Bu vakıfların bağış ve yardım almadan, mevcut kuruluş sermayelerini ne kadar artırabildikleri gözlemlenmelidir. Yıllık bazda elde edilen getiriler kullanılarak ekonometrik analizlerle öngörü yapılarak olası yıllık getiriler belirlenebilir. Örneğin; 200.000,00 TL sermaye ile kurulan bir vakıf 1 yıllık süre sonunda mevcut sermayesinden ne kadar gelir elde edebilmiştir. Adı geçen vakfın o yıl içerisinde elde ettiği bağış ve yardım miktarı bu hesaplamada dikkate alınmamalıdır. Böylece vakfın 1 yıllık süre boyunca 200.000,00 TL sermayesinin ne kadar maddi bir getiri sağlayabilme gücüne sahip olduğu ortaya koyulabilir.

Bunun dışında; vakıfların minimum kuruluş sermaye gereksinimi, hizmet sunulan alana göre farklı belirlenmelidir. Örneğin; eğitim yardımı kapsamında burs vermeyi hedefleyen bir vakıf için minimum 10 öğrenciye 1 yıl boyunca burs verebilecek sermaye getirisine sahip olması şartı koyulabilir. Eğitim düzeyine göre yıllık minimum burs verilecek tutar belirlenebilir. Örnek olarak; ilkokul düzeyindeki bir öğrenci için aylık 500 TL'lik bir bedel minimum şart olarak belirlendiğinde minimum 10 öğrenci şartıyla birlikte vakfın aylık 5000 TL sermaye getirisine sahip olup olmadığı kuruluş sırasında incelenebilir. Eğer 12 ay boyunca ayda 5000 TL düzenli geliri elde edemeyecek durumda ise vakfın tescili reddedilebilir. Vakıf, sağlık yardımı yapacaksa da benzer bir kıstas belirlenebilir. Örneğin, özel bir hastanede ayda 10 kişiye 10 farklı muayene hizmeti sunacak olan bir vakfın aylık minimum 10.000-15.000 TL arasında düzenli bir sermaye getirisi şartı kuruluş aşamasında aranabilir.

Bu ve benzeri kıstaslar vakıfların sürdürülebilirliği açısından vakıf kuruluş sermayesinin ne kadar önemli olduğunu göstermektedir. Vakıfların kuruluş aşamasında sahip oldukları sermaye ve sermaye getirisinin tescil kararı sırasında belirli kıstaslardan geçirilmesi, vakıfların sürdürülebilir bir hizmet sunacak sermaye yapısına sahip olmalarını zorunlu kılacaktır.



# Türkiye’de Gençlerin Vakıf Faaliyetlerine Bakışına Dair Bir İnceleme

Mücahid Keskinoglu<sup>1</sup>

Bu çalışma, Türkiye’de yaşayan 18-25 yaş arası gençlerin vakıf faaliyetlerine bakış açısını ve beklentilerini anket yoluyla toplamayı ve elde edilen bu veriyi analiz etmeyi hedeflemektedir. Çalışmanın öncelikli odak noktasını vakıf faaliyetlerine katılan ya da vakıflarda görev alan gençler oluşturmaktadır. Böylece vakıf faaliyetleri içerisinde doğrudan yer alan bireylere ulaşılarak vakıf faaliyetlerine dair sorunlara ve beklentilere ilişkin isabetli tespitlerin yapılabilmesi hedeflenmektedir. Çalışmada öncelikle Türkiye’de etkin bir şekilde varlığını sürdüren vakıf ve ‘vakıfçılık’ kavramları açıklanacaktır. Ardından vakıflar bünyesinde yürütülen faaliyet türleri ve bunların kapsamı incelenecektir. Daha sonra anket yoluyla gençlerden alınacak veriyle birlikte Türkiye’de faaliyetlerine devam eden vakıf faaliyetlerine yönelik durum tespiti yapılacaktır. Çalışmanın son bölümünde ise vakıf faaliyetlerine dair elde edilen bu çıktının odağında tavsiyeler sıralanacaktır. Çalışmamız özelden genele doğru bir analiz yönü izleyecek olmakla birlikte, kurumlara ve kişilere değil sadece faaliyet türlerine odaklanacaktır. Ankette katılım sağlayan gençlere özetle; yaş, cinsiyet, eğitim durumları ile vakıf gönüllüsü ya da görevlisi olup olmadıkları, katılmaktan keyif aldıkları ve almadıkları faaliyet türleri ve özellikle dikkat çekmek istedikleri bir hususun olup olmadığı sorulmuştur.

Vakıf kelimesi hem etimolojik hem de tarihsel bağlamda kadim Türk-İslâm kültürüne atıf yapmaktadır. Vakıflar varlıklarını sürdürebilmek amacıyla kendi faaliyet alanları dahilinde çeşitli teamüller ve refleksler geliştirmişlerdir.

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Bu sebeple yıllar içinde kazanılmış olan kurumsal hafıza ve tecrübe aktarımı sebebiyle yaşanan gelişmelere karşı hızlı reaksiyon göstermek yerine tedbirli davranmayı öncelemektedirler. Buna karşın içinde yaşadığımız dünya ise kurumsal kararların hızlı bir şekilde alınmasını ve uygulanmasını gerektirebilmektedir. Vakıfların varlıklarını sürdürmeleri, asli görev ve sorumluluklarını yerine getirebilmeleri ve yeni ufuklara açılabilmesi adına yürüttükleri faaliyetler hayati bir öneme sahiptir. İşte bu noktada vakıflar, ya hedef kitlelerinin tercihlerini ve beklentilerini analiz ederek değişim ve dönüşüme ayak uyduracaklar ya da faaliyetlerini hedef kitle analizini dikkate almadan devam ettirerek her anlamda bir durağanlaşmayı göze alacaklardır.

Türkiye’de hemen hemen hayatın her alanında karşılaşılan vakıf ve vakıfçılık kavramları geçmişleri yüzyıllar öncesine dayanan olgulardır, ancak milenyum çağında yaşanan sosyokültürel ve teknolojik gelişmelerle birlikte nesiller arasında algılayış ve düşünce farklılıkları yaşanmaktadır. Bu gelişme ve değişmelerin vakıf faaliyetlerine dönük etkisini tespit edebilmek amacıyla böyle bir çalışmaya ihtiyaç duyulmuştur.

Bu çalışmada araştırma metodu olarak 18-25 yaş arasında ve en az 100 katılımcıdan oluşan bir gözlem grubuna anket uygulaması gerçekleştirilecektir. Ardından anketten elde edilen veri istatistiksel olarak analiz edilecek ve bulgular değerlendirilerek çıkan sonuca göre tavsiyeler belirtilecektir. Böylece gençlerin vakıf faaliyetlerine yönelik bakış açısı tespit edilmiş olacaktır.

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SECOND PARALLEL PAPER SESSIONS

15.45 - 17.00

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Track 3: “Blockchain Technologies for Awqaf”

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# Predictive Benefits of Corporate Waqf Crowdfunding Using Blockchain Technology Amongst Malaysian Entreprises

Dr. Sami Samir Abdelfettah<sup>1</sup>

Dr. Puteri Aina Megat<sup>2</sup>

Besar bin Ngah<sup>3</sup>

Fahd Al-Shaghdari<sup>4</sup>

**Abstract Purpose** - There is a growing interest in the financial technology (fintech) application for corporate waqf contribution. However, the actual adoption of waqf fintech amongst Malaysian enterprises is still lacking due to the ambiguity of its perceived benefits to contributors. This paper aims to examine the influence of predictive benefits on fintech adoption using blockchain crowdfunding amongst Malaysian SMEs.

**Design/methodology/approach** - The underpinning theories adopted in this research are 1) firms' technology adoption using Electronic Data Interchange Model (EDI) and 2) corporate social responsibility using Triple Bottom Line Theory (TBL). The research applies a quantitative method with a cross-sectional survey design using a five-point Likert scale questionnaire. The data was collected from 210 decision-makers representing SMEs and were analysed using PLS-SEM.

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**Findings** - The overall result indicates that predictive corporate benefits and predictive social benefits significantly influence the intention to use blockchain crowdfunding amongst Malaysian enterprises. However, predictive environmental benefits have no significant effect on crowdfunding adoption. Likewise, predictive technology benefits have weak significance towards the intention to contribute to corporate waqf using blockchain as the crowdfunding platform. The findings conclude that predictive benefits using blockchain can affect the Corporate Waqf intention to use the crowdfunding platform as it has shown a transparent, scalable, and secure investment return while maintaining the purity of the charitable act for socio-economic progress.

**Research limitations/implications** - This study contributes significantly to the current literature concerning the fourth industrial revolution and the wave of technologies in the waqf industry. In addition, this study supports relevant CSR and CSV technology adoption theories, including EDI and TBL. Aside from this, the study provides empirical contributions to waqf management using fintech platforms. This empirical research is a pioneer study in the development of the corporate waqf blockchain model for crowdfunding.

**Originality/value** - This paper adds to the literature on waqf technology and the behaviours of enterprises towards digital waqf contribution by examining the waqf technological theories in the Malaysian context. This study is important for the development of governmental policy to support the utilisation of fintech among waqf enterprises. These efforts may lead to more transparent and efficient fintech applications in corporate waqf management. In addressing the industry problem of corporate waqf fundraising, there is a need to investigate environments enabled through financial technology platforms. There is a necessity to examine the importance of blockchain technology from the perspective of waqf contributors to improve the efficiency of waqf collection and distribution.

**Recommendation-** The findings of this research conclude that efforts should be made to develop the waqf-enterprise technology model by incorporating the indicators of predictive benefits of the contributors.

**Keywords:** Corporate waqf, Financial technology (Fintech), Crowdfunding, Blockchain technology



# Donation to Waqfs in the Form of Crypto-Asset from Legal Perspective

Meryem Solmaz Bilici<sup>1</sup>

## Introduction

Foundations are institutions that are established within the framework of a certain ideal, purpose and charitable thought and work for those. The fulfillment of the determined objectives requires the foundation to have economic support both in its establishment and in the process of its activity. In this respect, it is important for foundations, which have important functions for the society, to adapt to the changing financial system and to establish a sustainable waqfship system. That requires the examination of current financial developments and applications of them for the foundations. Crypto assets, which have attracted great interest in the last decade and whose market share has expanded considerably, should also be evaluated in this context. It can be seen that some foundations started to accept donations as crypto-currency such as UNICEF, Save the Children, Kızılay.

However, there is not a certain regulation regarding the crypto-assets and whether they can be used as a donation to awqaf in Türkiye. The current situation causes hesitancy in awqaf sector to accept donations in the form of crypto-assets, in addition to that problems which may arise by accepting the donations in crypto-assets such as money laundering or illegal transactions to support terrorism. It is important to know the advantages

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and risks of crypto-assets for awqaf from a legal perspective to avoid mismanagement of awqaf but at the same time not to miss financial innovations to strengthen the awqaf.

### **Allocation of Crypto-Currency to the Foundation as Capital**

In both Swiss and Turkish law, there is no regulation that prevents crypto assets from being brought to the foundation as founding capital. However, the fact that crypto assets are not accepted as money, so that they are seen as intangible assets, necessitates the valuation of the allocated crypto-asset. The main risk here is the sudden value changes of crypto assets that do not have a fixed and centralized value. However, it is not difficult to say that even state currencies may face similar risks from time to time.

### **Donation to the Foundation from Crypto-Asset**

Same with the above, there is no regulation on the type or quality of donations to be made in favor of foundations. In other words, foundations can accept different types of assets such as money, movables, immovable as donations, so there is no legal obstacle to donating in crypto-assets. In order for the foundation to accept donations in the form of crypto assets, it will first need to open a wallet. There is no regulation in Turkish law that would prevent the foundation from opening a wallet in this way. However, some provisions of the Turkish Regulation on Foundations regarding donations are not eligible to apply for foundations. Therefore, new aspects are compulsory to ease the donation to foundations.

### **Advantages and Disadvantages**

Accepting a crypto-asset as a donation or establishing a foundation on an important crypto asset may have both advantages and disadvantages. There is a risk that crypto-assets might be obtained from illegal acts such as money laundering and terrorist financing and the foundation might be used as an intermediary in these illegal transactions. Although it is

expressed specifically for Bitcoin, cryptocurrencies in general are used for illegal activities in the black market. This situation may pose a risk in terms of the functioning and management of the foundation, and in serious cases, it may even cause the foundation to be terminated legally. In addition to legal risks, there might be also technical risks such as hacking or 51% attack.

On the other hand, bringing crypto assets as donations can be advantageous due to low transaction fees, no need for intermediary institutions, and transaction speed. In particular, the increase in the use of crypto assets and the widespread belief in the society can increase the processing power of these assets. This would also ease the international transfer of donations.

We aim to conclude that examining cryptocurrency as a financial source from a legal perspective is important to illustrate to awqaf and encourage them to benefit from financial innovations more without being knowingly or unknowingly a part of an illegal transaction.

**Keywords:** Donation, Waqf, Crypto asset, Crypto Currency



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SECOND PARALLEL PAPER SESSIONS

15.45 - 17.00

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Track 4: “Waqf Management”

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# **Examining the Validity of Constructs That Measure Waqf Co-Creation Perception Among Malaysian: A Preliminary Study**

Dr. Noraini Yusuff<sup>1</sup>

The roles of stakeholders in promoting and sharing the information related to waqf are seen as a new opportunity to take an active role in value creation processes. Furthermore, sharing information among beneficiaries, waqif or any individual is an important element that could be added to the waqf eco-system in enhancing the waqf awareness while simultaneously increasing waqf donation. It is, therefore, crucial to understand which factors influence the development and implementation of information sharing among waqf stakeholders in Malaysia.

The accessibility of information through the internet and the presence of the waqf digital platform hold the utmost importance in the contemporary world. Due to the openness of Malaysians to exchange information, the waqf co-creation environment in Malaysia is essential. Waqf co-creation refers to the collaborative and participatory process of developing and implementing waqf projects or initiatives. In Islamic finance and philanthropy, waqf refers to a form of charitable endowment or donation intended to benefit society. It involves the dedication of a specific asset or property for religious, educational, or social purposes. In the context of waqf co-creation, various stakeholders, including waqf donors, beneficiaries, experts, and community members, come together to create, plan, and implement waqf projects collectively.

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1 Universiti Utara Malaysia.

Waqf is meant to provide a range of services to society that are either free or inexpensive. Making waqf contributions and impacts more sustainable through waqf co-creation activities is one of the critical problems that must be tackled. Information sharing among waqf stakeholders would occur because of closer relationships. Coordination and integration of waqf information among all stakeholders are made possible by effective information exchange, which also fosters a good environment. The roles of stakeholders in promoting and sharing the information related to waqf are seen as a new opportunity to take an active role in value-creation processes. Furthermore, sharing information among beneficiaries, waqif or any individual is an important element that could be added to the waqf eco-system in enhancing waqf awareness while simultaneously increasing waqf donation.

Therefore, a well-developed waqf co-creation ecosystem is essential for optimising the potential for waqf to benefit society. This study examines the validity of constructs that measure waqf co-creation perception among Malaysian. This study uses a quantitative research approach utilising information sharing theory and employed the SPSS software to utilise Exploratory Factor Analysis (EFA). The analysis used the instruments to represent trust, reciprocity, and commitment as independent factors affecting the instruments of waqf co-creation.

A preliminary study was conducted between January and March 2023 with 78 respondents (as a purposive sampling) among Waqif and Mawquf Alaih and those knowledgeable about endowing waqf using the online waqf platform to assess the viability and reliability of the instruments in representing the variables and relationship. This study is important because the finding will serve as crucial input for establishing an information sharing framework aimed at enhancing the environment for waqf co-creation and shaping policy implications. Waqf Co-creation facilitating information sharing can significantly enhance the promotion and organic growth of waqf, involving all stakeholders rather than relying solely on the Muta-walli (traditional administrator; fully responsible for promotion etc). This approach fosters a more dynamic waqf ecosystem, fuelled by heightened awareness and increased contributions to waqf initiatives.

**Keywords:** Waqf, Waqf co-creation, Islamic social finance

# Implementation of Corporate Waqf Core Principles in the Development of Waqf in Indonesia

Dr. Miftahul Huda<sup>1</sup>

In the Indonesian context, contemporary waqf models have begun to be developed, especially in collecting waqf assets in the form of company shares. The Waqf Board Foundation of Universitas Islam Indonesia (YBW UII) Yogyakarta, one waqf-based university, has started implementing corporate waqf. YBW UII's efforts to develop and expand universities, UII hospitals, hotels, waqf-based UII gas stations, and other productive businesses are all part of the process of developing productive waqf. Meanwhile, one of them can be seen at the Pesantren Tebuireng Jombang in the context of contemporary waqf in Islamic boarding schools. The pesantren have worked hard to establish a productive waqf. Efforts to expand waqf assets of Islamic boarding schools spawned efforts to develop assets through various innovations, including strengthening agribusiness, partnering with businesses, and increasing Nazir's professional capacity.

This paper aims to explore the implementation of Corporate Waqf Core Principles (CWCP), a set of sharia principles for corporate waqf that have been implemented in the growth of waqf in Indonesia. This paper is the result of a qualitative investigation into the practice of corporate waqf in Indonesia, including collecting accurate data. The study's objective is to investigate the implementation of corporate waqf at YBW UII Yogyakarta and Pesantren Tebuireng in Jombang based on the Corporate Waqf Core

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Principles using a qualitative research model and exploratory-interpretative approach. Document studies, observations, and interviews were used to gather information. In-depth interviews with six (6) key informants managing waqf at two institutions were conducted. Interviews were conducted with waqif, mutawalli, nazir and mauquf alaih at two institutions, YBW UII Yogyakarta and Pesantren Tebuireng in Jombang.

This study found comparative advantages for adopting CWCP using a case study approach to waqf managers that build corporate waqf in two different entities YBW UII Yogyakarta is involved in developing productive waqf assets and immovable waqf objects through professional and profitable multi-company institutions, ensuring that the waqf's results expand and benefits flow. Pesantren Tebuireng, on the other hand, understands the implementation of CWCP in the framework of productive waqf administration and management by conceptualizing the productivity of waqf assets through corporate, institutional management. Even though there are certain deviations in the execution of CWCP, such as not using shares as waqf assets, the two waqf management methods ensure that waqf management inside the framework of corporate institutions is more productive and produces long-term outcomes and benefits.

The implementation of the corporate waqf core principles/CWCP in the two waqf managers, namely YBW UII Yogyakarta and Pesantren Tebuireng Jombang is unique and has its own diversity. The core principle of corporate waqf is implemented in Tebuireng Jombang by increasing the productivity of waqf assets, both immovable and movable assets, within the framework of PT Berkah Tebuireng Jaya a single corporate waqf institution. This business entity is successfully developing waqf. Pesantren Tebuireng Jombang also uses professional administration and management and does not use shares as waqf assets and implement ibdal waqf, development, and utilization of waqf internally. Meanwhile, YBW UII has developed corporate institutions to increase asset productivity by implementing multiple companies in each unit under the control of YBW UII Yogyakarta. YBW UII Yogyakarta has also developed waqf assets, both immovable objects and money, but has not yet developed waqf assets in the form of

shares. YBW UII Yogyakarta has also professionally implemented waqf administration and waqf management, along with the productivity and benefits of waqf results.

**Keywords:** Corporate waqf, Nazir, Sustainability, Sharia principles, Waqf management, Istibdal waqf, Productive waqf



## Issues and Suggestions for Future Management of Waqf Disputes in Sri Lanka

Muhammed Buhary Muhammed Thabith<sup>1</sup>

Prof. Dr. Nor Asiah Mohamad<sup>2</sup>

Waqf is a crucial tool in providing socio-economic support in various fields including health, education, socio-religious activities, social finance tools etc. The success in providing for socio-economic purposes appears to be varied and may be associated mainly with the appropriate and efficient management of waqf. Good management of waqf means it achieves the objectives of the donor (waqif). Following this argument, this study suggests an appropriate and better way to solve waqf disputes in the management and establishment of waqf.

Waqf management in Sri Lanka has witnessed a considerable deterioration since the last amendment of the Waqf Act forty years ago, but not all. At present, there are a considerable number of disputes and conflicts between waqf involving various parties including its managers and other interested parties. This scenario has raised concerns relating to the management of waqf and its legal framework. Stating as such, there are a substantial number of cases pending with the Waqf Board under the department of Muslim Religious and Cultural Affairs (MRCA) in Sri Lanka. Among others, the issues are related to the trustees and the managers of the private and public waqf and the determination of waqf properties, as well as issues

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related to certain under-utilized or even undeveloped waqf properties. The problems can be associated with the lack of proper management in the overall waqf administration and law in Sri Lanka. Furthermore, the study observes that the Waqf Act lacks a legal framework, there are gaps in management and a lack of clarity on the appropriate development of waqf property within the existing laws. Similarly, under the Act, there are no proper provisions providing for cash waqf to develop and maintain the waqf property or use it to provide socio-economic and other services that benefit the society and the beneficiaries. In general, this legal framework is not systemized in accordance with current standards. There are presently practised in the Muslim world, and it is also somewhat outdated. Some waqf cases not only remain pending at Waqf Board but the number of cases increases day by day. There is no appropriate method to manage the disputes because not only Waqf Board is making delays to resolve the cases but there are delays in court as well. Therefore, this study focuses on the issues of how to professionally manage waqf disputes by investigating the factors that trigger the dispute. By having a correct understanding of the causes, devising the best, fast and cheapest methodology to resolve the dispute, it is hoped that waqf management in Sri Lanka can be improved and people will put more trust to participate in waqf.

The study adopts qualitative data collecting and analysis. It deals more with books, theses or articles, journals and other related documents especially statutes and law reports. This study mainly focuses on a concise description of waqf disputes or case studies of Sri Lanka.

The findings of the proposed suggestions cover the common types of disputes, the main causes and dispute prevention process as well as the resolution and settlement processes by the Waqf Board and the law. Adoption of alternative dispute resolution such as mediation, conciliation or even arbitration is much better than exposing waqf disputes to court proceedings which are not only expensive, and costly but it also will tarnish the good reputation of waqf as an Islamic institution. The study will look at the effectiveness of Waqf Tribunal in other jurisdictions, if any, as a comparison for better improvement of waqf in Sri Lanka. Furthermore, the innovative cash

waqf initiatives play also significant roles in socio-economic development even in Muslim minority countries. The establishment and recognition of cash waqf will effectively help to develop dormant and undeveloped waqf property while sustaining the socioeconomic situation. It is recommended that the Board, with support from the Shari'ah scholars, will hear waqf disputes strengthened by legal reforms and efficient administrative measures to prevent or lessen waqf disputes. This study believes that the recommendations could benefit the waqf administrators in Sri Lanka and lead to appropriate waqf management. It is high time for Sri Lanka to have a good mechanism of waqf dispute resolution in order to achieve the aim of waqf in Sri Lanka.

**Keywords:** Management, Waqf, Dispute, Alternative dispute resolution, Tribunal, Sri Lanka



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8 SEPTEMBER 2023- 11<sup>TH</sup> GLOBAL  
WAQF CONFERENCE DAY 2

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PRACTITIONER SESSION

09.30 - 10.45

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## Real Estate Development of Waqf Land as Strategic Solution in Alleviating Poverty

Dato' Sr Dr. Mohd Mazlan Hj Che Mat<sup>1</sup>

The poverty level among muslim ummah is alarming that needs serious attention and affirmative action. One such approach is through the efficient and effective development of Waqf Land in the context of Real Estate Development. Real Estate is a multi task business process and diverse activities range from the refurbishment and renovation of existing buildings aiming to get a better rental value to the purchase of land to be developed either for sale or lease. Joint ventures with the existing land owners are another approach in real estate development and sharing the benefits on agreed terms. Waqf lands are unique in nature as the assets are already surrendered to Allah Taala in perpetuity and are managed by the trustees or 'Al- Mutawalli'. The development of Waqf land must be treated with extra care as we need to observe and adhere to a few additional "Fatwas" from the Islamic Authorities in a particular nation. In this respect, from the perspective of the Selangor State Islamic Council, Malaysia. Development of Waqf Land utilisations is generally confined to the construction of mosques, graveyards, orphanage centres and old folks' homes and the like. Without a doubt those are important and significant institutions, however, there should also be creative and innovative ways of developing Waqf Land while in the meantime not ignoring the traditional utilisations of Waqf

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Land. Real estate is one of the most effective investment ventures and with professionally managed systems and efficient project planning and implementations, Waqf Land can yield very good returns in both Monetary and Non-Monetary. The thousands of acres of undeveloped Waqf Land in Malaysia and perhaps hundreds of thousands of acres or even millions of acres worldwide must be tackled in a holistic, systematic and efficient manner. The potential Real Estate Development of Waqf Land worldwide is enormous and without doubt, will improve the livelihood of Ummah globally and directly alleviate the poverty level of the Muslim Society. The accelerated demand for housing and other real estate development components resulted in a tremendous escalation of prices that are beyond the affordability of ordinary people, must be resolved amicably. The escalation of housing prices leads to higher costs of living that result in lower net disposable income is generally resulted in an increase poverty level. Efficient and effective Real Estate Development of Waqf Land can contribute to alleviate the poverty scenario through offerings of more affordable real estate development components such as housing, shop houses, etc. The main aim of this article is to highlight and put forward a development model and financial analysis with regard to alleviating poverty through Waqf Land Real Estate Development. This approach correlates with the net disposable or discretionary income of the household and is directly related to the potential uplifting of the poverty level of an individual through the reducing of monthly loan installments or lease commitment as a result of lower development cost and subsequent development value. This approach is by no means an isolation from the already established system of Islamic strategy of Poverty Alleviation. The Zakat, Infaq and other form of Poverty Alleviation strategies as part of Islamic Social Finance must be systematically adopted in parallel with the Waqf Land Development approach. This article is merely putting forward ideas and proposals for holistic and strategic Waqf Land Development which the author perceived can be implemented globally. It does not intend to elaborate on poverty and other forms of strategies in detail in poverty alleviation.

**Keywords:** Real estate, Developing, Efficient and Effective, Net disposable income, Poverty, Poverty alleviation, Islamic social finance

# Waqf Investment: A Case Study of Waqf-Featured Fund by Kenanga Investors Group

Syahnaz Sulaiman<sup>1</sup>

Zulkifli Ishak<sup>2</sup>

Taqi'uddin Hamzah<sup>3</sup>

Noorsuriani Muhamed<sup>4</sup>

Suzana Md Samsudi<sup>5</sup>

The historical evidence highlights the significant role played by waqf institutions in the development and progress of Muslims. Waqf contributes to various aspects of life, including mainstream economic development. Islamic finance has allowed waqf to be linked with different financial products like Islamic Unit Trust Funds (UTF), Islamic Wholesale Funds (WF), Islamic Exchange-traded Funds (ETFs), and Islamic Real Estate Investment Trusts (REITs)

## Introduction

Waqf is the voluntary dedication of assets, movable or immovable, for fulfilling Allah's commands and promoting human welfare. In Islamic law, these dedicated properties are recognized for charitable or religious purposes. The practice of waqf dates to the time of Prophet Muhammad and

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3 Lembaga Tabung Haji.

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his companions, who actively engaged in it. Waqf is considered as continuous charity (sadaqah jariyah) that brings rewards until the Day of Judgment. To ensure the long-term benefits of waqf, adopting progressive strategies for the growth and maintenance of these properties is crucial.

WFF has been able to attract a significant number of investors who prioritise both financial returns and social impact. The dedicated portion of WFF returns, known as the waqf contribution, has been utilised to support various charitable initiatives, such as education, healthcare, and poverty alleviation. This demonstrates the potential of integrating waqf principles into investment strategies to address societal challenges and contributes to sustainable development.

## **Methodology**

The current study employed a qualitative research approach, designed through document analysis of policy documents, journal articles, books, prospectus, product highlight sheets, information memorandum, technical perspectives, and online resources.

## **Result**

The Islamic Fund Management (IFM) industry’s well-established development and growth in Malaysia were dictated by the investors’ demand side and various jurisdictions’ legal and regulatory frameworks (Noordin et al., 2018). The case study demonstrates the successful development and launch of the WFF by KIG, which offers investors an opportunity to invest their funds in a manner that aligns with Islamic principles and contributes to societal welfare. The fund operates based on the concept of waqf, wherein a portion of the returns generated from the investment is dedicated to charitable and social causes by Islamic principles.

The Securities Commission Malaysia (SC) has been actively promoting the potential of waqf in the Islamic Finance and Investment Management (IFM) ecosystem. They published a book titled “Waqf Assets:

Development, Governance, and Role of the Islamic Capital Market,” which serves as a guide for those interested in developing waqf assets globally through the Islamic Capital Market. It also provides recommendations on governance best practices for waqf institutions participating in fundraising and investment activities related to the Islamic Capital Market.

As of 31 May 2023, philanthropic investors can choose from seven WFF available in Malaysia, including six UTF and one WF:

No. Waqf	Fund Manager	Launch Date	Fund Type	Waqf Recipient
1. Makmur myWakaf Fund	BIMB Investment Management Berhad	3 March 2021	Income	Association of Islamic Banking and Financial Institutions Malaysia (AIBIM)
2. PMB-AN-Nur Waqf Income Fund	PMB Investment Berhad	18 March 2021	Income and growth	Waqaf An-Nur Corporation Berhad
3. Kenanga Waqf Al-Ihsan Fund	Kenanga Investors Berhad	13 April 2021	Income and growth	Yayasan Waqaf Malaysia
4. Maybank Mixed Asset-I Waqf Fund	Maybank Asset Management Berhad	3 May 2021	Income and growth	Yayasan Waqaf Malaysia
5. Wakaf ASNB	Amanah Saham Nasional Berhad	25 October 2021	ASB, ASN, ASM 3, ASN Sara 1	Majlis Agama Islam Wilayah Persekutuan (MAIWP)
6. BSN Dana Wakaf Al-Ikhlas	Permodalan BSN Berhad	25 March 2022	Mixed Assets	Yayasan Waqaf Malaysia
7. Kenanga Sustainability Series: Emergency Waqf Musa'adah Fund *	Kenanga Investors Berhad	6 October 2022	Mixed Assets	Yayasan Waqaf Malaysia

## Conclusion

In conclusion, the case study of the WFF by KIG provides valuable insights into the implementation and impact of an innovative investment product that integrates waqf principles within the investment framework. The findings highlight the growing interest in socially responsible investment options aligned with Islamic values and the potential for such funds to generate financial returns while making a positive social impact. This case study contributes to theory and practice by expanding the understanding of Islamic finance and showcasing the viability of WFF to combine financial goals with philanthropy and social responsibility.



## Waqf Based Takaful Model: The Most Innovative Way to Mitigate the Risk

Mehmood Arshad<sup>1</sup>

Pakistan is one of those countries in the world where there is a very rapid migration towards Islamic financial system. The one of the most important aspects of this system is Takaful which is an alternate to conventional insurance. Pakistan is also one of those countries in the world which has developed a very unique model of Takaful which is based on the revolutionary model of “Waqf” and called “Wakala Waqf Model”.

The Wakala Waqft Model has so many inherent benefits of Takaful which were not there in the other models. Waqf, as we know has so many inherent features for create social ripple effect on strategic basis for the community and its participants. When it becomes basis for a Takaful model, its benefits become more obvious and impact oriented.

**Eliminates Riba:** The Wakala aspect of Takaful eliminates the riba from the risk mitigation system of conventional insurance prevailed and practiced in the society. The members of the community share each other risk by contributing to the Waqf fund and provide support to each other in case of any unforeseen incident.

**Social Welfare:** The primary objective of Waqf in Takaful is to promote social welfare and mutual assistance among members. The Takaful Waqf funds is used to support participants who may face financial troubles

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<sup>1</sup> Executive Director of Pak Qatar General Takaful Limited, Founder of TAWUN.

in times of any unfortunate accidents. This is perfectly aligned with the spirit of Shariah based on the principle of solidarity and brotherhood among the community members.

**Waqf Surplus Benefits:** In case of surplus of Waqf funds, the excess amount is used to fund the next year fund, thereby lowering future contributions for all the participants.

**The Charity Aspect:** Waqf Fund of Takaful companies are also a great source of Charity for the community. In case of surplus or any deviation from the compliant pattern of operations, the money goes to the charities who work for the social welfare of the people.

**The Transparency Aspect:** If you compare Waqf based Takaful with the conventional Insurance, you will find that Takaful is more transparent and ethical where the participants of the Waqf Fund know where their money is going and how it is being invested.

We strongly believe that Waqf based Takaful model is the solution to much bigger social and financial problems the world is facing at the moment. A continuous and consistent efforts are needed by the Governments, worldwide business community, academia, Madrasas and the social sector, represented in the form of thousands of Non-Government Organizations, to further explore the benefits of Waqf Fund. We strongly believe that Waqf Model has great potential and capacity to address the unequal social and economic divide among the community, specially in the Islamic World where we have two extremes from the wealth perspective. There are many ideas, which can bridge this divide in the most innovative and progressive way, the human race has ever witnessed so far in the recent times.

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FIRST PARALLEL PAPER SESSIONS

11.00 - 12.30

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Track 1: “Waqf and Social Welfare”

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# Enhancing Social Security Through Waqf in Malaysia: A Promising Approach with Special Reference to the International Labour Organisation's Standards

Dr. Noor Shuhadawati Binti Mohamad Amin<sup>1</sup>

Social security plays an important role in ensuring the well-being and protection of individuals within a society. As the government works to meet the different requirements of its citizens in Malaysia, exploring other initiatives to enhance social security is the priority. This study explores the potential of waqf as a possible way to improve social security in Malaysia. An overview of the waqf concept and its historical relevance in Islamic civilization is given at the outset of the study. It covers the fundamental ideas and goals of waqf, placing special emphasis on how it promotes social welfare, poverty eradication, and society development. Further, the research emphasises waqf's potential to supplement present social security by examining the legal framework in Malaysia by streamlining with the requirements of the International Labour Organisations (ILO). The research emphasises the potential overlaps and complementarities between these two frameworks by contrasting the tenets of waqf with the social security norms set out by the ILO. It investigates how waqf can contribute to Malaysia's social security system, especially for vulnerable populations including the unemployed, undocumented employees, and low-income people. This research finally aims at exploring opportunities to fully harness the potential of waqf for enhancing the social security system in Malaysia.

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## **Introduction**

Improving social security is a critical goal for any country seeking to enhance the well-being and security of its population. Exploring creative ways becomes critical in Malaysia as the government seeks to serve the different requirements of its population. This research looks into the possibilities of waqf, an Islamic philanthropic institution with a long history, as a prospective avenue for improving social security in Malaysia. Waqaf, an Islamic approach to social security is an important concept in Islamic civilization, having roots dating back to the time of the Prophet Muhammad (Kahf, 2012). Waqaf has historically played an important role in improving social welfare, reducing poverty, and supporting communal development. The research demonstrates the potential synergies and complementarities between these two frameworks by comparing the principles of Waqaf and the ILO's social security standards. It investigates how Waqaf can help to close gaps in Malaysian social security coverage, particularly for vulnerable populations such as the unemployed, informal labourers, and low-income individuals.

## **Methodology**

The method employed for this research is doctrinal in nature. This methodology focuses on the analysis and interpretation of legal sources such as statutes, case law, books, and articles. Not only that, analysing of the International Labour Organisation's various conventions on social security is also highlighted.

## **Result**

The research aims to synergise the waqf institution, the Malaysian social security legal framework and the ILO standards on social security. The research analysis waqf institution in Malaysia which is governed by Islamic religious council in each state that manages and oversees waqf properties, assets, and funds. (Mohamad N. A et.al, 2012). Social security legislations in Malaysia namely Employees' Social Security Act 1969, Employees

Provident Fund Act 1991, Employment Insurance System Act 2017, Workmen's Compensation Act 1952 and National Poverty and Welfare Assistance Act 1966 (Evangelos, K, 2020). Further, the research focuses on the ILO social security standards by analysing the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102) which sets out nine minimum standards for social security protections (International Labour Standards on Social Security, n.d).

## **Discussion**

Based on the review of Malaysia's legal framework governing waqf, it indicates areas of alignment as well as prospective areas for development with the present social security legislation in Malaysia. The research also discovers that waqf resonates with the ILO standards in terms of providing support to individuals and vulnerable groups.

## **Conclusion**

In conclusion, the research on waqf institutions and social security legal framework in Malaysia has shed light on the potential of waqf as a promising approach to augmenting the existing social security system. By aligning waqf principles with social security protections and their compatibility with the ILO standards, it is hoped that the integration of waqf into the social security legal framework can contribute to broader coverage, protection, and well-being for individuals and communities in Malaysia.

**Keywords:** Social security, Waqf, ILO standards, Legal framework



## Waqf as Praxis: From Benevolent Charity to Grounded Solidarity

Aasif Bulbulia<sup>1</sup>

Zeinoul Abedien Cajee<sup>2</sup>

Islam in South Africa is inextricably linked to histories of settler-colonialism and apartheid - systems of racialized discrimination through which economic power, cultural capital, and social relations were ordered to benefit a small, white minority; specifically, those with access to economic capital through which wealth could be extracted, accumulated, and concentrated. While it was hoped that the transition to democracy in 1994 would lead to an improvement in the lived experiences of the most marginalized and downtrodden, and while there has been a degree of restructuring across different socio-economic sectors, the fruits of the democratic dispensation continue to be out of reach for most people in South Africa (Mpo-fu-Walsh 2021). The physical, psychological, structural, and ecological violence through which these systems were imposed has had and continues to have a far-reaching impact on South African society and will likely persist for many generations.

Muslims in South Africa inhabit complex, wide-ranging positions in relation to this historical context. From the arrival of the first Muslims at the Cape of Good Hope in the 1650s, most of whom had been enslaved or held as political prisoners by the Dutch; to the arrival of merchants from

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2 Co-Founder/ Patron Trustee/ Immediate past CEO of AWQAF SA (National Awqaf Foundation of South Africa), South Africa.

the Indian sub-continent in the late 1800s/early 1900s, then under British colonial rule, the routes through which Islam reached South Africa were varied (Dinath, Patel and Seedat 2014). The period of apartheid rule, between 1948 and 1994, saw many communities being uprooted from their homes, deprived of access to educational opportunities, and forced to live in segregated neighbourhoods based on race. This period was also met by intense resistance, mobilized through community structures and political movements (Palombo 2014). In the years that have since followed, Muslims have established a notable presence - despite being a minority faith community - with awqaf having played instrumental roles in both the institutionalization of Islam and the coordination of social upliftment initiatives across various sectors.

In this paper, we develop the argument that waqf, if approached with grounded historical analysis and intentionality, has the potential to affect incisive long-term material and structural change. We argue that the absence of such analysis risks reproducing harm, especially if waqf is applied without due consideration for: the voices and perspectives of historically marginalized stakeholders; the unproblematic internalization and reproduction of colonial, capitalist logics and assumptions (Ndlovu-Gatsheni 2015); and the extent of alignment between the objectives for which awqaf are established and the exigencies with which our respective societies are confronted. Drawing on case studies of waqf projects coordinated by AWQAF SA, we propose and evaluate a methodology for structural analysis that is rooted in principles of open dialogue, reflexivity, and eco-systemic awareness (Scharmer 2018). In the face of climate crises fuelled by corporate greed and extractivism, deepening social polarization, worsening wealth and income inequalities, and frightening levels of gender-based violence, we ask: how might waqf be operationalized to attend to the underlying structural causes of these planetary problems? How might we shift away from treating the symptoms to confronting the structures of power, thought and value-systems that create the conditions under which people are struggling to survive and live dignified lives? In this way, how might we approach waqf as both an instrument of redress and reparation, and of long-term social transformation towards more dignified, just, and loving futures?

# **Building Bridges of Hope: Exploring Possibilities and Legal Challenges in Utilizing Awqaf for Destitute Persons in Malaysia**

Dr Najwa Binti Rosli<sup>1</sup>

Dr. Maryam binti Khalid<sup>2</sup>

One of the aftermaths of the coronavirus pandemic is the increase in homelessness throughout the world. Malaysia, a diverse and multicultural nation, faces its own share of social challenges, including the issue of homelessness. Many individuals and families find themselves in dire circumstances, struggling to meet their basic needs and lacking access to essential services. According to Destitute Persons Act 1977, a destitute person is defined as a beggar and person who has no visible means of subsistence or place of residence or is unable to give a satisfactory account of himself. Based on such definition, this paper shall use homeless people and destitute individuals interchangeably. Furthermore, recognizing the importance of addressing such issues, especially post-covid 19, this paper shall give more focus on the homeless person. The main issue that this paper will delve into is the potential of Awqaf (Islamic endowments) in Malaysia to address the needs of destitute individuals. Awqaf, rooted in the Islamic tradition, represents a unique form of philanthropy and social responsibility. By exploring the possibilities and dimensions of utilizing Awqaf, this paper aims to shed light on how it can be leveraged to uplift and support the vulnerable members of society, thereby building bridges of hope for a better future.

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2 Universiti Malaya.

Thus, this paper seeks to present Awqaf as a potential solution that can contribute to alleviating destitution and providing shelter or placement for those in need. To understand the utilization of Awqaf for destitute persons in Malaysia, it is crucial to examine the existing regulatory framework. By analyzing the legal framework on both subject matters, their limitations, and their potential for enabling effective Awqaf implementation, this paper aims to highlight the challenges that policymakers and stakeholders may encounter in utilizing Awqaf as a tool for social change. Through doctrinal and document analysis, this paper will provide valuable insights for policymakers and organizations involved in social welfare initiatives. By considering the unique features of Awqaf and the regulatory landscape, policymakers can develop strategies that harness the full potential of Awqaf in driving substantive improvements in addressing destitution. It is important to create an environment that encourages the establishment of Awqaf institutions and facilitates their smooth operation while ensuring accountability and transparency.

Furthermore, this paper will explore the role of awqaf digital platforms to raise awareness, gathering donations, and connecting with individuals in need more efficiently. Coupled with technology, such platforms enable transparency and accountability by providing real-time updates on the utilization of Awqaf resources. MyWakaf as one of the active online crowdfunding in Malaysia has many successful campaigns in mobilizing funds for specific projects, such as building Islamic schools, dialysis centres and mobile dental clinics. This paper shall then look at the potential and legal challenges of a project for providing shelters for destitute individuals.

In conclusion, this paper endeavours to shed light on the potential of Awqaf in addressing destitution in Malaysia. By examining the regulatory framework, highlighting challenges, and providing insights for policy considerations, it aims to pave the way for the effective utilization of Awqaf as a tool for social change. The goal is to create a society where the needs of destitute individuals are met, fostering inclusivity and a sense of belonging for all members of the community. Through leveraging Awqaf, Malaysia can build bridges of hope and empower its most vulnerable citizens to lead dignified and fulfilling lives.

## **Perpetuity of cash waqf income for provision of social security system, and just & equitable distribution of wealth**

Dr. Mohd Yaziz Bin Mohd Isa<sup>1</sup>

Prof. Dr. Zulkifflee Mohamed<sup>2</sup>

Purpose - The paper demonstrates the application of multivariate analysis, i.e., structural equation modelling (SEM) to the subject area of cash waqf income (or Islamic endowment of cash waqf). Theoretical foundations of cash waqf for achieving perpetuity and sustainability is still not thoroughly developed, therefore testing with actual reported figures using an SEM is an effective means to demonstrate and find its determinants. It takes a confirmatory and measurement approach therefore a full-fledged SEM model, rather than an exploratory approach; and incorporates both observed and unobserved (i.e., latent) variables and a hypothesize theoretical foundations of cash waqf with pattern of inter-variable relations specified a priori.

Design/methodology/approach - Using Amos statistical program together with knowledge of the underlying latent constructs of cash waqf - i.e., how cash waqf is raised, requirements for preventing social dissolution, and inequality, we test with actual reported figures, taking approaches of confirmatory factor analytic and measurement model shown below.

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2 Professor, School of Accounting and Taxation, Universiti Tun Abdul Razak, Malaysia.

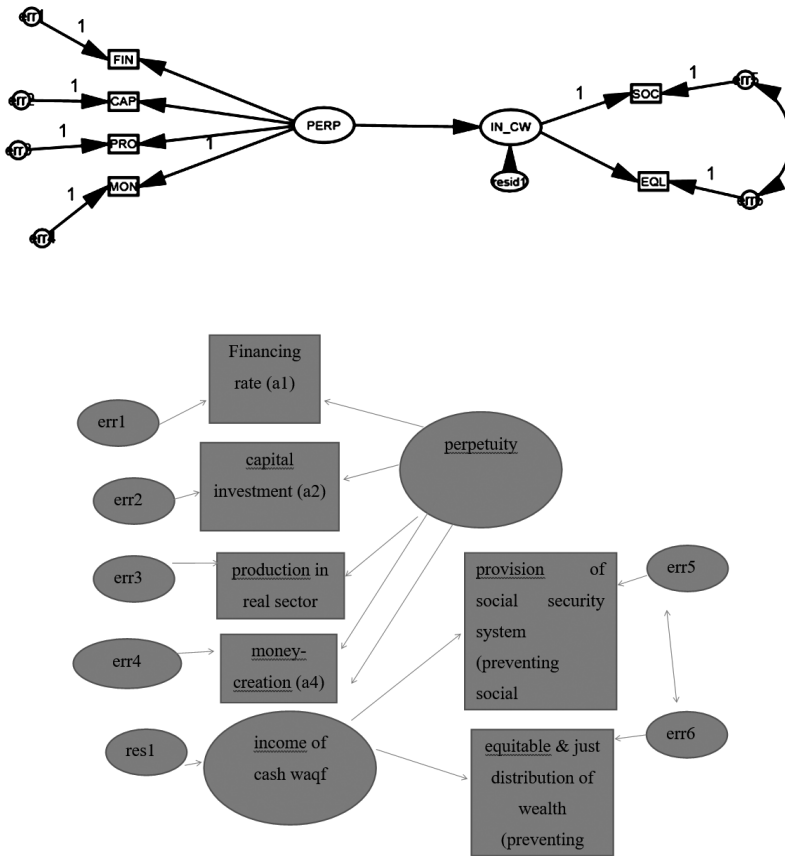


Figure 1: Hypothesized full SEM model of income of cash waqf.

1. There are two unobserved latent factors i.e., perpetuity and income of cash waqf
2. There are six observed variables - including four to measure perpetuity. So, each of these four observed variables is regressed onto perpetuity only.
3. The unobserved variable, that is perpetuity is considered to measure the income of cash waqf. So, the income of cash waqf is the dependent

variable in the model, and it is regressed onto perpetuity (independent variable). In other words, perpetuity of waqf “(independent variable) predicts” income of cash waqf (dependent variable).

So, the one-way arrow pointing towards income of cash waqf, implies that perpetuity (independent variable) “causes” income of cash waqf (dependent variable) to achieve its two objectives of provision of social security system/ preventing social dissolution and equitable distribution of wealth/ preventing inequality. And the income of cash waqf is dependent on the perpetuity of the waqf.

4. Associated with each observed variable is an error term (err1, err2, err3, err4, err5 and err6). Errors of measurement (“measurement error”) associated with the provision of social security system and equitable distribution of wealth are correlated.

5. A resid1 is the residual term associated with perpetuity with the factor being predicted, that is income of cash waqf. It represents an error in the prediction of the endogenous variable or dependent variable in the model (income of cash waqf) from an exogenous factor or an independent variable (which is perpetuity).

6. The unidirectional arrows leading from perpetuity to each of the observed variables suggest perpetuity is influenced by financing rate (FIN), capital investment (CAR), production in real sector (PRO) and money creation (MON).

7. The unidirectional arrow leading from the income of cash waqf to the provision of social security and equitable distribution of wealth suggests income of cash is “indicated” or “measured” by the provision of the social security system (i.e., preventing social dissolution) and equitable distribution of wealth (i.e., preventing inequality).

In other words, the income of cash waqf achieves its objectives when social dissolution is prevented and inequality is resolved.

In the above diagram, the number of parameters to be estimated is 15:

1. 4 regression coefficients (first-order regression coefficients (factor loadings))
2. 7 variances (6 error variances, 1 residual error variance)
3. 1 structural regression path (second-order regression coefficients)
4. 2 factor variances
5. 1 co-variance

In total, 15 parameters are to be estimated for the hypothesized model. In the above, the hypothesized model is an over-identified model, meaning the number of estimable parameters (15) is less than the number of data points (i.e., variances and co-variances of the observed variables).

In reviewing the hypothesized model, how many data points do we have to work on?  $p(p+1)/2 = 6(6+1)/2 = 21$  data points.

Prior to this, 15 unknown parameters were to be estimated, so against 21 data points, an over-identified model is attained, with 6 degrees of freedom.

Furthermore, in the above, there are two measurement models. The two models are first validated. Then only the structural equation model linking perpetuity and income of cash waqf, is tested.

In the first measurement model, how reliable and valid is perpetuity is determined by item measurements such as 1. financing rate 2. capital investment 3. production in the real sector and 4. money creation.

Also, in the second measurement model, how reliable and valid is the income of cash waqf determined by item measurements such as 1. social

security and 2. equitable distribution of wealth. The validity of both measurement models can be analyzed by Cronbach's alpha.

The paper attempts to investigate two latent constructs of perpetuity and sustainability of cash waqf income influenced by provisions of the social security system and equitable & just distribution of wealth.



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FIRST PARALLEL PAPER SESSIONS

11.00 - 12.30

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Track 2: “Economic Perspective on Awqaf”

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## Funding Waqfpreneurship Program for University Students

Dr. Ridzwan Bakar<sup>1</sup>

Rapiah Mohd Zaini<sup>2</sup>

Muhammad Nizam

The paper aims to investigate the practice of waqf funding for students' entrepreneurship programs at higher learning institutions in Malaysia. It examines whether waqf has been accepted as one of the important funding sources for students' entrepreneurship development. Waqf has been the subject of interest in Malaysia after the Minister of Higher Education (MOHE) launched the 'Purple Book Enhancing University Transformation' in the year 2016. One of the key areas of The Purple Book is to support students' development through waqf instruments including entrepreneurship programs and courses.

The term waqfpreneurship is coined based on the word waqf and entrepreneurship (Iman & Mohammad, 2017). The waqfpreneurship adopts waqf principles throughout the process of waqf (endowment) and distribution of benefits to the intended beneficiaries (mauquf alaih). In addition, Waqf funding according to Kahf and Mohamed (2017), can be in cash form classified into direct waqf and investment waqf. The cash waqf is used as lending waqf to provide interest free loans or invested to generate reasonable return on investment. Prior studies on waqf based entrepreneurship are limited. For example, Mahamood & Ab Rahman (2015)

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focused on empowering education based on waqf, Bakar et al. (2019) discussed Corporate Waqf University Model, Zainol et al. (2014) examined social entrepreneurship through corporate waqf and Harun (2011) investigated waqf for small medium enterprise (SME) in Singapore. Thus, this study attempts to undertake further investigation of whether waqf has been practised in providing the source of financing for university students' entrepreneurship programs.

This is an exploratory study on waqfpreneurship practices in Malaysia. The study adopted a qualitative method where primary data and interviews were used to attain the objectives of the study. The primary questions for the interview focus on what are the source of funding available for university students' entrepreneurship programs, are this funding created by the university or some other modes and whether waqf has been considered as the main source of funding.

The study is done by evaluating the primary data of selected institutions ie. 3 public universities (IPTA), 3 private universities (IPTS) and 1 State Islamic Religious Council (SIRC) in Malaysia. Semi structured open questions were used for the interview, using probing techniques. The questions were compartmentalized into two main sections ie. entrepreneurship program policy and funding of the program. These institutions were represented by the head of the department or senior officers in charge. Twelve questions were presented and discussed to identify whether there is a policy to encourage entrepreneurship programs and whether waqf has been considered in their students' entrepreneurial development programs.

The findings of the study indicate that all IPTA and IPTS have policies to encourage students' entrepreneurial development programs. These universities have dedicated units or departments to manage waqf, zakat and donation. Two of them have established Yayasan (Foundation) as a separate entity, while the rest are administered directly by the university's management. All IPTA and IPTS under study are given status as mutawalli (waqf administrator) or qayyim (waqf collection agent) by respective SIRC in order to execute waqf programs. Although all IPTA and IPTS are active in

waqf projects, none of the institutions declared the fund for students entrepreneurship program comes from waqf sources. Four institutions reported grants as a source of funds, one self funded and one from zakat. All six institutions declared the funds were from an institution's policy, while SIRC has no policy to fund students' entrepreneurship development programs. The crowdfunding mode of funding is also not given special attention by all the institutions under study. We also notice that participation from the business community for students' waqfpreneurship development is still lacking.

In conclusion, waqf has been recognized as an important tool to provide support for social enterprise entrepreneurial programs (Zain et al, 2021; Thaker, 2015). Therefore, the findings of the paper provide social and practical implications to the policymakers (MOHE, SIRC and university's management) by suggesting the need to develop a workable framework for students entrepreneurship programs using waqf. In addition, the paper suggests involvement of corporate and business communities to support Sustainability Development Goals (SDG) for students' entrepreneurship development. The paper has its originality by sharing the waqfpreneur perspective of Malaysia's universities' participation in the entrepreneur development program. It accentuates the fact that waqf can assist to fund entrepreneur and academic development programs at universities with support from the public, philanthropists and crowdfunding.

**Keywords:** Waqfpreneurship, Waqf fundraising, Waqf economy



# **Awqaf as a Form of Radical and Sustained Economic Transformation: The Case of Awqaf SA's Role in Shaping Economic and Social Justice in Post-Apartheid South Africa**

Mickaeel Collier<sup>1</sup>

This abstract provides an overview of a research paper that investigates the role of Awqaf (Islamic endowments) in facilitating sustainable economic transformation and promoting social justice in post-apartheid South Africa. With a disproportionately high Gini coefficient and deep-rooted wealth disparities, South Africa faces significant challenges in achieving economic and social equality. This study focuses on Awqaf South Africa (SA) as a case study, analysing the organization's contribution to economic transformation and the mitigation of social inequalities through its endowment activities. Using a qualitative analysis approach, this research examines primary and secondary data sources, including Awqaf SA's programs, beneficiary experiences, and stakeholder engagements. The study's findings offer valuable insights into the potential of Awqaf as a potent tool for economic and social transformation, particularly within the context of post-apartheid South Africa.

Established in 2000, the National Awqaf Foundation of South Africa (Awqaf SA™) is an independent community-based trust committed to promoting the institution of Waqf (Community Sovereign Endowment Fund) and empowering communities. As the leading charitable endowment institution in Southern Africa, Awqaf SA invests funds and utilizes generated

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income to support various community development projects and programs aimed at fostering Integrated Community Development and Self-Reliance. Recognizing the need for an active civil society movement to complement government efforts, Awqaf SA believes that the versatility and broad range of applications of Waqf can facilitate sustainable growth and contribute to the nation’s developmental goals.

Throughout history, pious endowment funds have served as instruments for infrastructure development, resulting in the construction of roads, hospitals, educational facilities, and the fulfilment of numerous societal needs. Inspired by this historical precedent, Awqaf SA aims to harness the potential of the Waqf Fund as a community sovereign fund (as distinct from a State Wealth/ Sovereign Fund) for the people of South Africa. By leveraging the flexibility and diverse uses of Awqaf, the organization seeks to address pressing economic and social challenges in the post-apartheid era.

This research examines Awqaf SA’s contributions to economic transformation by highlighting tangible outcomes achieved through its endowment activities. The organization’s investment strategies and income-generation initiatives enable the funding of vital community development initiatives. Through entrepreneurial programs, skills training, and microfinance support, Awqaf SA empowers individuals and communities, fostering economic growth and alleviating poverty. Moreover, the organization’s focus on sustainable initiatives aims to contribute to long-term economic resilience.

Recognizing the persistent social inequalities inherited from the apartheid era in South Africa, this research evaluates Awqaf SA’s efforts to bridge these divides using Waqf as a developmental instrument. Awqaf SA’s initiatives encompass *inter alia* education and scholarships, healthcare programs, housing projects, sports and recreation projects, and community empowerment initiatives. By addressing systemic injustices, the flexibility of Awqaf enables targeted interventions tailored to the specific needs of communities, thereby fostering a more equitable society.

Awqaf SA's pioneering efforts demonstrate the profound impact that Awqaf can have on economic transformation and social justice in post-apartheid South Africa. By investing in community development projects and programs, Awqaf SA has effectively contributed to reducing wealth disparities and addressing social inequalities. The insights gained from this research highlight the potential of Awqaf as a powerful instrument for driving sustainable growth and fostering social justice in developing countries.

The paper concludes by presenting recommendations to community organizations, governments, and policymakers on harnessing the potential of Awqaf to foster economic and social justice.



# The Valorization of Awqafs in Morocco and the Challenges of Socio-Economic Development

Dr. Hind El-Ouazzani<sup>1</sup>

In Morocco, little importance is given to the waqf, unlike in other Muslim countries, while the history of the awqaf in Morocco is very inspiring, especially before the period of its colonization (1912-1956). Despite the vigilance of Moroccans, the French tights have seized a large part of Habous goods through sales at ridiculous prices or through long-term rentals. The French colonization of Morocco limited the field of Awqafs to the construction of mosques, an idea which unfortunately continued after the independence of Morocco and hinders the development of waqf in Morocco until today.

From the 2010s, the public sector found itself unable to implement quality public services and the willingness of the Moroccan economy to create wealth and employment began to decline. Currently, the quality of education and the supply of care remain below the standards of the World Health Organization, social inequalities continue to widen and serious difficulties of financial inclusion are aggravated by a weak social protection of citizens.

The objective of the paper is to highlight the importance of the revitalization of the Waqf model in Morocco, in a context in which Moroccans are little familiar or that they ignore.

The central issue, to which some answers will be given, is therefore “how is it possible to develop the Waqf in Morocco and release its potential to contribute to the socio-economic development of the country?”

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The review of the literature shows that little importance has been given to the subject of the development of the Waqf on the socio-economic level and that the legal aspect is the most treated.

The importance of the subject treated lies in the fact that little research has been interested in the subject of the development of the Waqf in Morocco, with the exception of those of Laminou (2021) and Chalabi (2020), and the present work intervenes to fill this gap.

The paper will be divided into two large sections. The first part covers the origins, functions of the Waqf, and its role in socio-economic development. The second part presents the particularities of the management of the Waqf in Morocco, its legal framework and discusses the prospects for its revitalization.

The Waqf or the "Habous" is a religious donation of a lasting nature. It is a charitable work that draws closer to God. Its lawfulness is cited in the Qur'an, the Sunna and the practice of the Companions of the Prophet (SWS). In the Muslim religion, there is no single definition of Waqf; each of the four Islamic rites had provided its own definition.

The construction of the Kaaba can be considered the first religious Waqf of humankind. However, the Waqf experienced its real boom with the first Muslim community in Medina, notably through the construction of the "Quba" mosque. From the 3rd century Hegira, all social functions had Waqf assets to be able to perpetuate and ensure the coverage of their expenses. The aim was to offer education and health services, but also other services for orphans, the supply of drinking water, child protection, etc.

The Moroccan experience in the field of Waqfs is quite rich. For centuries, all public sectors have been taken care of by the Awqaf. There were very specific types such as those intended for the blind, women with marital problems, and people who had broken utensils or damaged clothes.... But following the colonization of Morocco, its role was reduced in particular to the construction of mosques.

After the independence of Morocco in 1956, considerable efforts were made for the management of the remaining properties and their preservation, supported by a Moroccan Royal will, under the supervision of the Ministry of Habous.

On the legal level, two facts mark the history of the Waqf in Morocco in the 21st century: the publication of the “Moudawana des Awqafs” in 2010, establishing a broader legal framework for the Waqf, and the constitution of the Superior Council for the Control of Finances des Habous publics in 2012 responsible for the proper management of Awqafs and the development of their income according to the principles of good governance.

The results of this research show that the Waqf in Morocco is invaluable. Moroccans, for centuries, have shown a crucial interest in the Waqf.

The socio-economic challenges facing Morocco make it urgent to provide solutions, particularly in terms of financing. Morocco has a fairly large heritage of Awqaf assets in the form of buildings, shops, bare land, and agricultural land. The development of the Waqf deserves to give it more importance so that it can contribute to the long-awaited socio-economic development.

The results of this paper reveal that two major axes are to be privileged: firstly, it is imperative to change the perception of Moroccans vis-à-vis the Waqf by raising awareness around the subject, in order to change their idea that the Waqf is linked only to the construction of mosques. It is also necessary to establish the culture of donations for social purposes such as the construction of hospitals and universities among Moroccans. Secondly, the heritage of Moroccan Habous should be managed more efficiently, with a spirit of entrepreneurship and innovation. Finally, capitalizing on the experiences of other Islamic countries in which the Waqf is highly developed, such as the use of Cash Waqf, is extremely useful.



## The Awqaf Sector in Turkiye and Its Economic Contributions

Dr. Ozan Maraşlı<sup>1</sup>

Prof. Dr. Monzer Kahf<sup>2</sup>

Waqf (plural awqāf) carries a delicate meaning much more than an economic institution can have. It carries such a broad meaning since it includes the meaning of *qurbah* —closeness to Allah Ta'ālā— in the first place. It is a kind of worship (*'ibādah*) that is endowed on a perpetual basis to serve the poor and any other goodly objectives through which reward from Allah Ta'ālā to its founder will continue pouring until the waqf perishes. On the other hand, since it is an act of charity that is based on producing added economic value for its objective, it has important links with the economy. As an increment to the capital input that is confined to a specific objective, waqf increases the production capacity of an economy through which the general welfare of the society increases with a special emphasis on the welfare of the poor. Since it is primarily for the poor and needy, it also links with poverty and income distribution. It also provides a wide range of public services at no cost to the government, which would have an ameliorating effect on the budget deficit, tax burden and government tasks.

The awqāf reached a historical peak in the Ottoman Empire which was notable for its large and powerful awqāf sector for centuries, it was capable to satisfy various needs of people from cradle to grave. One may note that probably the Ottoman era represented a climax for waqf in terms of

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how an institution established by the beloved Prophet Himself ﷺ, was able to transform into a considerable economic sector that intensely contributed to social welfare by the grace of Allah Ta'ālā. To express the economic size of awqāf in the Ottoman era, it is worth mentioning that at the turn of the twentieth century, about one third of lands within the borders of Türkiye was awqāf. In addition, in Ottoman territories, in each administrative unit called *sancak*, there were about 1000 awqāf, and the budgets of the Ottoman awqāf had reached roughly one third of the budget of the Ottoman state in the seventeenth century.

Awqāf sector in Türkiye has an important role in the Turkish economy. Among their prominent economic activities, are the national defense industrial production, higher education, research and development (R&D), and healthcare. Through their activities, the Turkish awqāf contribute to capital input and production in these sectors, as well as the provision of public services in higher education, healthcare, R&D, and national defense. In addition, they are active in provision of the social services addressed for the welfare of the poor and needy, which have significant contributions in terms of poverty and income distribution. Hence, they influence the dynamics of production and distribution in the Turkish economy concurrently.

Although Türkiye became one of the important focal points for researchers because of its deep-rooted waqf heritage that had been capable to provide wide-ranging charitable and public services by the grace of Allah Ta'ālā, there is very little research that focuses on the current state of Turkish awqāf, especially from the economic point of view. In that regard, this study aims to explore the economic contributions of awqāf to the Turkish economy in terms of the provision of public goods, mostly referring to higher education, health, R&D and national defense sectors. Thus, this study is a humble attempt to explain the current economic state of Turkish awqāf.

Currently, there are five different kinds of awqāf in Türkiye. These are fused awqāf, annexed awqāf, new awqāf, community awqāf, and irsādi awqāf. In addition to these five waqf kinds, waqf universities, waqf healthcare institutions and corporate awqāf are other important constituents of

the Turkish awqāf sector, especially in terms of their economic contributions. As of August 2022, there were in Türkiye, 89.817 masjids, roughly 52.000 fused awqāf, 5.059 new awqāf established after 1926, 1.015 are irsādī (state) awqāf, 251 annexed awqāf, and 167 awqāf of minority (non-Muslim) communities, in addition to 75 waqf universities and several corporate awqāf. The total non-interest revenues of the Turkish awqāf sector corresponded to 0,83% of Turkish GDP in 2021, whereas their total expenditures constituted 0,67%. Although the share of the awqāf sector is relatively small in the Turkish economy, they play an important role in the provision of religious, national defense machinery and equipment production, higher education, R&D, and healthcare services. Besides corporate awqāf, most of the economic contributions are made by new awqāf, waqf universities, and irsādī awqāf.

The five components of the Turkish awqāf sector contribute to the Turkish economy not only their own but mostly through the waqf universities and corporate awqaf that they established. These institutions have made remarkable contributions to the economy with their high value-added activities that influence various sectors including higher education, R&D, manufacturing, national defense, energy, construction, and healthcare. In that regard, this section highlights the waqf institutions for higher education, national defense, R&D, and healthcare as well as their activities.

As of 2022, there were 75 waqf universities and 4 higher education vocational school, in which 680,599 students continue their tertiary education—which correspond to 8,3% of total university students in Türkiye—making a significant economic contribution by increasing the physical and knowledge capital stock of Türkiye. Waqf universities made 13,80% of total higher education fixed capital investment and financed 14,63% of the higher education services in the country in 2022.

Corporate awqāf operates in the sectors of machinery and equipment, energy, construction, automotive, transportation, tourism, and finance. Corporate awqaf shine out mostly through their contributions to the national defense industry and material & equipment products and sell them

in domestic and international markets. In 2018, their net sales constitute 40% of total net sales in the Turkish national defense sector, whereas they made roughly 38% of total Turkish national defense exports and their employees are more than a quarter of total national defense employees in Türkiye. In 2020, four of these companies were among the top 100 national defense companies in the world, as ASELSAN was 48th, Turkish Aerospace Industry the 53rd, ROKETSAN the 91st, and HAVELSAN the 99th rank in the Top 100 ranking released by Defense News.

R&D is one of the prominent economic activities that corporate awqāf and waqf universities substantially contribute to. Eight of the top ten Turkish companies in terms of R&D expenditures were waqf companies. R&D expenditures done by those waqf companies corresponded to 13,64% of total Turkish R&D expenditures in 2020, and to 14,70% in 2021. The data for the contribution of waqf universities to R&D expenditures was available only for 2020, which corresponded to 1,07% of total Turkish R&D. Corporate awqāf in the national defense sector re-invest 52% of their revenues to further develop their production activities, R&D activities, and physical capital investments in a way that they contribute to a sustainable cycle that gradually increases the contribution of the waqf sector in the economy.

In terms of the health sector, currently there are 48 waqf hospitals in Türkiye. As an extension of being a welfare state, the government is the main provider of healthcare services in Türkiye. 78,80% of the current final healthcare expenditure is done by the government in 2021, the portion of non-profit institutions serving households that include awqāf and associations (dernek) in final current healthcare expenditures was 2,32%, whereas their portion in healthcare fixed investments was 1,5%. These numbers show that the provision of public healthcare services by awqāf is very limited and inadequate since Turkish waqf healthcare institutions mostly operate in a profit-oriented scheme as being commercial enterprises of awqāf.

Notwithstanding the waqf sector has significant contributions to the Turkish economy, it should be critically underlined that there exist vital challenges which cast doubt on the current waqf practices in Türkiye in

terms of the real meaning of waqf in Shari'ah that emerged as a result of the secularization of awqāf, such as harām financial revenues and activities of awqāf, unjustified *istibdāl* (substitution) practices, and the dependency of awqāf to donations and aids in financial terms. All these problems should be addressed by the responsible waqf administrators and policymakers in order to eliminate the harām and inappropriate elements in current waqf practices in Türkiye.

Consequently, this study analyzes the current state of the awqaf sector in Türkiye and its economic contributions in terms of five different awqaf kinds, waqf universities and corporate awqaf. By using the documentary method based on available data gathered from various sources including the Turkish Statistical Institute, Directorate General of Awqaf, Higher Educational Council, Ministry of Family and Social Service, and Turkish regulations for awqaf, this paper sheds light on the current economic role of awqaf in an emerging economy.

**Keywords:** Waqf, Awqaf, Türkiye, Economic state of awqaf, Corporate awqaf, Waqf universities



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FIRST PARALLEL PAPER SESSIONS

11.00 - 12.30

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Track 3: “Digitalization in Awqaf”

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# Transforming Global Islamic Banking Practices by Leveraging on Waqf as The Pillar for a New Global Digital Waqf Bank

Prof. Dr. Barjoyai Bardai<sup>1</sup>

Compared to the conventional banks that have existed since 2000BC with modern banking established in 1397 in Florence, Islamic banks are relatively a new phenomenon- established in 1963 in Mit Ghamr, Egypt (though the experiment began back in 1950's in Pakistan). In Malaysia Pilgrimage fund as a saving bank was also established in 1963.

In term of achievement, there are currently over 10,080 conventional banks globally managing over USD183 trillion. On the other hand, Islamic version only have 1,500 banks with USD4.0 trillions fund managed. The issue at hand is while the conventional banks are having over 69% of the world adults population or 3.8 billions peoples that have bank accounts, there are only 38 millions Muslims that patronise the Islamic banking institutions. What is interesting is - the average deposit in the conventional banks are USD 4,815 as compared to Islamic bank of USD 105,000. It shows that there is huge prospect for Islamic banks to grow further.

The total global population is 7.88 billion in 2021 while global Muslim population are 2.01 billions. In term of Islamic banking financial inclusion rate the Islamic banks only achieve 1.81%.

So, what is the challenge in promoting Islamic banking and Finance further? It is the attitude and perception of the Muslims. They do not think

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that the present Islamic banks are genuine Islamic banks. Yes, they comply with the Shariah laws and rulings, but they lack the real spirit of Islam - The spirit of helping and facilitating. During the development of Islamic civilisation including in the reign of Prophet Muhammad S.A.W., there was never an Islamic bank like what we have today. The closest things that they have was a treasury institution that was called 'Baytul Mal' (House of wealth). Peoples will contribute into Baytul Mal and tiths collection (zakat and) was also kept in Baytal Mal. The institution spread the wealth to the needy groups in the whole nation and beyond. Baytal Mal was also facilitating all the financial transaction include trade among the Muslim making life more convenient and businesses more efficient. There has never been a financial industry that exist to profit and exploit consumers on their financial transaction and matters.

Perhaps we should go back to that scenario in the Islamic financial institutions to gain support and acceptance of the Muslim consumers. At the same time, may baking customers today have concluded that the current conventional banking system are rather oppressive and had caused suffering to most banking's customers. Is this a realistic vision and expectation? Perhaps so if we could re-structure the present Islamic banking industry by making a radical change in the present system. We need to shift the focus of banking from FINANCING to that of INVESTMENT. Hence, we will see customers comes to bank to deposit their fund which will then be managed by the banks and invested in viables investment. The banks will act as the investment managers and trustees to their customers. (It is more like the Employees Provident Fund (EPF) that manage fund of contributors. The return on investment will be distributed according to the specific instruction of the depositors or accounts owners. Under an endowment principle, the capital sum will not be touched but the return will be distributed on a monthly, quarterly, half yearly and annually to the specific beneficiaries. The beneficiaries can include the accounts owner him/herself, their family members, institutions of their choice and charitable institutions.

The bank can be owned by a foundation, government entities or individuals but will not be focused on maximising profit but to maximise

return on the investment fund trusted upon them to managed. The above arrangement can be achieved through the Waqf principles that actually work as endowment fund with the accounts owners (donors) appointed as the trustee. Using the different type of Waqf including private and family waqf, the beneficiaries can include the accounts, owners, his families and other donee's institutions.



# Gen Z Behaviour Towards Digital Waqf Innovation: Evidence from Indonesia

Dr. Alex Fahrur Riza<sup>1</sup>

Syayyidah Maftuhatul Jannah<sup>2</sup>

Joko Setyono<sup>3</sup>

Akh. Yusuf Khoiruddin<sup>4</sup>

The growth of internet users has led to the emergence of various digital start-up companies. These innovations have transformed people's habits, including how they donate online. Currently, fundraising through cash waqf can be carried out through traditional offline or modern online platforms. Crowdfunding, Mobile Banking, and E-Commerce, a practical online tool, are commonly utilized to achieve specific goals and objectives in entrepreneurship and charitable causes.

Waqf refers to an Islamic practice of endowing assets to be preserved in faith and utilized for charitable or religious endeavours. Its purpose is to showcase the potential and economic advantages of waqf assets in promoting worship and the welfare of others. Indonesia presents ample opportunities to generate substantial waqf funds. However, the concept of waqf, an Islamic form of endowment, has gained little popularity among the public. The current digital waqf platforms still need to promote waqf in communities, particularly among Gen Z, who will make up most of Indonesia's

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workforce in 2030. One effective strategy, particularly for cash waqf, is to offer an online service, which has proven successful.

Cash-waqf is one of the transformative models of waqf asset submission to optimize the receipt of waqf of money in Indonesia. Currently, cash-waqf can be paid through platforms that are integrated with digital sharia banking systems and E-Commerce, such as the *Berbagi-Ziswaf* feature at Bank Syariah Indonesia, *Tokopedia-Wakaf* and other waqf online services provided by Islamic Bank.

The objective is to offer an overview of crowdfunding, Mobile Banking & E-Commerce and its potential as a collaborative fundraising tool for waqf purposes. This article describes the concept of implementing collaboration through technology-based fundraising platforms in a broader sense. This study aims to identify the factors influencing Gen Z's adoption of waqf technology by modifying the UTAUT2 model. The PLS-SEM model data analysis reveals that Performance Expectancy, Effort Expectancy, Social Influence, Facilitating Condition, Price Value, Habit, Motivation, and Perceived Religiosity significantly impact the acceptance of waqf technology.

Previous literature has predicted that integrating fintech into waqf management will facilitate fintech's growth and expand waqf outreach in Indonesia. Therefore, this paper examines the impact of Industry Revolution 4.0 on the expansion of fintech into cash waqf in Indonesia. The research of Berakon et al. (2021) concludes that DSBS plays a significant role in encouraging the interest of young Muslim generations to participate in cash-waqf transactions. The study from Indarningsih et al. (2023) shows millennial intentions to make ZISWAF payments using fintech. The survey of Hidayah and Mutiara (2022) shows that the variables of the UTAUT2 model impact the behavioural choice to use a digital-based cash waqf system. Azizah et al. (2023) found that the development of cash waqf analysis had increased in the last year because the investigation distribution was observed in various fields, such as Economics, Econometrics, Finance, Social Studies, Arts and Humanities, Business, Management and Accounting.

**Keywords:** Digital waqf, Cash waqf, Islamic social finance, UTAUT2

# Investigating the Use of Digital Platforms for Enhancing Transparency and Accountability in Awqaf in Malawi

Sellina Gada<sup>1</sup>

Awqaf has been an essential activity in Malawi since the early Arabic and Islamic exploration and the establishment of the Trans-Saharan trade route in the 1870-1960. Awqaf represent a form of endowment that has been established for the benefit of public goods to the Muslim community and the entire society at large since the 1960's. The importance of Awqaf is evident from the fact that it represents significant assets that contribute to the social, economic, and cultural development of Malawi. There are a number of developmental activities that have been taking place in Malawi following the Awqaf projects in Malawi, there are schools, disaster relief provision, religious and contemporary education, and health service provision among others. However, in modern times, the management and administration of Awqaf have become a challenge due to a lack of transparency and accountability from service providers. Nevertheless, in many instances, there is a lack of transparency and accountability in the management and administration of Awqaf, leading to inefficiencies and mismanagement of these resources. This research proposal aims to investigate the potential of digital platforms for enhancing transparency and accountability in the management and administration of Awqaf for Awqaf service providers in Malawi. Awqaf represents religious endowments that have been established for public benefit in Malawi. It also aims at investigating the potential of digital platforms in addressing these challenges and enhancing transparency

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1 Managing Editor, Insight Magazine (Ulama Council of Malawi), Malawi.

and accountability in the management of Awqaf. The research is however trying to prove the significant importance of digital use with principles and guidance of Islam in terms of communication and conduct of humans in the world. The research utilized qualitative research methods, including interviews to collect data from relevant stakeholders especially Awqaf organizations in Malawi. This paper also had citations Ayah from the Holy book of Quran and Hadith of the prophet Muhammad (S.A.W) from Sahil Al-Bukhari Book 34, 2,12, Sunan Ibn Maja book 6,36, Sunan an-Nasa'I Book 44,. Data is collected from 50 people that follow and participate in digital platforms that the Malawi Awqaf organizations exist in. The findings of the study revealed that the use of digital platforms presents significant opportunities for enhancing intelligibility and responsibility in management and administration in countries around the world. It also gives the power of recognition and trust from the public following the updates given through the social media digital platforms. The research is expected to provide valuable insights into the potential of digital platforms in enhancing transparency and accountability in the management and administration of Awqaf in Malawi. The research has identified the main challenges and opportunities for using digital platforms in Awqaf management and administration and has provided practical recommendations for policymakers, practitioners, and academics interested in promoting transparency and accountability in the management of Awqaf. The research has contributed to the academic literature on the use of digital platforms in Awqaf management and administration in Malawi and provided a basis for further research in this area. Furthermore, the research has heightened the need for Awqaf practitioners, organizations and all stakeholders to work together and promote the use of digital platforms in Awqaf management to increase donor trust and result in better service provision to the Muslim society.

## Educational Waqf: Establishments of IT Hubs in Zimbabwe

Iliyasa Yasini<sup>1</sup>

Dar al-Salaam Foundation (DSF), an Islamic NGO based in Zimbabwe and operating in three countries in Southern Africa has embarked on an ambitious project aimed at bridging the gap between rural communities, institutions of higher learning and the world of work throughout impoverished communities in the region. It seeks to achieve this by establishing an Educational Waqf of Information Technology Hubs in the main cities of Zimbabwe as a pilot project, then proceed with the same to Malawi and finally South Africa. DSF seeks to prepare Muslim youth from disadvantaged backgrounds for success in the global economy by enabling them to attain Higher Education, Workforce skills and ICT skills.

With the fourth industrial revolution (4IR) having the potential to yield greater inequality especially in labour markets, talent or creativity, more than capital, will represent the critical factor of production and competitiveness. Job markets will increasingly be dichotomized into “low-skill/low-pay” and “high-skill/high-pay” segments representing a scenario in which technological factors become hollowed out in the middle. The demand for highly skilled workers is on the increase while the demand for workers with less education and lower skills has decreased globally. DSF seeks to prepare Muslim students for the new challenges posed by 4IR through utilizing technology such as cyber education.

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1 Director General, Dar al Salaam Foundation, Zimbabwe.

This paper focuses on the creation of an educational Waqf through the establishment of Information Technology hubs. These Waqf IT hubs will be a means of education for the less privileged Muslims students in the cities where they do not have access to free internet and online classes. These classes will be offered by reputable institutions online. The technology hubs will be situated at the Masjid and in some areas where there is no electricity at the Masjid, they will be at the growth points from where IT hubs will operate.

With the introduction of Zimbabwe's new curriculum known as Continuous Assessment Learning Activities (CALA), students from both primary and secondary schools have to engage in research that demands the use of the internet as an integral part. Those in rural areas and lower income urban communities are finding it difficult to conduct their research due to the absence of internet and research facilities. The introduction of IT hubs in such communities provides access to the internet, research tools and online learning education which can transform the lives of less privileged Muslim students.

This study also focuses on studies connected with endowment funds which are: endowment funds and their importance in religion; investing endowment funds; expenditure of endowment funds on educational projects. The views of scholars of jurisprudence will be sought from literature to provide clarity on endowment funds and their importance in religion. The paper will then provide a background to Muslims in Zimbabwe so that context is provided on their needs. It will then proceed to map out the strategy of developing a project of IT hubs in the country and how these will be a key asset to Muslim students who are marginalised from poor backgrounds.

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SECOND PARALLEL PAPER SESSIONS

14.00 - 15.30

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Track 1: “Technology and Waqf”

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## Leveraging Artificial Intelligence for Enhanced Waqf Impact

Dr. Benaouda Bensaid<sup>1</sup>

The intersection of Artificial Intelligence (AI) and Waqf presents promising opportunities for enhancing the management and impact of Waqf institutions. The integration of AI technologies with the Waqf sector and eco-systems holds immense potential for advancing the conception, management and impact of waqf institutions especially when the communities' and societies' needs and possibilities are constantly evolving and dramatically changing, and hence requires effective power of analytical forecasting, adaptability, flexibility, and systematization of data, whether related to investment, transformation, or building of capacity in the social, economic, financial, educational, or healthcare sector. Leveraging AI's capabilities in data analytics, automation, personalized services, and impact assessment can unlock incredible possibilities for efficiency, transparency, and social impact. AI technologies can help optimize Waqf operations and resource allocation while also enhancing its sustainable social impact. This research highlights the potential of AI in transforming the Waqf landscape and associated ecosystems and identifies key areas where AI can be used to drive Waqf innovation, effectiveness, and impact. AI systems enable efficient and accurate analysis of vast data volumes of waqf properties, recorded activities, and development. With the analysis of AI based insights, AI systems can help provide waqf mutawallis/nuzzar with rich information to optimize property selection, asset valuation, and risk management, in addition to providing predictive models and forecasting revenue streams, thus

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<sup>1</sup> Associate Professor, Faculty of Islamic Studies, Istanbul Sabahattin Zaim University.

facilitating effective planning and allocation of waqf resources. AI driven automation can also improve the efficiency of management and administrative tasks within waqf institutions as it automates waqf manual processes such as document verification, beneficiary management, financial auditing, and many other crucial activities, thus leading to decreased processing times and human error while freeing up human resources to focus more on strategic focus, directions, and related tasks. AI powered virtual assistants can enhance the accessibility of waqf services, including personalized support to beneficiaries, donors, and stakeholders, and support of waqf online transactions and response to inquiries, thus enhancing waqf governance and relevance. AI algorithms can help identify and prioritize high impact socio-economic initiatives that align with the Islamic and the very objectives of waqf and its institutions. By analyzing the surrounding socio-economic data, AI can recommend strategic areas for waqf investments and directions, ensuring the maximum positive community and societal impact. This paper addresses those pathways of AI and waqf; How AI may transform the future of waqf industry: and how should we leverage AI for Enhanced Waqf Impact. Alongside this, this research also sheds light on the overall Shari'a norms and ethical guidelines on the use of AI in the field of waqf, whether on data privacy, bias, transparency, employment, and so forth. This requires the study of the Islamic legal philosophy particularly demonstrated in the framework of Maqasid al-Shari'a and the Islamic legal maxims (al-qawa'id al-fiqhiyyah) in such a way that helps enhance the capacity of AI to better serve the current needs of waqf, in addition to investing in waqf automation while taking a proactive technological approach in this regards, especially, regarding the capacity building of waqf research experts and professionals, or streamlining of skills and competencies of waqf staff and volunteers.

**Keywords:** Artificial intelligence (AI), Waqf, Waqf management, Waqf impact, Social welfare, Maqasid al-Shari'a

# Beyond Computers: A Conceptual and Model Framework for Globalisation of Waqf Through Waqftech

Dr Abdullahi Saliu Ishola<sup>1</sup>

With the emergence of Fintech, every financial sector is anticipated to become technologically driven. This has also extended to the Islamic system, and this led to the advancement of Islamic Fintech. On a general note, Islamic Fintech should be embraced as applying to various aspects of Islamic Finance, including the Islamic Social Finance sector. Why this is true, the Islamic Fintech that would uniquely cater to the peculiarities of Waqf can be conceived differently. Thus, Islamic Fintech in relation to Waqf will give birth to Waqftech. WAQFTECH which simply connotes Waqf technology should however be properly conceived beyond computers and beyond information technology supports to Waqf Institution. As Peter Thiel rightly opined, “there is no reason why technology should be limited to computers”. Accordingly, this study undertakes to develop a useful conceptual framework for the ideal of Waqf Technology and the attendant globalisation of Waqf which is expected to be heralded thereby. This study employs the use of doctrinal research methodology with analytical and explorative study techniques. It is herein thoughtfully opined that a proper conceptual of WAQFTECH should reflect and motivate numerous ways of doing things better in the Waqf Sector in relation to information management; property management; administration engagements;

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1 Senior Lecturer, Department of Islamic Law, Faculty of Law, Kwara State University, Malete, Nigeria and Research Fellow, Centre for Islamic Economics and Finance (IKAM), Istanbul University, Turkiye.

and financial activities of waqf. Thus, Waqftech should be an umbrella name under which we can have Waqf-Admintech; Waqf Infotech; Waqf Fintech; and, Waqf Managetech. When Waqftech is well understood and applied in a uniform manner, there is high potential for the realisation of Waqf Globalisation in terms of essential areas of practice in the Waqf sector. Through this, there would be higher hopes and expectations for better sustainability of waqf actors' jurisdictions. Waqftech could therefore be a generally accepted tool for the realisation of uniform sustainability agenda for Waqf globally. This study consists of five parts, including the Introduction and Conclusion which constitute Part I and Part V, respectively. Part II critically examines the idea of Technology and Globalisation and their Relevance to Waqf. Part III discusses the Current Sustainability Challenges Facing Waqf Across Jurisdictions and demonstrates how the Globalisation approach would be helpful to address them. Part IV reflects on how WAQFTECH can be designed and explored to achieve globalisation of Waqf which has earlier been demonstrated as a saving grace to address the sustainability challenges in the Waqf sector. Significantly, this study will provoke thoughts for Waqf stakeholders to properly conceive Waqf Technology beyond computers but rather as an inspiring and propelling guarding tool to provoke new and better ways of doing things in the best interest of awqaf. Therefore, through this study, it is concluded that properly conceived, Waqftech connotes provoking new ideas for better development and growth of Waqf. Thus, the path to addressing the sustainability problems of Waqf is Waqf Globalisation while the path to Globalisation of waqf is WAQFTECH.

**Keywords:** Computers, Technology, WAQFTECH, Globalisation, Waqf

# Waqf Venture Capital: A Proposed Model to Accelerate growth of Islamic Tech Startups and Halal Ecosystem with Social Impact

Mohammad Ikhsandana Siregar<sup>1</sup>

The traditional Venture Capital (VC) funding ecosystem for tech startups has faced significant challenges in recent years. While VCs were initially established to help promising start-ups achieve growth and success, they have become too focused on growth metrics at the expense of long-term sustainability. As a result, many start-ups have been burning through cash to acquire customers and achieve rapid growth, without adequate attention to building a solid foundation for long-term success.

This overemphasis on growth has led to numerous layoffs, both globally and locally in Indonesia, as start-ups struggle to maintain their pace of expansion. Irresponsible use of funds by startup founders and a lack of accountability has also been significant issue. Additionally, there is currently a lack of sharia-compliant VCs, which limits funding options for Islamic/sharia-based tech startups along the halal value chain.

On the other hand, there is a growing demand for Social Impact investment, where investors not only seek the best monetary return on their investment but also consider ESG factors, as well as the United Nations' SDGs as important parts of their investment decisions. This rising group of investors is interested in generating social impact results alongside financial returns, such as lower carbon emissions, better job opportunities for rural citizens, alleviation of poverty, and an increase in productive society.

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Indonesia’s waqf market size is estimated to be worth trillions of rupiah. The cash waqf potential is estimated to be up to IDR 377 trillion, but currently only collected IDR 199 billion. While waqf assets potential could reach up to IDR 2.000 trillion in value and 420.000 hectares. Unfortunately, its utilization rate is still low. This presents a significant opportunity for expanding the impact of the waqf industry by providing more investment options for social impact Islamic/Sharia-based tech startups.

The Waqf Venture Capital model is designed to address the significant challenges faced by traditional venture capital funding ecosystems for tech startups. While VCs were initially established to help promising startups achieve growth and success, they have become too focused on growth metrics at the expense of long-term sustainability. The Waqf Venture Capital model aims to provide an alternative funding source that prioritizes social impact and long-term sustainability over short-term growth metrics.

This research and proposed business model is both important and unique for the Islamic finance industry and innovation. First, it is important because there is a growing need for alternative funding for Islamic based technology startups to grow and innovate. Moreover, the current trends have shown that the current capitalist mindset of existing venture capital has not been the best solution for sustainable growth. But there are good lessons learned from the current VC and startup ecosystem creating innovations and digital solutions that could solve people’s problems within a very short adoption time span. Combining this with the potential social impact of waqf an Islamic social finance instrument, could be a long-term solution to bring innovation with responsible and sustainable values to the investment.

Second, this research is uniquely significant to the Islamic finance innovation body of knowledge as it tries to capture and analyze current issues in technology startup investment while also trying to identify the values waqf could bring to innovation in Islamic technology and the halal ecosystem industry. Hopefully, by doing this combined western and Islamic financial instrument, we could bring the best of both worlds for the good of the Ummah.

The proposed recommendation provides a detailed description of the Waqf Venture Capital model and how it can be implemented in practice. It includes a discussion of the key features of the model, such as the use of Waqf endowments, profit-sharing agreements, and social impact metrics.

Overall, this research paper proposes a new model for funding Islamic tech startups and the Halal ecosystem with social impact. The Waqf Venture Capital model combines the principles of Waqf with the best practices of venture capital to create a new funding model that is both socially responsible and financially sustainable. The proposed model has the potential to address the funding challenges faced by Islamic tech startups along the Halal value chain and to promote the growth of socially responsible and sustainable businesses in the Islamic finance industry.



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SECOND PARALLEL PAPER SESSIONS

14.00 - 15.30

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Track 2: “Waqf and Sustainable Development”

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# The Cash Waqf Financing Model for Affordable Housing Project on Waqf Land and Sustainable Development Goals (SDGs)

Dr. Md Nazim Uddin<sup>1</sup>

Dr. Nor Azizan Che Embi<sup>2</sup>

Lutfun Nahar<sup>3</sup>

This paper examines the possible cash waqf financing model for affordable housing project and its relationship with Sustainable Developmental Goals (SDGs). Cash waqf pools charity donations to support affordable housing developments for low and middle-income communities, whereas it is part of the SDGs aim to improve social wellbeing. This paper examines how cash waqf for affordable housing initiatives might help achieve SDGs, especially in the context of Muslim in Malaysia. This research aims to help Islamic religious institutions, waqf institutions, policymakers, and stakeholders to use cash waqf as alternative financial mechanisms to finance the development of waqf land with housing project. In-directly it will achieve sustainable development goal on social wellbeing by tackle price unaffordability issues in housing. This study highlights various factors that related to housing unaffordability price and how to apply cash waqf as a financing mechanism to support the affordable house project on waqf land. Waqf is a historic Islamic philanthropy practice in which people or organizations

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contribute assets to a charity trust for social welfare goals, and the revenue from these assets supports the cause. In Islamic finance, cash waqf is an endowment where people or organizations donate money for any social purposes. If the cash waqf issued for the purpose of affordable house development, therefore a waqf board or trustee manages cash waqf monies to build the house and maintain affordable house through the waqf’s revenues. The principle of waqf preserve in a form of the house while lease payment received can be used for maintenance. The study also focusing on their role in achieving the SDGs. Cash waqf is among the simplest financing mechanism that can be easily structure and participate by anyone either individuals or corporate sector. It also satisfying low-income group to participate in waqf project meant for affordable housing. Policymakers, Islamic financial institutions, and housing developers must understand the issue to develop affordable housing on waqf land especially matters related to waqf’s ruling. Rapid urbanization, population growth, and economic development in big cities have raised the demand for affordable housing. Shelter is considered as dharuriyat needs therefore, affordable housing project promotes economic growth, social stability, and human rights. However, many lower- and middle-income group still struggle to obtain affordable or decent homes. Cash waqf will be one of the financing mechanisms that can reduce the financing cost to develop houses. Cash waqf allows Muslims to donate to a fund for affordable housing. Community-based funding may help the housing unaffordability gap decrease and promote sustainable development. This study also scrutinizes the cash waqf process and its role in making affordable housing. Cash waqf’s in today’s context is more advance as waqf institution used various platform to make it more user friendly for waqif to perform waqf. The digital platform and online banking help to contribute to huge collection of waqf as both platforms are user friendly to waqifs (donors). The denomination of cash waqf certificate also target various categories of donors. The paper also discusses the SDGs that might be achieve from the effort to tackle the housing unaffordability issue. It focusing on goal number 3 and 11 which is on ‘Social Well-being’ and “Sustainable Cities and Communities”. Cash waqf and affordable housing on waqf land may help Muslim countries accomplish SDGs as it impoverished lower and middle-income group to find cheap homes. Governments

and organizations may use cash waqf as one of the alternatives to support affordable housing projects that offer shelter and empower disadvantaged communities to overcome the issue of poverty. The process to use cash waqf for affordable housing development on waqf land may achieve the SDGs by promoting sustainability aspects via a well-designed framework. Every waqf land with distinct features and development problems. Given various ways to make the project of affordable house sustained and continuous, this area is vital to global sustainable development. Knowing the huge benefits of the waqf project towards socioeconomic and society well-being the outcome of this research is vital for analyzing the potential of cash waqf as financing mechanism for affordable housing's on waqf land. A literature review emphasized more on cash waqf and affordable housing issues when the residential project will be developed on waqf land. The paper examines few scenarios that lead to cash waqf financing. The research uses quantitative surveys with potential homebuyers. The quantitative research approach was used for this study to investigate the variables responsible for increasing demand for affordable housing schemes in Malaysia. In order to conduct the analysis, we gathered 261 usable responses from Malaysia, respectively. This paper included part of descriptive statistics and cash waqf financing model to illustrate the process of financing the house development. Based on the output of the survey, affordability and financing options to end buyer might boost demand for affordable house development on waqf land. This paper makes policy recommendations for several stakeholders involved in affordable housing project. Policymakers and housing authorities should foster the development of affordable housing via various financing alternatives including cash waqf. Islamic Religious Council, Waqf Institutions and Real Estate Developers might use cash waqf to finance the housing project. The principle of waqf will be preserve in a form of houses. Finally, as conclusion, this study improves our knowledge on cash waqf and affordable house project on waqf land and their role in achieving SDGs. By recognizing and identifying few factors that slow down the process to develop affordable house on waqf land, policymakers, Islamic financial institutions, waqf institutions and property developers may tailor their policies and procedures to assist and speed up the housing development process. Finally, cash waqf for affordable house may solve affordable housing

problem and assist in accomplishing SDGs 3 (Social Well-Being), and 11 (Sustainable Cities and Communities). The findings show that cash waqf for affordable housing is necessary for some scenario in Malaysia where there is shortage of fund to finance the project but yet there is higher demand for affordable houses. More research and collaboration are needed to maximize cash waqf’s potential in supporting sustainable development efforts. National sustainable development plans should incorporate cash waqf initiatives to align affordable housing policy with the SDGs.

**Keywords:** Cash waqf, Affordable housing, Sustainable Development Goals (SDGs), Waqf Land, Malaysia

## **Examining Achievement of a Regulated, Standardised Global Community for WAQF to Advance Towards Sustainable Development**

Amyna Fakude<sup>1</sup>

Standardisation is a pre-requisite for managing risks that combat global sustainable development since the era of slavery that saw humanity become geographically and racially segregated for ease of their exploitation through racial supremacy, which created disharmony in the coexistence of all created things, by stratifying humanity. As a result, an ecosystem of a jungle type survival that pervades living, impedes human advancement due to the self-appointed global ruling elite, remote controlling universal growth with the aim to intensify dependency, using suppression in order to realise their Global Domination Agenda.

Over the years, both industrialised and developing nations recognize that the aberrational world order based on racial supremacy has given rise to depletion of all kinds to all life such that the safety and security of all people and the lived environment are at immense risk. In a world so abundantly endowed with natural resources, a small section of the human species, devoid of compassion, empathy and accountability subjects fellow humans to abject poverty and all manner of squalor especially material, due to the deliberate creation of lack and scarcity which exacerbates poverty and impact the need for humanitarian aid- WAQF and Zakaat.

The exploitation of natural resources is not limited to humanity only but the land, the sea and space all bear the brunt along with the rest of the

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<sup>1</sup> Teacher/Mu-Aalima, National Interfaith Council of South Africa (NICSA).

planet, violated for material gratification of this one particular class. Upon observation of such human conditions, Islam always invokes its fourth Pillar - Zakaat, concomitant with WAQF to mitigate human suffering by feeding, clothing, sheltering the homeless and educating the unlettered thus, quintessential against afflictions which might best be eradicated by imparting WAQF knowledge globally.

In 2015, the Committee of Nations- the World Leaders of the United Nations, agreed on the Sustainable Development Agenda that comes with 17 Sustainable Development Goals (SDGs) to be implemented globally with a view to achieve within the period 2016-2030. The SDGs very similar to Sharia law, primarily aim for the achievement of justice, fairness and compassion in the world. Scholars, on recognising the significance of the SDGs generate an abundance of research on the standardisation of global human existence through the eradication of inequality, thereby managing risks that forbid the realisation of the world humanity desires.

This study is located in the hermeneutic phenomenological research design of the qualitative research paradigm. It aims to examine how the causes of present day world struggles and suffering persist by investigating ways humanity can work to eradicate them through crafting a global reform agenda to overcome all that hampers human thriving. It describes the significance of regulation for standardization towards risk management into sustainability through nine themes; eradication of inequality, compassion, exploitation, lived environment, justice, sustainability, global domination, reform, and values based education. Achievement of the purpose of this study relies largely on an extensive review of literature, supported by conversations with thought leaders to link Waqf to themes in its context.

The study concludes that Regulation, standardisation, risk management and sustainable development in the global context can best be addressed with the application of SDG 10- Reduced Inequalities, and SDG 11 -Sustainable Cities and Communities. Elements of Islamic Finance (Waqf, Zakaat, etc) that continue funding the mitigation of repercussions of injustices and social ills to restore to lives integrity, freedom and compassion

where everyone equally thrives, flourishes and prospers should be incorporated. Islamic tenets globally adopted, may lead humanity to a meaningful coexistence using PEACE, the universal attribute and value known to all living beings most prominent of which is the human being.

**Keywords:** Humanity, Regulation, Racial supremacy, Poverty, Sound existence



# Temporal Waqf: How It May Contribute to SDGs?

Jawwad Ali<sup>1</sup>

Prof. Dr. Nor Asiah Mohamad<sup>2</sup>

## 1.1 Definition of Temporal Waqf

Technically, in terms of Fuqahā, T'aqīt refers to determining the period of any work from the beginning to the end. In this scene, T'aqīt al-Waqf (temporary in Waqf) means that the founder of Waqf determines the particular time for his/her Waqf, once this particular time will be completed, Waqf would be returned to the ownership of Wāqif and no longer will be used for the purpose of Waqf (Haza, 2006).

Though no specific definition of temporal Waqf could be found in classical Fiqh, Al-Kashnawī (1986) from the Maliki school defined it as “the Waqf that is subjected to the specific period or limitation that is set up by the founder (al-Wāqif)”. In other words, upon the completion of this specific period, Waqf would be returned to the ownership of its founder and no longer will be employed for the purpose of Waqf. Furthermore, Kahf (2000) defined Waqf as “the detention on a specific property that can give benefits or profits for good purposes either generally or particularly in perpetuity and temporary”. This definition of Waqf by Kahf includes both perpetual and temporal Waqf as per the will of Wāqif as well as the terms and conditions of Waqf.

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## 1.2 Juristic Boundaries for Temporal Waqf

As it is known that everything in Waqf is subject to Ijtihād and there is no single Waqf law that has garnered unanimity, except that the Waqf objective must be charitable (Birr). As a result, jurists have different views on the legitimacy of temporary Waqf. According to Muhammad Firdaus et al. (2017), Bouhedda et al. (2021) and Nor Aishah et. al. (2022), the opinion of Ḥanafī, Shāfa'ī and one opinion by Ḥanbali is that Waqf must be established for an indefinite period. Nor Aishah et. al. (2022), highlights that Hanafi is the strictest among the other opponents when it comes to the implementation of perpetuity in Waqf. This is because in the Ḥanafī school, the statement of "T'abid" is essential in such a scenario, according to Imam Abu Ḥanifa and Muḥammad, and it is one of the conditions for a valid Waqf. As a result, any expression that suggests perpetuity, such as the mention of the poor or Ṣadaqah Mawqūfah or for Jihād, is sufficient to establish a Waqf, and profit will be distributed to the poor even if not mentioned. According to Bouhedda et al. (2021) and Isa et. Al. (2022), this is due to Umar's (RA) Ḥadīth, in which the Prophet (ﷺ) instructed him to lock up the property and use the usufruct for human benefit. The word Ḥabs (detention) in this Ḥadīth alludes to perpetuity because if Waqf property is returned to Wāqif ownership, it will not be called Muḥbas (detained) because Tahḥees (to detain) is against the meaning of T'aqīt (temporary). Additionally, the following sentences of this Ḥadīth are quite clear about Wāqf's perpetuity. This is because if T'aqīt (temporary) in Waqf is permitted, the Waqf property can be sold, gifted, and inherited.

In contrast, according to Muhammad Firdaus et al. (2017), Bouhedda et al. (2021), the Mālīkī school holds that perpetuity is not one of the conditions of legitimate Waqf, and the Wāqif is entitled to limit the period for his or her Waqf. The Waqf property will be returned to the founder's heirs if he or she dies before the required period has passed. This opinion of Imām Mālīk is one Riwayāh (narration) of Imām Abu Yūsuf from the Ḥanafī school, which has also been adopted by current jurists such as Aḥmad Ibrāhīm, Muḥammad Abu Zohra and Muṣṭafa al-Zarqa. Mālīkī's jurists support the temporary Waqf on the condition that Wāqif's will would

be followed. This is because the ultimate goal of Waqf is to receive recompense from Allah (ﷻ) and to ensure that Waqf beneficiaries receive the advantages of the Waqf. This will include any assets that provide advantages in the form of a permanent or temporary benefit. Additionally, Waqf is a sort of Şadaqah in the sense of its meaning and goal, and it is well-known that temporary Şadaqah is permitted, just as perpetual Şadaqah is. And because there is no proof that distinguishes one from the other, distinguishing between these two types of Şadqah is not supported by any evidence.

Due to the substantial and plausible evidence, the second opinion (permissibility of temporary Waqf) is favored in the above-mentioned discussion among jurists. Furthermore, this point of view will encourage people to donate to help alleviate poverty and improve society. It's worth noting that under Islamic endowment, perpetuity is the rule, and transitory in Waqf is the exception. As a result, the majority of Fuqahā think that Waqf is basically eternal and that temporary Waqf necessitates a clear declaration of the Waqif's intent.

### 1.3 Temporal Waqf in Malaysian Waqf Acts

As far as temporal Waqf is concerned in Malaysia, though the validity of temporal Waqf is not permitted in Shāfa'ī school, it is adopted by some states, including Federal Territories, Terengganu, Johor, and Sarawak. For instance, Section 18 (2) (c) of Wakaf (Terengganu) Enactment 2016 states "Waqf Muaqqat" means a submission of Waqf for a particular period". Also, Section 2, Majlis Islam Sarawak Ordinance 2001 describes "Wakaf khas" means a dedication in perpetuity, or for a limited period, of the capital of property for religious or charitable purposes recognized by Islamic Law and the property so dedicated, the benefit and income of the property being given to specified persons or for purposes prescribed in the Waqf;". Furthermore, Section 2 of Administration of Islamic Law (Federal Territories) Act 1993 mentions "Wakaf khas" means dedication in perpetuity or for a limited period of the capital of property for religious or charitable purposes recognized by Islamic Law, and the property so dedicated, the income of the property being paid to persons or for purposes prescribed in the Waqf".

The above-mentioned provisions demonstrate that Waqf al-Mu'aqqat has been permitted by certain states in Malaysia, though it is not permitted in Shāfa'ī school.

## 1.4 Methodology

This study is qualitative, in which it uses library research skills as a method of research. In this regard, the secondary data were used to analyze some existing models of temporal Waqf and its possible role to support SDGs. Since the SDGs consist of 17 goals, this study, however, focuses on analyzing two goals of SDGs; a) no poverty and 2) quality education that could possibly for practical in the context of cash Waqf.

## 1.5 Conclusion

From the above-mentioned discussion, it became clear that temporal Waqf is already defined by contemporary scholars and there are various definitions of it as described by the scholars. Although jurists have different views regarding the temporal Waqf, Maliki jurists permitted it along with other jurists from Hanafi, Shafai, and Hanbali schools. In this vein, Waqf al-Mu'aqqat has been permitted by certain states in Malaysia, though it is not permitted in Shāfa'ī schools. Hence, this study aims at analyzing some existing models of temporal Waqf (that is already defined) and its possible role to support SDGs particularly a) no poverty and 2) quality education.

**Keywords:** Temporal waqf, SDGs, Socioeconomic, Zakat and sadqah

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SECOND PARALLEL PAPER SESSIONS

14.00 - 15.30

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Track 3: "Arabic Session"

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دور التمويل بالوقف في تحقيق أهداف التنمية المستدامة

## The Role of Endowment Financing in Achieving Sustainable Development Goals

د. أشرف دواب

Dr. Ashraf Dawaba<sup>1</sup>

يعتبر الوقف الإسلامي نظاماً نشأ وتطور في ظل الحضارة الإسلامية، وقد عرفت الأوقاف منذ عهد النبوة وعبر العصور الإسلامية نمواً وتنوعاً واتساعاً، حيث لم تقتصر على العناية بفتات المجتمع فحسب، بل تعدتها إلى العناية بكل ما يعتمد عليه الناس في معيشتهم. فقد انتشر الوقف ليغطي مختلف جوانب الحياة من النواحي الدينية والعلمية، والثقافية، والصحية، والإنسانية، والسياسية، والاقتصادية، والاجتماعية، والخدمية.

ونظام الوقف يعد مصدراً تمويلياً وباباً هاماً من أبواب الخير وتحقيق القربات والأعمال الصالحة ابتغاء مرضاة الله تعالى، فالتمويل بالوقف يعد أمراً مهماً وضرورياً للممارسة الوقفية دورها الخيري، حيث إن مفهوم التمويل بالوقف ينطلق من مفهوم الوقف ذاته، فالوقف في حد ذاته تمويل كما أنه في الوقت نفسه استثمار، وكونه تمويل ظاهر من كونه مالا يتم حسبه وتسييل منافعه على فعل الخيرات، فهو مصدر تمويلي من جانبيين أو لاهما: الأصل ذاته، وثانيهما: ما يدره ذلك الأصل من إيرادات توجه إلى فعل الخيرات. أما كونه استثماراً فهو ظاهر من كونه صاحبه - أي الممول - يسعى من خلاله إلى المحافظة على الأصل الموقوف ونمائه، وأن ما يستهلك هو الإيراد، وكذلك من كونه يريد أن يحصد ناتج وقفه يوم القيامة.

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ونظام الوقف يمثل صدقة جارية وهو لذلك يتميز بالربط بين الأجيال الحالية والأجيال المستقبلية برباط التراحم والتواصل. وقد أشار القرآن الكريم إلى ذلك التواصل في قوله تعالى: ﴿والذين جاءوا من بعدهم يقولون ربنا اغفر لنا ولإخواننا الذين سبقونا بالإيمان﴾ (الحشر/ ١٠)، وهو بذلك سبق ما هدف إليه تقرير (بروندتلاند) الذي نشر من قبل اللجنة عبر الحكومية التي أنشأتها الأمم المتحدة في أواسط الثمانينات من القرن العشرين بزعامة (جروهارلن بروندتلاند)، من تعريف للتنمية المستدامة بأنها "التنمية التي تلمبي احتياجات الجيل الحاضر دون التضحية أو الإضرار بقدرة الأجيال القادمة على تلبية احتياجاتها."<sup>2</sup>

وقد حثت الأمم المتحدة دول العالم لاسيما النامية منها على تحقيق التنمية المستدامة من خلال سبعة عشر هدفاً، مع ضرورة تنفيذها ما بين ٢٠١٥ - ٢٠٣٠م، ممثلة في: القضاء على الفقر، والقضاء التام على الجوع، والصحة الجيدة والرفاه، والتعليم الجيد، والمساواة بين الجنسين، والمياه النظيفة والثقافة الصحية، والطاقة النظيفة وبأسعار معقولة، والعمل اللائق ونمو الاقتصاد، والصناعة والابتكار والهيكلة الأساسية، والحد من أوجه عدم المساواة، ومدن ومجتمعات محلية مستدامة، والاستهلاك والإنتاج المسؤولان، والعمل المناخي، والحياة تحت الماء، والحياة في البر، والسلام والعدل والمؤسسات القوية، وعقد الشراكات لتحقيق الأهداف.<sup>3</sup>

وتحقيق هذه الأهداف يمثل إشكالية تواجه الدول الإسلامية، وتبدو الحاجة ملحة لتحقيقها لاسيما في ظل ما تعانيه المجتمعات الإسلامية من العديد من المشكلات التي تعوق طريقها نحو التنمية المستدامة كالفقر والجهل، والمرض، والتخلف، والتلوث.

وهذا يبرز أهمية دراسة نظام الوقف وقدرته التمويلية على تحقيق أهداف التنمية المستدامة، لاسيما من خلال تنوع أساليبه التمويلية وتطورها مع تطور المنتجات التمويلية في واقعنا المعاصر، بصورة تربط فقه النص بواقع العصر، وتربط بين التراث والمعاصرة، لاسيما وأن هذه الأهداف جميعها تتقاطع مع مجالات الوقف المتنوعة والمتجددة.

2 Report of the World Commission on Environment and Development: Our Common Future, P.181, <https://sustainabledevelopment.un.org/content/documents/S987our-common-future.pdf>, on the date 10-7-2023

3 أهداف-التنمية-المستدامة، انظر، / <https://www.undp.org/ar/arab-states> بتاريخ 10-7-2023 م

إنه من خلال استخدام المنتجات التمويلية الوقفية يمكن تحقيق هذه الأهداف لاسيما ما يتعلق بالقضاء على الفقر والجوع، والمساهمة الفعالة في الصحة والتعليم، وتوفير المياه والطاقة النظيفة، والمحافظة على البيئة، والاستهلاك والإنتاج المسؤولين.

ومن هذه المنتجات التمويلية الوقفية، الشركة الوقفية التي تمثل شركة مساهمة ينقسم رأس مالها إلى أسهم متساوية القيمة، ويتم الاكتتاب فيها من خلال الاكتتاب العام، وتكون أسهمها غير قابلة للتداول، وتستخدم حصيلة اكتتابها في استثمارات تنموية ذات ربحية اقتصادية واجتماعية ملائمة، وتوجه عائدها لتحقيق أهداف التنمية المستدامة<sup>4</sup>.

كما أن من هذه المنتجات التمويلية الوقفية، الصناديق الوقفية الاستثمارية ومن خلالها يتم توفير تمويل جماعي سواء أكان نقدي أو عيني يتم استثماره في مشروعات استثمارية ذات جدوى اقتصادية واجتماعية بهدف تحقيق عائد يتم صرفه على مصارف ووقفية تحقق أهداف التنمية المستدامة<sup>5</sup>.

كما أن من هذه المنتجات التمويلية الوقفية الصكوك الوقفية الاستثمارية، التي تمثل بصفة عامة وحدات متساوية القيمة تمثل حصصاً شائعة في موجودات معينة (أعيان أو منافع أو خدمات) ومباحة شرعاً، تصدر وفق صيغ تمويل إسلامية، وعلى أساس المشاركة في الغرم والغرم، والالتزام بالضوابط الشرعية<sup>6</sup>، ومن خلالها يمكن تمويل مشروعات مشروعات تنموية تحقق أهداف التنمية المستدامة. وبذلك تتكامل وتنوع المنتجات التمويلية الوقفية في تحقيق أهداف التنمية المستدامة.

وتعتمد الدراسة على المنهج الوصفي التحليلي حيث يتفق هذا المنهج مع طبيعة موضوع البحث، وكذلك مع أهدافه التي تسعى إلى الوقوف على أهداف التنمية المستدامة التي حددتها الأمم المتحدة، وقدرة التمويل بالوقف على تحقيقها في دول العالم الإسلامي. وتتكون الدراسة من ثلاثة مباحث، يتناول المبحث الأول: التعريف بالتمويل بالوقف، ويتناول المبحث الثاني: التعريف بالتنمية المستدامة وأهدافها، ويتناول المبحث الثالث: المنتجات التمويلية الوقفية وتحقيق أهداف التنمية المستدامة.

د. أشرف دوابه، الشركة الوقفية، مجلة البحوث الفقهية، وقف ميهير، قونيا، تركيا، العدد ٣١، أبريل ٢٠١٨، انظر، ٣٤١. 4

د. أشرف دوابه، التمويل الاجتماعي الإسلامي، دار المدرس، إسطنبول، ٢٠٢٠م، انظر، ص ٤١٣. 5

د. أشرف دوابه، الصكوك الإسلامية، دار السلام، القاهرة، ٢٠٠٩م، انظر، ص ١٩-٢٠. 6



الوقف الإسلامي كأداة من أدوات التمويل  
المشاريع الصحية: دراسة فقهية مقاصدية

The Islamic Waqf as a Tool for Financing  
Health Projects: A Jurisprudential Study

Dr. Zainudin Bin Ismail<sup>1</sup>

Dr. Muhammad Laeba<sup>2</sup>

Dr. Musa Bala Mahmud<sup>3</sup>

Dr. Mohamad Ibrahim Negasi<sup>4</sup>

يعد الوقف في الإسلام من أجل العبادات وأفضل القربات التي يتقرب بها العبد المسلم إلى الله سبحانه وتعالى، فهو إنفاق للمال في سبيل الله؛ والإنفاق من أعظم أنواع البر عند الله تعالى: ﴿لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ﴾، ﴿آل عمران: ٩٢﴾. وقال تعالى: ﴿وَمَا أَنْفَقْتُمْ مِنْ شَيْءٍ فَهُوَ يُخْلِفُهُ وَهُوَ خَيْرُ الرَّازِقِينَ﴾، ﴿سبأ: ٣٩﴾. والوقف أيضاً ضرباً من ضروب الصدقة الجارية التي حث عليها النبي صلى الله عليه وسلم؛ حيث قال: ”إذا مات الإنسان انقطع عمله إلا من ثلاث: صدقة جارية، وعلم ينتفع به، وولد صالح يدعو له“. وهو من الصدقة التي أخبر النبي صلى الله عليه وسلم بأن

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4 Associate Professor, Department of Islamic Law, Ahmad Ibrahim Kulliyya of Laws, International Islamic University Malaysia.

المراء في ظل صدقته يوم القيامة، كما نبه صلى الله عليه وسلم أمته باتقاء النار ولو بشق تمرة. ولأهمية الوقف كان النبي صلى الله عليه وسلم أول من قام بتطبيقه؛ حيث وقف سبع بساتين على المسلمين، كما تبعه بذلك أصحابه رضي الله عنهم منهم عمر بن الخطاب وعثمان بن عفان وغيرهم.

وقد سُرع الوقف لدوره في حماية المجتمع من الأمراض الفتاكة كالحقد والحسد والكرهية ونحوها، كما هو سبب للتماسك بين أفراد وتحقيق الألفة بين الأمة. والوقف من السمات التي تميزت بها الحضارة الإسلامية عن غيرها من الحضارات؛ حيث يقوم بتغطية كثير من الاحتياجات الكثيرة والمطالب العظيمة لدى المجتمع بما في ذلك الإسكان والتعليم والصحة؛ حيث يتم وقف الدور، والأراضي، والمساجد، والمدارس. وفي الآونة الأخيرة اتجهت اهتمامات الناس بالوقف في مجال العبادات كالمساجد والمدارس، ولم يهتموا بالوقف في المجال الصحي بشكل كما ينبغي مع شدة حاجة المجتمع إلى الرعاية الصحية، الأمر الذي يلعب دوراً فعّالاً في حماية النفس.

وتهدف هذه الورقة إلى مناقشة موضوع الوقف في الفقه الإسلامي والدور الذي يلعبه في تمويل الخدمات الصحية بوصفه أداة من أدوات التمويل الإسلامي؛ فاستخدامه في المجال الصحي له من الأهمية بمكان؛ حيث يلبي الكثير من الحاجات في المجال الصحي لما له من القدرة على تغطيتها والقضاء عليها. فالورقة تناولت الوقف من الجانب اللغوي والفقهية من حيث البيان بمفهومه لغةً واصطلاحاً، ومن ثم البيان بأهم قضايا الوقف والأحكام المتعلقة بها في الفقه الإسلامي. كما تطرقت أيضاً لتوضيح دور الوقف في تحقيق مقصداً من مقاصد الشريعة الإسلامية المتمثل في حفظ النفس التي أمر الشارع الحكيم به. واستخدم الباحث المنهج الاستقرائي والمنهج الوصفي التحليلي؛ حيث يقوم باستقراء أهم المسائل المتعلقة بالوقف من المدونات الفقهية مع وصفها وتحليلها. وقد توصلت الورقة إلى عدد من النتائج، من أهمها كفاءة الوقف وقدرته على سد الثغرات التمويلية المتعلقة بالخدمات الصحية. ويوصي الباحث بإعداد مزيد من الدراسات المتعلقة بالوقف ودوره التمويلي في المجال الصحي.

الكلمات المفتاحية: الوقف، التمويل، الصحية، الأدوات

أوجه من الاهتمام بالوقف في المغرب الأقصى خلال  
العصر المريني (م ١٤٦٤ - ١٢٦٩ / هـ ٨٦٩ - ٦٦٨)

## Aspects of Interest in the Endowment in Morocco during the Marinid Era (AD 1464-1269 / AH 869-668)

Dr. Ramy Rashed<sup>1</sup>

لوقف ومؤسسته دور كبير في ازدهار الحضارة الإسلامية بكافة مجالاتها شرقا وغربا، وقد تعددت طرق تسجيل وحفظ تلك الأوقاف المحبسة على المنشآت الدينية والمدنية وغيرها خلال العصور الإسلامية المتعاقبة، حماية لها من النهب والسرقة، وصونا لها من الضياع والاندثار.

هذا، وقد عرف الوقف بالمغرب الأقصى خلال العصر المريني انتعاشا كبيرا، كما تعددت مجالاته المختلفة، نتيجة للانتعاش الاقتصادي الذي شهدته البلاد، منذ عهد المؤسس الحقيقي للدولة المرينية، الأمير أبو يوسف يعقوب بن عبد الحق (٦٥٦ - ٦٨٥ هـ / ١٢٥٨ - ١٢٨٦ م)، حتى عهد السلطان أبي عنان فارس (٧٤٩ - ٧٥٩ هـ / ١٣٤٨ - ١٣٥٧ م)، والذي ترتب عليه ازدهار حضاري عمراني واسع المدى بكافة حواضر المغرب - وعلى وجه الخصوص حاضرة ملكهم مدينة فاس - أدى بتلقائية إلى ازدهار الوقف ومؤسسته، وأثرهما الكبير في تعاقد تلك المنجزات العمرانية الدينية والمدنية على السواء، وذلك من خلال بعض الوسائل المستحدثة، ممثلة في: مستودعات الأموال، الحوالات الحسبية، وأخيرا، لوحات التحسيس.

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من ذلك المنطلق، تهدف هذه الدراسة إلى تسليط الضوء على بعض الوسائل التي عُرفت ببلاد المغرب الأقصى خلال العصر المريني، لضمان بقاء واستمرارية تلك الأوقاف المحبسة على جهاتها، وكيف أسهمت هذه الطرق المُحدثة في زيادة أهمية نشاط الوقف ومؤسسته في ذلك العصر، وأخيراً، تتبع جذورها عبر التاريخ الحضاري خلال العصر الوسيط ببلاد الغرب الإسلامي.

#### ١ - مستودعات الأموال:

عنها يفيد ابن الحاج النميري الغرناطي - أحد كتّاب السلطان أبي عنان فارس - بإفادات غاية في الأهمية، حول أسباب إحداث تلك المستودعات، ماهيتها، وطرق صونها وإدارتها، حيث يقول ضمن حديثه عن الحملة العسكرية التي عزم عليها العاهل المذكور إلى ناحيتي الشرق والجنوب بما نصه: (وذكر أيده الله عند اعتماله في الحركة السعيدة والوجهة الشرقية المقرونة بالبركة ما حدث من التساهل في حمل الأمانات، وقلة المحافظة على حدود الديانات،...، فنظر أيده الله فيما يُثبت للحق حُكما، ويوضح للتحفظ رسما، وتُسد الذرائع في أكل أموال اليتامى ظلما، وعدم رد الأمانة إلى المؤتمن الذي أضاع حزما، فاقتضى نظره الكريم أن يكتب إلى جميع البلاد والأقاليم التي تحت إيالته الرفيعة العمامد، ببناء مستودعات وثيقة المباني، ومستحفظات تطمئن بها قلوب القاصي والداني، ومستقرات تكون على العين عيوننا، وتؤدي من الكلاة مفروضا ومسنوننا،...، للمال المحتجز صفا وحجوننا، وأمر أيده الله القضاة أن يجعلوا بتلك المستودعات أموال الأحباس، وما بأيدي أهل البلاد من أمانات الناس، على اختلاف الأنواع والأجناس، إلى ما تألف بعد من مستفادات الأوقاف، وأموال المواريث واليتامى والمحاجير من سائر الأصناف، وماذا عسى أن يُحتاج إلى إيداعه ويُستشرف عليه أحسن استشراف، فيُصان صون الدرّ في الأصداف، وتؤم من قضاياه من الانحراف، وأزهاره من الاقتطاف، وعيدانه من الانقصاص، وأمر أيده الله أن يكون لكل باب من أبواب المستودعات قفلان لهما مفتاحان، أحدهما يستقر بيد قاضي ذلك البلاد [كذا] كائنا ما كان، والآخر بيد خطيبه الذي ضعّف به الباطل واستكان، ويستمر ذلك على توالي الأزمان، وما تعاقب الأجدان واختلف المملّوان<sup>2</sup>.

النميري (ابن الحاج) : فض العباب وإفاضة قدام الآداب في الحركة السعيدة إلى قسنطينة والزاب . دراسة وإعداد: د. محمد 2 ابن شقرون، دار الغرب الإسلامي، بيروت، لبنان ، ط ١، ١٩٩٠، ص(١٦٧-١٦٨).

## ٢- الحوالات الحسبية:

هي سجلات تُحوّل إليها الرسوم والعقود العدلية لتُحفظ فيها، ولهذا الاسم وجهة نظر أخرى في التفسير، وهي أن السجل المسمى "حوالة"، يراقب ويراجع على رأس كل حوّل، وفي بلاد المشرق تعرف هذه الحوالات بـ "حُجج الوقف"، وهي في صورتها المادية عبارة عن دفاتر ذات حجم كبير، وأوراق متعددة تسجل بها كل ما يتعلق بشؤون الأوقاف من إحصاء مضبوط للممتلكات العقارية ودخولها، وما ينفق من هذه المداخيل على المشاريع الاجتماعية المختلفة، وكذا على المساجد، المدارس، الزوايا، والكتاتيب القراءانية وغيرها، كما يوجد بها وثائق متنوعة المواضيع، فضلا عن نصوص بإثبات ملكيات المحسبين لموقوفاتهم، والمتصفح لهذه الحوالات لا يكاد يبرح مع نهاية كل نص من نصوص التحبب هذه عبارة: (ومن بدل أو غير فالله حسبه وسيعلم الذين ظلموا أي منقلب ينقلبون).

لقد شهدت بلاد المغرب الأقصى شيوع استعمال تلك الحوالات الحسبية كإحدى الطرق لحفظ وضبط الأوقاف الموقوفة على الجوامع، المساجد، المدارس، وغيرها من المنشآت ذات الطابع الديني أو المدني على السواء، وعن أهمية هذه الحوالات والهيئة الإدارية القائمة على تسييرها يقول البعض: (تراث خالص للمسلمين تركه السلف ضمنا لاستمرار تعاليم الإسلام، ونظرا كذلك ما للأوقاف من قدسية وحرمة دينية، وكّلوا أمرها إلى من يكون أكبر حارس لها، وأحرص الناس على حفظها من عوادي الزمن، وعبث الأيدي الأثيمة من أن تمتد إليها، وهكذا وُكلت إلى نظر القضاة الشرعيين وأصبحت من اختصاصاتهم، وإليهم أُسند أمر حفظها وصيانتها، وكان النظار يعتبرون بمثابة نواب عن القضاة يديرون الأوقاف تحت إشرافهم ومراقبتهم الفعلية، كانوا بذلك ملزمين أمامهم وأمام جماعة المسلمين بصرف مداخيله طبقا لرغبات الواقفين،...، ولما كثرت الأحباس وتعددت أنواعها من رباغ، عقار، أموال، وثمار وخيف عليها من الضياع والنسيان، أمر النظار في كل جهة من الجهات بإحصاء الأوقاف، وتسجيلها في دفاتر وكنائش خاصة ورسمية، تكون وثيقة قانونية وتاريخية بين أيدي الأجيال القادمة، حتى يتعرفوا بواسطتها على أملاك الأوقاف ومقاصد الواقفين، وكان من ذلك ما يُسمى بالحوالات الحسبية)<sup>3</sup>.

٣- لوحات التحسيس:

هي أيضا إحدى الطرق التي حظيت بانتشار كبير، حفاظا على الأوقاف ومؤسستها خلال العصر المريني بالمغرب الأقصى، ويقصد بها تلك الألواح الرخامية- وربما من مادة أخرى كالخشب ونحوه فيما ندر- التي يسجل عليها بعض الإفادات الخاصة بالأوقاف المحبسة على منشأة بعينها، مع تحديد عين هذه الأحباس وذكرها بالتفصيل في تلك الألواح الرخامية، والتي يتم وضعها بأحد المواضيع البارزة داخل المنشأة، تأكيدا على أهمية هذه الأوقاف، وصوننا لها من النهب أو الضياع بتعاقب الأزمان.

في ضوء ما سبق تتضح الأهمية التاريخية والحضارية لتلك الوسائل المستحدثة خلال العصر المريني بالمغرب الأقصى، ومن هنا تأتي أهمية هذه الورقة البحثية للتحديث عن كل منها بشئ من التفصيل، وما إذا كان بالإمكان إعادة إحياء مثل هذه الوسائل وتفعيلها خلال الوقت الحاضر، دعما للوقف ومؤسسته؟

دور الأملاك الوقفية في الحد من مشكلة الفقر في العالم الإسلامي

## The Role of Waqf Property in Reducing the Problem of Poverty in Islamic World

د. بوزرورة ليندة

Dr. Bouzeroura Lynda<sup>1</sup>

يعاني الاقتصاد في العالم الإسلامي جملة من المشاكل أوجدتها الظروف التي مر بها في تاريخه المعاصر، ومن هذه المشاكل ظاهرة الفقر التي كانت ولا زالت تضعف جسد هذا الاقتصاد في ظل عدم فاعلية الحلول المقترحة للخروج من الأزمة مهددة بشكل مخيف الأجيال القادمة. يعتبر الوقف أحد ركائز الاقتصاد الإسلامي ومن بين الوسائل الذي حارب الإسلام بها ظاهرة الفقر، وهو بمثابة قطاع ثالث يساهم في دفع عجلة التنمية في العالم الإسلامي، حيث ازدهرت الأوقاف ووصلت إلى أوج عظمتها مما انعكس على الجانب الاقتصادي والاجتماعي في تلك الفترة. جاءت هذه الورقة البحثية لتبيان علاقة الوقف بظاهرة الفقر، مروراً في ذلك بمفهوم الوقف والفقر، وفي الأخير إظهار دور الإيرادات الوقفية في التخفيض من حدة الفقر في العالم الإسلامي.

يعتبر الفقر ظاهرة قديمة قدم البشرية، وهو صورة من صور عدم المساواة في الفرص والعدالة الاجتماعية، وارتبط مفهومه بشكل مباشر باحتكار البعض لجانب أكبر من الموارد المتاحة على حساب الآخرين. والعالم الإسلامي لم يسلم من هذه الظاهرة، ومن انعكاسات التحول إلى النظام الرأسمالي، فقد ورثت الشعوب في العالم بعد الاستقلال مجتمعاً فقيراً متخلفاً في كل الجوانب، سواء الجانب المادي أو الصحي أو التعليم، نتيجة للسياسة

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الاستعمارية ، بالإضافة الى برامج التصحيح الهيكلي التي ساهمت في تسريح الألاف من العمال، وغلقت العديد من المؤسسات بسبب تحرير الأسعار ورفع الدعم على المواد الغذائية الناتج عن تغيير طبيعة دور الدولة، ضف الى ذلك الأزمات الاقتصادية . وفي ظل مايعانيه العالم الاسلامي من عجز للوصول الى مستويات التنمية المطلوبة، تبرز الحاجة الى احياء دور الوقف من خلال العمل على دعمه وتطويره بما يتماشى ومتطلبات الوقت الراهن، بما يكفل تحقيق تنمية شاملة ومستدامة، وذلك من خلال استحداث صيغ عصرية للعمل الوقفي تستهدف احياء الدور التنموي للوقف في اطار إسلامي .

شجعت العديد من الدول الوقف لما يملكه من مرونة في تغطية الأعباء والقضاء على ظاهرتي الفقر والبطالة، وخلق المساواة بين بين أفراد المجتمع، لذا لا بد على الحكومة العالم الاسلامية إرساء قواعد استثمارات وقفية تعطي الأولوية لشريحة الفقراء تأخذ مشروعيتها من إدارة نزيهة بما يضمن مردودية اقتصادية واجتماعية للتخفيف من حدة الفقر .

ومن هذا المنطلق تطرح إشكالية هذه الورقة البحثية من السؤال الجوهرى التالي: كيف تساهم الأملاك الوقفية في الحد من ظاهرة الفقر في العالم الاسلامي؟

وسنحاول في هذه الورقة الإجابة على التساؤل المطروح من خلال المحاور التالية:

أولاً: مفهوم الوقف

ثانياً: مفهوم الفقر

ثالثاً: دور الإيرادات الوقفية في الحد من ظاهرة الفقر

الكلمات المفتاحية: الفقر، الوقف، البطالة، الاقتصاد الإسلامي .

**Abstract:** The Algerian economy suffering from a number of problems resulting from the conditions in its contemporary history. Among these problems is the poverty phenomenon that has been and is still weakening the body of this economy. In light of the ineffectiveness of the proposed solutions to get out of the crisis, frighteningly threatened future generations. The Waqf is considered one of the pillars of the Islamic economy. The Waqf is considered one of the pillars of the Islamic economy and one of the means by which Islam fights is the poverty phenomenon, and

is considered a third sector that contributes to the development as it was in the old time under the Ottoman Caliphate in Algeria , where the Waqf flourished and reached the height of its greatness, which was reflected on the economic and social aspect of that period. This research paper shows the relationship between the Waqf and the poverty phenomenon, including the concept of Waqf and poverty. Finally, it shows the role of Waqf revenues in reducing poverty in Algeria.

**Keywords:** Poverty, Waqf, Unemployment, Islamic Economy.



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THIRD PARALLEL PAPER SESSIONS

15.45 - 17.00

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Track 1: “Waqf in Healthcare and  
Environmental Services”

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## **Innovation of Healthcare services (PekaB40) - A Case of Potential Waqf institution in Malaysia**

Afif Afnan Ridzwan<sup>1</sup>

Mohd Fadzrel Abu Bakar

Dr. Ridzwan Bakar<sup>2</sup>

The primary purpose of this paper is to examine the role of government institutions in providing support to the B40 (bottom 40 lower income group) healthcare in Malaysia. Malaysia government is looking at potential waqf irsod (waqf by the Sultan/Government) and waqf beneficiaries (infaq) method as an alternative to current public healthcare services for the poor and needy. Institution innovations are explained in this paper through a program called Peka B401 which was introduced to support the B40 healthcare needs. This paper is a case commentary based on the descriptive research method. The study employs secondary data from various sources including materials from the Ministry of Health (MOH), ProtectHealth Corporation Sdn. Bhd., the 12th Malaysian Plan, and waqf literature.

Healthcare innovations can be defined as the introduction of a new concept, idea, service, process or product aimed at improving quality, safety, outcomes, efficiency and costs (Omachonu et. al, 2010). Indeed, Waqf healthcare has been successfully innovated and practised throughout Islamic civilization such as Bimaristan al-Adudi (Baghdad in the 10th Century), Bimaristan al-Nuri (Damascus in the 12th Century), Bimaristan al-Man-suri (Cairo in the 13th Century) and Dinnah (Tunisia in 14th Century). In

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Turkey, history has recorded that Sultan Al Fateh and Sultana Bezmialeem established a free waqf healthcare (hospital) for the public. However, in Malaysia, waqf healthcare is still at the infant stage primarily driven by private organizations such as Awqaf Holdings and WanCorp. As a result, the Malaysian government is exploring a few methods to improve healthcare services, looking at waqf as one of the funding options.

The B40 group (represents the bottom 40% of low-income earners) is comprised of 2.91 million households. Whilst T20 (top 20) and M40 (middle 40) groups could afford to access better healthcare through private medical support, the B40, unfortunately, faced financial challenges and constraints. In view of this, the Malaysian government initiated multiple programs to address the challenges related to health quality improvement in the population in line with the United Nations (UN) target for Universal Health Coverage (UHC) and Sustainable Development Goals (SDG 3). One of the successful programs is the healthcare scheme for B40 (known as Peka- B40) which was launched in April 2019. Since launched, Malaysia's Government has contributed about RM250 million in grants (infaq/waqf beneficiaries) for the Peka-B40 program. The program is supported by an advanced information system to register, manage and administer the ecosystem of healthcare. In addition to the Peka-B40 project, during the Covid-19 pandemic, the Malaysia government through the Ministry of Islamic Affairs Prime Minister's Department, Yayasan Wakaf Malaysia (YWM- Malaysia government's Waqf Foundation) and the Ministry of Health had successfully created fund by the name of Musa'adah Waqf fund to support public health. The fund has been utilized to purchase medical assets (waqf assets) and other miscellaneous (waqf beneficiaries) approved by the Ministry of Islamic Affairs. Both Musa'adah and Peka B40 program successfully worked together during the pandemic crisis.

The findings of this study show that the government institution plays an important role in supporting the lower income group healthcare. In addition, the program Peka-B40 offers a new approach to service innovation, emerging from multidisciplinary contributions (IT, Marketing, finance, research, etc.) and highlighting the fundamental role of ICT's in fostering the

transformation of the public sector in Malaysia. For the record, the program detected a concerning number of new NCD cases among the B40, such as diabetes mellitus (10.4%), hyperlipidemia (29.8%), hypertension (13.8%), and mental health issues (1.6%). Despite the success in the detection of new NCD cases listed, only about 981,008 (14.8%) eligible beneficiaries underwent the health screening program (out of 6,650,567 eligible beneficiaries). From waqf perspective, the owner of the Peka B40 (ProtectHealth Corporation) has the potential to be a public waqf health institution. With close supervision by Shariah Committee from Yayasan Wakaf Malaysia (YWM), the Peka-B40 funding may come from waqf irsod (Sultan/government grant) and public crowdfunding through Musa'adah Fund. The hybrid approach of waqf irsod (waqf by the Sultan/Government) and waqf beneficiary (Waqf Manfaat Musa'adah) could be an effective tool to enhance the value propositions in delivery and access of health-care services, especially to the low-income population.

**Keywords:** PeKaB40, HealthCare scheme, Waqf health financing, Waqf Irsod, Waqf beneficiary



# **The One Million Trees Project: An Environmental Protection Waqf for Zimbabwe**

James Jameel Asani<sup>1</sup>

This study seeks to present the establishment of an ambitious environmental protection Waqf in Zimbabwe which will be in the form of planting one million trees over a period of ten years across the country. Zimbabwe faces a host of environmental conservation problems on top of its current socio-economic and political challenges. Among the environmental problems the country faces are deforestation, soil erosion, land degradation, air and water pollution, poaching of the black rhinoceros herd - once the largest concentration of the species in the world, and poor mining practices which have led to toxic waste and heavy metal pollution. Duet to this worsening environmental degradation crisis, the government of Zimbabwe has had to develop different policies, acts and resolutions to address the problems.

From an Islamic perspective, conserving the environment proceeds from the belief that all the components of the environment are the creation of God and that all living things were created with different functions which were carefully measured and meticulously balanced by the Almighty Creator. Environment practice in Islam is grounded in the Qur'an and the Sunnah of Prophet Muhammad. Muslims learn from the Qur'an that God created the universe and every single atom and molecule it contains and that the laws of creation include the elements of order, balance and proportion (Qur'an 25:2): "He created everything and determined it most exactly" and (Qur'an 10:5) "It is He Who appointed the sun to give radiance and the

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moon to give light, assigning it in phases ... Allah did not create these things except with truth. We make the signs clear for people who know".

Protecting the environment from an Islamic legal and ethical position is guided by the following principles: The environment is God's creation and to protect it is to preserve its values as a sign of the Creator; the component parts of nature are entities in continuous praise of their Creator; all the laws of nature are laws made by the Creator based on the concept of the absolute continuity of existence; the Qur'an acknowledges that human-kind is not the only community on earth; an Islamic environmental ethic is based on the concept that all human relationships are established on justice ('adl) and equity (ihsan); the balance of the universe created by God must also be preserved; the environment is not in the service of the present generation alone, but a gift of God to all ages, past, present and future; God entrusted humans with the duty of vicegerency (khilafah).

Zimbabwe has ten provinces. The one million trees project is targeted at ten thousand trees per province per year over a period of ten years. The trees will be diverse, with a main emphasis on fruit trees (avocados, oranges, macadamia nuts, mango trees among others) as well as non-fruit trees based on the region's climate conditions. The fruit trees will form part of an investment whose proceeds will go towards charitable works aimed at the needy and marginalised across the country.

# Revitalizing Abandoned Conventional Coastal Ponds in Indonesia through Waqf-based Perma-Aquaculture: A Sustainable Approach

Ahli Fatoni<sup>1</sup>

Ferdi Zanuaz Azan<sup>2</sup>

Adam Auwal Sa'ad<sup>3</sup>

It has been discovered that industrial coastal ponds harm the environment. The primary cause of environmental damage caused by land clearing and pond management involves using chemicals and other artificial matter. This event brings the abandoned fishpond, which can no longer grow fish or shrimp. The destruction of nature is contrary to Islamic teaching. As a result, this research aims to create a waqf model in a coastal pond using perma-aquaculture. Perma-aquaculture is a method of raising fish or shrimp by collaborating with nature and not using any artificial chemicals. Then, it is expected that fishers and stakeholders desire to practise this waqf on perma-aquaculture to maintain the natural balance.

## Introduction

The research aims to develop a waqf model in abandoned coastal ponds in Indonesia by implementing perma-aquaculture, a method of raising fish or shrimp in collaboration with nature without the use of artificial chemicals. The primary motivation behind this research is the recognition

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that industrial coastal ponds using chemicals and artificial matter harm the environment, which goes against Islamic teachings (Alam & Phillips, 2004; Setiawan et al., 2015).

The conventional methods of managing coastal ponds, such as using chemicals and monoculture practices, have led to environmental degradation, including the destruction of mangrove forests and the pollution of surrounding ecosystems (Nagaraju et al., 2022; Ichdayati et al., 2013). The negative consequences of these practices have resulted in declining land quality and unproductive ponds and impacted the communities in coastal areas.

## **Literature Review**

By introducing the concept of waqf, which involves dedicating assets for the benefit of society, the researchers propose utilizing cash waqf and waqf as instruments to revive these idle and abandoned ponds (Ahmad et al., 2020). Cash waqf has the potential to finance various goods and services beyond religious activities (MMSI, 2022; MUI, 2022). Combining cash waqf with perma-aquaculture can provide sustainable and environmentally friendly solutions for coastal pond management.

The study emphasizes the importance of Islamic teachings in environmental preservation. Islam encourages Muslims to protect and preserve the natural environment, and damaging the environment is considered a violation of Islamic principles. Therefore, incorporating environmentally friendly practices into waqf initiatives aligns with the objectives of Islamic law.

## **Methodology**

The research methodology employed is qualitative, using a descriptive-analytical approach and a literature review (Habibaty, 2017). Secondary data from journals, books, official websites, and other relevant sources are used to gather information on cash waqf, waqf, perma-aquaculture, and coastal pond management.

## **Discussion**

The discussion highlights the concept of perma-aquaculture as a sustainable alternative to conventional coastal pond management. Perma-aquaculture focuses on working with nature instead of against it, avoiding the use of artificial chemicals and promoting a natural balance. By integrating perma-aquaculture with waqf, stakeholders and fishers are encouraged to participate in the revival of abandoned ponds and maintain the natural environment.

## **Conclusion**

Overall, the study aims to provide policymakers and stakeholders with a waqf model for coastal pond management that considers environmental sustainability and aligns with Islamic principles. By implementing perma-aquaculture and utilizing waqf, it is hoped that the negative impacts of conventional coastal pond practices can be mitigated, benefiting both the environment and the communities in coastal areas.

**Keywords:** Waqf, Aquaculture, Coastal pond, Environment



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THIRD PARALLEL PAPER SESSIONS

15.45 - 17.00

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Track 2: “Waqf and Society”

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## Waqf: The Future is Female

Prof. Dr. Nor Asiah Mohamad<sup>1</sup>

The future is female is not a new suggested connotation of the century. There are stories, films, write ups on this. It indicates the hopes and aspirations of the current generation for a better world of the future to assist our children and grandchildren live in a more inclusive living style. This article highlights the importance of understanding the relevancy of this connotation to waqf. This article aims at presenting the opportunities tapped from the strength of the female. It is to suggest that awareness and knowledge about the strength of females as presented from various data may be used to better plan and strategies for future waqf products so the benefit will outreach a bigger section of the society.

The methodology is qualitative, adopting a doctrinal analysis based on the secondary data about women or females. The main data will be the published statistic available representing the world data, national data as well as the Muslim countries data. Past literature will be chosen as the secondary source of information supporting the main data or filling in the gap when the main data is not available. Annual reports and the opinion of the experts will also be referred in this study.

The findings show there are many statistical data and literature about females among others, female increase in population, the age or life span of a female being more than male, they also advance in education, increased ownership of property, culturally more open and acknowledged as an

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important section of the society, more balanced and able to balance the various roles expected in the society, as mother, wife and employer or employee. The leadership of women is well recognised either in western or Islamic perspectives. IT literacy among females also is positive.

This research is significant in the context of future waqf. The existing policy on waqf may overlook the opportunities that lie in determining the profile of various waqf stakeholders; the waqif, the mutawalli by giving a special preference to the female sector. Special waqf products may be designed to attract the female waqif. Special training may be planned to attract more females to become waqf trustees or more importantly, to create waqf opportunities in whatever available platform, from cradle to the graveyard, from kitchen to the Parliament. Women have their own strengths in ensuring the sustainability of Waqf. The history shows how University of Al Qarawiyyin in Morocco has been established by a female waqif who dedicated the whole inheritance property to the ummah. The history also shares the sacrifice and hard work of the ladies of the palaces in promoting Waqf for the people. Women and golds have no barriers and are in need of each other. For centuries, the rise and fall of gold trading has never affected the relationship between women and gold. The opportunities continue shining and promising. In the current development, gold traders have created various opportunities for investment, whether physical or e-trading for gold. Waqf of gold is seen as the future, in comparison to cash, which is the subject matter of cash waqf, as gold increases, slowly but surely while, the rise and fall of 'cash' is notable. Having all this information, this paper seeks to investigate how the waqf sector can perform better in its role as the third economic sector. Understandably, waqf will perform in the long run while sadaqah and zakah fulfilling the current needs of the society.

The outcome of this paper will significantly bring about new strategic policy towards a focused group in promoting waqf. In addition, the same finding may be applied or employed in other social finance activities including zakah and sadaqah. It will help the policy makers, educationists, the religious preacher to timely address the issue and focus on the strengths that are available around us. This study shall have useful implications for

managers and investors operating in the local, national or international setting. It will certainly bring the female to a level where it reveals the important roles played by the female and opportunities lie with God's special creature. It should help the mutawalli, the Islamic social institution, or any other trustee, be it Islamic or conventional, to match their offerings with the needs of the customers. As waqf is sustainable, having contemporary and futuristic products and a sustainable model of the transaction will be commensurate with the nature of waqf, which is perpetual and sustainable.

**Keywords:** Waqf, Future, Female, Sustainable, Gold, Women



## Reimagining the 21st Century Neighborhood Public Library as Waqf

Mas'ood Cajee, DDS, MPH

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In the dynamic era of the 21st century, marked by rapid technological advancements and societal transformations, it has become increasingly essential for waqfs (foundations) to adapt to the changing landscape and embrace innovative approaches. This abstract explores the concept of “Reimagining the 21st century Public Library as Waqf,” drawing on the significance of the historical concept of a library as waqf and creatively ideating possibilities for integration of the modern public library and its services within the realm of awqaf.

Traditionally, waqfs have played a pivotal role in advancing education, knowledge, and societal development. Almost all we focus on in this survey on oubkif is entirely waqf-based, Islamic civilization saw the rise of various kinds of libraries: the public library, mosque library, palace library, university library, bimaristan/hospital library, and others. Beyond being a repository of books, the library often served as the rare place for those with and without means could receive equitable access to knowledge. With the rise of digital technologies and information accessibility, the role of public libraries has become more critical. Building on the diverse dynamic centers of learning and collaboration, Waqfs, as key institutions in the Islamic civilization, must recognize the importance of aligning their objectives with the evolving needs of knowledge seekers in the 21st century.

This paper aims to shed light on the potential synergy between modern public libraries as waqfs in promoting lifelong learning, community engagement, and social cohesion. By embracing the concept of a 21st-century library, waqfs can enhance their impact and relevance, effectively utilizing their resources to meet the diverse needs of contemporary society.

This paper assesses the development of three world-class urban public library systems in Istanbul, Seattle, and Tianjin and their impact on neighborhoods, this paper aims to provide insights and recommendations for waqf institutions seeking to make 21st-century public libraries a priority. By capitalizing on the transformative power of public libraries in the urban context, waqfs can revitalize their role as catalysts for knowledge dissemination, social development, and community empowerment, especially in sectors like health, arts & design, innovation, and continuing education. As we entered the third millennium, the world has witnessed monumental libraries designed by world-class architects rise along the skyline of cities in the Muslim world like Dubai and Alexandria just as similar blockbuster structures have been erected in Seattle and Tianjin. Attention to case studies in both cosmopolitan cities and rural towns is paramount to effectively building community as well as meeting the spectrum of needs present in each.

Key areas of focus include the integration of digital technologies, the creation of inclusive and accessible spaces, fostering lifelong learning initiatives, and nurturing partnerships with educational institutions and community stakeholders. Additionally, the abstract explores strategies to ensure the sustainability of library services within the waqf framework, considering financial considerations, governance structures, and the importance of capacity building.

Overall, this paper advocates for the integration of contemporary public library concepts within the framework of waqfs, emphasizing the importance of embracing technological advancements, fostering inclusivity, and prioritizing lifelong learning in the pursuit of 21st-century waqf-making. By leveraging the potential of neighborhood public libraries, waqfs can shape a future where knowledge is easily accessible and acquired and community needs are envisioned and met.

# The Acceptance of Waqf and Charitable Trust in Malaysia

Julia Mustaffa<sup>1</sup>

Dr. Mohd Yaziz Bin Mohd Isa<sup>2</sup>

The word “waqf” originates from the Arabic root meaning “to stop, contain, or preserve.” The word “waqf” refers to the voluntary, permanent, and revocable dedication of a portion of one’s wealth in kind to Allah in the context of shariah, and all the revenue and advantages from the waqf asset may be utilized for any Shariah compliance purpose. Waqf can be viewed as a form of ongoing philanthropy or even a charity that lasts forever. On the other hand, a charitable trust is a mechanism to keep and safeguard assets (such as money or property) for the benefit of charities. The assets of the trust are handled in accordance with the objectives that have been outlined in a trust deed or in accordance with a predetermined set of guidelines.

Both Waqf and Charitable Trust reflect the concept of charity as the primary goal; nevertheless, what does it entail for Malaysians? In Malaysia, the State Islamic Religious Council (SIRC) oversees the waqf administration and is responsible for the legislation in Malaysia that is related to waqf. The SIRC in its role as the sole trustee oversees all aspects of waqf matters. SIRC is the sole trustee that is responsible for administering and monitoring the waqf assets. They are directly accountable to the Sultan (or other heads of state) of each state, and their primary responsibility is to monitor

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the administration of waqf properties. On the other hand, for Trust, the Trust deed is the document that serves as the Trust's governing power. In the Trust Deed, it is the Settlor, who is the one who established the trust, who is the one who determines the appointment of the Trustee, and the Trustee who is appointed may be either an individual, a corporation, or a committee.

In addition to this, the legal system in Malaysia is comprised of not just one but two different types of courts: civil courts and syariah courts. As part of Malaysia's one-of-a-kind dual court system, the civil courts and the Syariah courts coexist side by side. The civil and Syariah courts exist in a dual court structure produced following Malaysia's independence to ensure that there would be a federal secular legal system in the form of the civil courts, as well as a religious forum for Muslims under which to dispense Islamic personal and family law. The Syariah courts, on the other hand, are provided for in the Federal 5 Constitution as state courts that can be established to deal with questions of Islamic law. The Civil Courts were founded as federal courts to deal with matters pertaining to the federal government, while the Syariah Courts were established as state courts to deal with matters pertaining to Islamic law. The Shariah Court is responsible for regulating waqf, whilst the civil courts have jurisdiction over charitable trusts.

The following questions will be explored in this paper in light of the fact that both waqf and charitable trusts focus primarily on charitable giving: what are the most significant differences for Malaysians? What are the advantages and disadvantages of each concept? How does the acceptance of both concepts differ among Malaysians?

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THIRD PARALLEL PAPER SESSIONS

15.45 - 17.00

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Track 3: "Case Studies"

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## Mosque Inheritance in Nigeria: Causes and Solution

Alawiye Habeebullah Olawale<sup>1</sup>

Bequeathing a mosque is an essential religious waqf known to the world through Islam. According to Islamic scriptures, bequeathing a mosque as waqf attracts excellent rewards from Allah here and hereafter. Several mosques in Nigeria were suspended after the death of their donors. The descendant of their donors later claimed to have an interest in the mosque asset, and being bequeathed by their father has not made him lose the ownership of the property. This ugly phenomenon is a violation of the Islamic law of waqf. In nature, a waqf is an act with an attribute of perpetuity or sustaining for an extended period. According to Islamic law, the ownership of a waqf belongs to Allah, and the donor's interest in his property will expire immediately after bequeathing it to be waqf. Waqf is considered among the matter which the Nigerian constitution granted the Shari'ah Court of Appeal jurisdiction to hear.

Consequently, a court decision on waqf-related matters is required to be done from the Islamic law perspective. Still, many mosques have been sold by the donor's descendants after their death without being prevented by law. Those challenges were examined in this work. Findings show that there are factors responsible for the inheritance of waqf in Nigeria. They include lack of awareness, lack of proper documentation, lack of Islamic training, greediness, financial problem, and Nigerian land use act defect. Creating more awareness was posited as a significant element that can be

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adopted to end waqf inheritance in Nigeria. Doctrinal and qualitative research methodologies were used during the research findings. A number of Islamic books and article form part of the exploited materials for this work. Concerning the qualitative method, five people were interviewed about selected mosques to narrate how they were disposed of and give their opinion on causes and solutions to the problem. Though, there are a lot of challenges in data collection for this work which prevent the author from maximizing the number of sample mosques. Some of the invitees for the interview refused to respond to the invitation due to reasons known to them.

Moreover, this work focussed on a novel area. Consequently, the quantity of the available material is a little. However, this work has established a research area suitable for further studies through a long essay.

Based on the details mentioned above about this work, its primary objective is to examine the causes of waqf inheritance in Nigeria and to suggest how to resolve the identified challenges. In order to fulfill the objective, some questions were answered during the research. They include: whether it is lawful to inherit or sell waqf in Islamic law, whether a mosque is a waqf from the Islamic law perspective, whether all waqfs ruling must also be applied to mosques, whether inheritance or selling of mosques occur in some parts of Nigeria, whether there are some factors responsible for mosques' inheritance or disposal in Nigeria, and whether weakening those factors will end mosque inheritance and disposal in Nigeria.

To conclude, this work is highly significant due to its relevance to the sustainability of waqf assets in Nigeria.

**Keywords:** Waqf, Mosque, *Waqif*, Mawqud alayh, Farai'd, Wasiyyah, Quba'I, Sadaqah jariyah

# Assessing the Sustainability of Pesantren-Based Waqf (Evidence from Darussalam Gontor Modern Islamic Institution East Java, Indonesia)

Eko Nur Cahyo<sup>1</sup>

Mike Hardy<sup>2</sup>

Sariya Cheruvallil-Contractor<sup>3</sup>

Jessica Northey<sup>4</sup>

The effectiveness, sustainability, and impact of *waqf* institutions are influenced by the quality of their management, which can be undermined by inefficiency and unprofessional practices. Over the past decade, these issues have necessitated additional research into governance within the *waqf* institution. This essay presents how *waqf* has been established to support *pesantren* (Islamic schools) in Indonesia. The *Pesantren Modern Darussalam Gontor (PMDG)*, which was founded in 1926, is selected as a case study. The study aims to analyse governance practiced in this institution and uses qualitative research methods. Empirical data were collected primarily through 13 in-depth semi-structured interviews with key research participants, observation, and archival review. The findings show how Islamic values applied in *waqf* management and in the implementation of *waqf* governance principles in *pesantren* Darussalam Gontor can optimally enhance operational management and can mitigate mismanagement and develop operational sustainability.

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## 1. Introduction

Indonesia has more than 50,000 Islamic schools including *pesantren* (Islamic Boarding Schools) (Tan, 2014) drawing on original funding methods. These are neither state nor private but those of *waqf*, religious endowments, for the purpose of education. The existence of many *pesantren* in Indonesia however is prone to risks of collapsing due to a shortage of funding (Siahaan et al., 2019), mismanagement (Anwar et al., 2016), and lack of human resources (Nadia, F, 2020). In light of these reasons, this study argues that it is to investigate the operational sustainability of this original model of funding in the *pesantren* to better understand the different forms of education governance in the Islamic world.

This study provides evidence from a sustainable *pesantren*-*waqf* based education institution, Darussalam Gontor, as an exemplary case, founded in 1926 and endowed as *waqf* based institution in 1958. It is also well-known as the pioneer of modernisation of the *pesantren* system in Indonesia (H.F. Zarkasyi, 2015). The findings of the research on Darussalam Gontor’s *waqf* governance procedures, as a *waqf* educational institution, also include the school’s commitment to developing its Islamic education sustainability and the impacts in terms of socio-religious, economic and educational development of the community.

## 2. Methodology

This is a qualitative research with a single case study approach to explore the practice of *waqf* governance and how this might enhance the operational sustainability of *pesantren* Darussalam Gontor (Creswell, 2009; Taylor et al., 2016; Yin, 2018). This study draws on in-depth semi structured interviews with 13 key research participants of the institution (Pardilla-Díaz, 2015) observation, and archival review. Thematic analysis (Boyatzis, 1998; Braun and Clarke, 2006) was then conducted for the data analysis.

### 3. Findings and Argument

The study explores how essential principles of *waqf* governance, including *shari'ah* compliance, accountability, responsibility, transparency, and independence, influence managers of *waqf* and workers in performing their duties. Participants explain how *waqf* governance principles are vital to ensure sustainable operations of the institution. The study develops the concept of *human waqf* which is the personal contributions of the organisations members to achieving the educational goals of the *waqf* endowment. For the staff, it is perceived that strengthening *waqf* can contribute to the development of educational programs at *pesantren* Darussalam Gontor and increase its impact on the socio-economic development community. This essay shows the relationship of *waqf* governance and educational sustainability in the Institution:

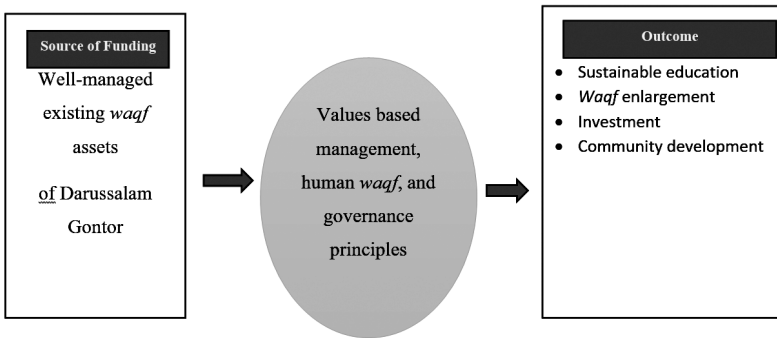


Figure 4.2 The Relationship of *Waqf* Governance and Sustainability

Source: The researcher, 2023

### 4. Conclusion and Recommendations

The findings of this study reveal that the implementation of values and *waqf* governance principles can develop the operational and educational sustainability of *pesantren*, drawing on the case of Darussalam Gontor. The concept of *human waqf* and values-based management supports the sustainability of programs. Therefore, this *pesantren* can develop its education and continue to contribute to the socio-economic development of

the local community and beyond. The research will add to the literature on *waqf* governance implemented in educational institutions, and it is expected that the *waqf* system in Indonesia can provide useful models for alternative models of governance and funding in education.

**Keywords:** *Pesantren-waqf* based, *Waqf* Management, Governance, Sustainability

## Crowdfunding Waqf for Housing: Case from Saudi Arabia

Allaa AbdelBari<sup>1</sup>

Dr. Ridzwan Bakar<sup>2</sup>

“No One Will Be Left Behind” with Crowdfunding Waqf. Scholars, legislators, communities, and individuals must cooperate and engage in the waqf revolution to transfer our Muslim community onto a sustainable pathway. Following the global 2030 Agenda for Sustainable Development with its 17 SDGs and 169 targets, Housing is determined as a vital factor of the 2030 Agenda and a needed driver for reaching many of the SDGs. Affordable housing leads to reducing poverty and inequality as well as achieving SDGs like good health and well-being, Gender equality, clean water and sanitation, affordable and clean energy, economic growth, industry, innovation, infrastructure and partnership for the Goals.

Saudi Arabia witnesses challenges in housing affordability due to inflation in house prices; on the other side, the housing development needs have increased in communities across Saudi Arabia. Though, there are initiatives of the National Development Housing Foundation that main objective is to engage individuals and organizations in the community in donations for housing via digital platforms like Jood Aleskan (Jood Housing). Jood Aleskan has a list of eligible criteria in which needy families must fit in to acquire and deserve Jood housing. The platform has 248,599+ registered and 202+ listed partner NGOs and associations covering all the regions of

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Saudi Arabia. The research gap of this paper is that this platform is based on Sadaqa and Zakat donation forms only but not as a waqf form of donation or Crowdfunding Waqf, also the existing literature on crowdfunding has been studied critically as an alternative approach.

This is a conceptual paper and a research proposal to create a system of Crowdfunding waqf for Housing in Saudi Arabia. It proposes an alternative source of funding model to develop Crowdfunding Waqf for Housing as a sustainable means of charitable housing in Saudi Arabia. This paper employs a mixed methodology qualitative and quantitative; where the quantitative research will be targeting potential donors to gauge their feedback, agreement and support in terms of waqf funds and the qualitative research methodology is focused on the policy maker, scholars, ulama and some representative donors.

This paper reviews the principle of waqf - with an endowment mechanism and institution that manages the waqf fund. The idea of a waqf fund is, we should accumulate funds through the crowdfunding mechanism and invest the proceeds in a dedicated fund for housing development. In a waqf the principal amount donated will not be touched, only the return on investment from the fund will be used to start the housing development program for the needy groups. Moreover, this paper highlights the achievement of housing sustainability for eligible families. We are proposing the mechanism model strategy on the Jood Aleskan platform. The platform is already developed; thus, we can adjust it by adding a crowdfunding waqf model for the use of exploring. Besides, this research is highlighting the issues and challenges that may appear with crowdfunding waqf through the platform. This paper is employing mixed methodologies in which it proposes a Feasibility of creating a Housing waqf fund through crowdfunding which integrates both donation-based crowdfunding and reward-based crowdfunding, grounded in Saudi Arabia. The study is based on a case study that employs an existing platform and highlights the effect of adding crowdfunding waqf for housing. Discussion, interviews, and research with the use of primary data collection are employed. The proposed model is expected to offer Jood Aleskan, through their existing platform, sustainable

funding for housing in Saudi Arabia. The paper concludes by suggesting adding waqf crowdfunding to the platform donation forms to sustain its funding and recommends some relevant views which needed consideration by Jood Aleskan and the Ministry of Awqaf.

**Keywords:** Waqf, Crowdfunding, Housing, Jood Aleskan, Sustainable Funding platform, Crowdfunding waqf mechanism strategy, SDGs



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