

THE COLLECTION OF
MULTIDISCIPLINARY WAQF STUDIES – I –

DEBATES IN WAQF MANAGEMENT AND FINANCE

Editors

Prof. Dr. İbrahim Güran Yumuşak

Dr. Osman Yılmaz

Dr. Afra Uysal

Dr. Meryem Solmaz

Res. Assist. Muhammet Talha Kaan



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Table of Contents

Preface to the Collection	
Atilla ARKAN	7
Foreword to First Volume	
Meryem Solmaz	9
Islamic Waqf Reits:	
Exploring the Potential of Immovable Waqf Properties as Income-Generating Vehicles	
Maryam Khalid - Aishath Muneeza - Sherin Kunhibava - Zakariya Mustafa	13
Unearthing Potential: A Comparative Study of Waqf Real Estate Development and Management in Türkiye and Malaysia	
Zati Ilham Abdul Manaf	31
The Valorization of Awqaf in Morocco and the Challenges of Socio-Economic Development	
Hind El-Ouzzani	55
Innovative Financing Methods for Waqf Development: Case Studies by Warees Investments in Singapore	
Adam, Hudzaifah Alyaman	75
Corporate Waqf of Indonesia: Implementation and Institutional Transformation	
Miftahul Huda - Lukman Santoso - Khusniati Rofiah	85
Crowdfunding Waqf for Housing: Case From Saudi Arabia	
Allaa AbdelBari - Ridzwan Bakar	103

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Preface to the Collection

Foundations (waqf), called the third sector and one of the most critical instruments of civil society, provide essential services today as in the past and are valuable institutions for ensuring social justice. Waqf universities, hospitals, libraries, and research centers are accepted as indicators of social development and civilization level. In this context, Ibn Haldun University, which is itself a waqf university, supports waqf studies and aims to be a meeting point for innovative and sustainable ideas to be put forward in this field.

Contrary to the position and function of awqaf in Turkish and Islamic traditions, various current handicaps prevent the waqf from flourishing today. These problems can be classified under multiple headings, such as management, financing, society, and law.

In this framework, an academic study consisting of intensive labor has been put forward under *the Collection of Multidisciplinary Waqf Studies* to reveal the current problems of waqfs, offer innovative solutions to these problems, and revive waqfs without breaking away from their historical roots. *The Collection* consists of four volumes. The first one includes debates on waqf management and finance. It proposes innovative solutions such as waqf crowdfunding and corporate waqf for the financing of waqfs within the framework of different country experiences such as Türkiye, Singapore, Malaysia, Morocco, and Saudi Arabia. The second volume of *the Collection* is dedicated to the relationship between waqf and society and includes essential findings on the impact of waqfs on social development. The third volume deals with current legal issues related to foundations and examines topics such as cryptocurrency donations, which are not yet regulated but are essential for foundations. The fourth volume of *the Collection* is authored in Turkish and analyses the problems foundations face in Turkish legal practice.

The Collection, contributed by academics and sector experts from many countries worldwide, aims to provide an up-to-date and innovative overview of the waqf. I thank the authors, referees, editors, and Ibn Haldun University Press staff who contributed to *the Collection*. In particular, I would like to thank the academics of the Law Faculty for their efforts to produce this *Collection* and Prof. Dr. Ömer Çınar, former dean of the Law Faculty and current member of the Turkish Constitutional Court, for guiding them to work on the foundation.

Prof. Dr. Atilla ARKAN
President of Ibn Haldun University

Foreword to First Volume

Foundations (waqf /pl. awqaf) have been used for many purposes and services in almost all societies throughout history. Today, waqf is still an important social institution. However, evolving conditions have created different issues regarding foundations and require re-evaluation and examination of awqaf from a contemporary perspective. This is only possible by classifying the issues related to the waqf and analyzing them under specific headings. In this context, this volume, the first one of *the Collection of Multi-disciplinary Waqf Studies*, is dedicated to the debates on waqf management and finance.

Addressing waqf management in light of current developments is essential. Indeed, a sustainable foundation/waqf is possible through professional management, which requires practical and sustainable management of waqf properties. In this regard, *Chapter 1* proposes applying real estate investment trusts, abbreviated as REITs, defined as unit trust schemes primarily investing or intending to invest in income-generating land, along with all associated natural components and attached structures, to Islamic waqfs. A REIT is a trust fund that invests in real estate properties and generates returns in rental income. By proposing Islamic waqf REITs, the authors argue that the income-generating potential of waqf properties can be unlocked and that income stability can be enhanced by acquiring a diversified portfolio of waqf properties across different sectors. By channeling funds from Islamic REIT investors into waqf properties, Islamic waqf REITs create a win-win scenario, generating stable income for investors while preserving waqf properties' social and religious objectives. Similarly, reflecting on the strategies employed in managing waqf real estate between Türkiye and Malaysia, *Chapter 2* examines the historical development of the waqf institution in both countries and compares the management of waqf real

estate to have a more sustainable waqf financing. The author emphasizes that both countries aim to ensure the relevance and resilience of waqf in the contemporary era, while each country's approach is influenced by its specific historical experiences, cultural values, and regulatory environments and presents examples of good practices in waqf real estate management. As emphasized in *Chapter 3*, efficient management of waqf assets is essential and should be based primarily on professionalism and innovation. The author argues, in the case of Morocco, that foundations can contribute to social and economic development if their problems are solved by providing professional management, sustainable financing, and legal flexibility.

Another theme addressed in this volume is the relationship between foundations and finance. Foundations, defined as a community of property, can only be sustained through sustainable financing. In this regard, *Chapter 4* explores, in the case of Singapore foundations, various real estate financing methods, including traditional methods like debt and equity financing, and innovations such as waqf-based sukuk and waqf crowdfunding to preserve and enhance the waqf assets. The study shows that Singapore's waqf institutions are working diligently to ensure the sustainability and prosperity of their assets for generations to come by embracing traditional and innovative financing methods. Similarly, *Chapter 5* focuses on the concept of "corporate waqf", which basically means the involvement of a company entity in waqf activities and suggests that corporate waqf will help productively and innovatively the development and management of waqf assets, in the case of Indonesia. Lastly, *Chapter 6* proposes a mechanism for waqf crowdfunding, a fintech tool, for housing in Saudi Arabia, and argues that donors will donate to sustain waqf in the Saudi community with a transparent campaign that digitalizes the waqf donation process through fintech (crowdfunding), which secures the waqf management process.

As seen, this volume, the first of the *Collection of Multidisciplinary Waqf Studies*, includes various discussions on the good governance of awqaf and its relationship with finance through past and current waqf practices in different countries, such as Türkiye, Malaysia, Singapore, Indonesia, Saudi Arabia, and Morocco. The chapters based on in-depth analyses of literature, case studies, and interviews make this volume valuable and unique.

On this occasion, we would like to thank all the authors, editors, referees, Ibn Haldun University Press staff and everyone who contributed to this volume, and present the first volume of the *Collection of Multidisciplinary Waqf Studies* to our esteemed readers.

On behalf of the Editorial Board
Dr. Meryem Solmaz

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Islamic Waqf Reits: Exploring the Potential of Immovable Waqf Properties as Income-Generating Vehicles

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Sherin Kunhibava^{***}
Zakariya Mustafa^{****}

Introduction

Islamic social finance constitutes a pivotal aspect of Islam's overarching objectives, which individuals and formal corporate entities strive to fulfill through Islamic finance. Unlike Islamic financing instruments such as mudarabah (profit-sharing partnership), murabahah (cost-plus financing), musharakah (joint venture), ijarah (lease), and sukuk (Islamic bond), among others, which are shariah-compliant contracts utilized in Islamic finance, Islamic social finance stands apart. It leverages financial gains from these instruments to support sadaqah (voluntary charity), zakah (religious wealth tax/obligatory charity), and waqf (endowment), thereby advancing social causes and upholding shariah objectives.

The instruments above including qard hasan (benevolent loan) also act as funding sources of Islamic social finance. Additionally, the financial

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gains from Islamic finance contribute significantly to this realm. A portion of the capital derived from Islamic finance's for-profit aspect can be directed towards charitable and social endeavors through zakah payments, sadaqah contributions, or the establishment of a waqf. This integration of financial mechanisms ensures that Islamic finance serves commercial objectives and societal welfare, aligning with the principles of Islamic ethics and finance. Islamic social finance aims to foster social justice through equitable transactions and the redistribution of wealth. In contrast to its conventional counterparts, which often lack clarity in scope and intent, Islamic social finance is firmly grounded in well-defined and deeply entrenched divine injunctions found in the holy Quran and Sunnah. These sources provide guidance on Islamic charity, philanthropy, and social justice, forming the bedrock of principles governing the Islamic financial ecosystem¹.

Islamic financial institutions globally offer several products or services to the community that can be considered under the umbrella of Islamic social finance, such as Islamic microfinance, Islamic microtakaful, and social sukuk. Islamic social finance tools such as zakah, sadaqah, waqf, social sukuk, social takaful, social kafalah (guarantee), and Islamic microfinance can further the initiatives relating to United Nations Sustainable Development Goals, ethical finance, and responsible impact financing.

This research focuses on the Islamic social finance instrument of waqf. It proposes the innovative use of waqf properties in Islamic Real Estate Investment Trust ("REIT") portfolios to generate rental returns. Islamic REITs involve acquiring and managing a real estate portfolio and generating rental incomes for investors in a shariah-compliant manner; so far, Islamic REITs have not been used on waqf properties in Malaysia.

This chapter aims to explore whether waqf properties, such as hospitals and universities, can be used as properties within the Islamic REIT portfolios, thereby improving the income-generating ability of waqf immovable properties. Usually, waqf immovable properties are used solely for charitable purposes rather than for raising funds. Waqf properties should be more utilized as income-generating assets. By incorporating waqf properties in

1 William E. Shepard, *Sayyid Qutb and Islamic Activism: A Translation and Critical Analysis of Social Justice in Islam* (Leiden: Brill, 1996).

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.

This chapter begins with an explanation of waqf as one of the tools in Islamic social finance, followed by an exploration of challenges in generating stable income through waqf. After that, Islamic Real Estate Investment Trust (“I-REIT”) will be explained as the possible application of waqf in Islamic REITs. This chapter will then analyze the main issues in waqf Islamic REIT and the strengths, weaknesses, opportunities, and threats (“SWOT”) analysis in adopting I-REIT as one of the possible income generations from waqf properties and assets. Finally, this chapter concludes with the proposal that Islamic Waqf REITs will create a win-win scenario, generating stable income for investors while preserving waqf properties’ social and religious objectives.

1. Waqf As One of the Tools in Islamic Social Finance

Waqf, also known as endowment, holds profound significance within Islamic social finance, serving as a powerful tool for advancing social welfare and community development. Its impact extends across various spheres, encompassing poverty alleviation, educational support, health-care provision, religious infrastructure, and more. While the Qur’an does not explicitly reference waqf, it repeatedly urges Muslims to aid others through acts of kindness and material contributions. One such verse emphasizes the importance of charitable giving, stating: “*You will not attain charity until you share a portion of what is dearest to you*”².

Furthermore, the origins of the waqf concept are traced back to the early Islamic era, deriving inspiration from the teachings and practices of Prophet Muhammad (peace be upon him) and his companions³. One of the hadith narrated by Abu Hurayrah (may Allah be pleased with him) stated that the Messenger of Allah (peace be upon him) said: “*When a man dies, his acts come to an end, except for three: recurring charity, knowledge by which people benefit, or a pious son, who prays for him (for the deceased)*”⁴.

2 Holy Quran, Ali-Imran: 92.

3 Hayatullah Laluddin, Sayed Sikandar Shah Haneef, M. T. H. Mohammad, and Maya Puspa Rahman, “Revisiting the Concept of Waqf: Its Maintenance, Issues and Challenges,” *International Journal of Islamic Thought* 20, (2021): 54.

4 Sahih Muslim, 1255/3.

Based on the hadith stated above, waqf promises eternal rewards for its investors. By dedicating one's wealth to charitable causes in the name of God, individuals will not only fulfill their religious obligations but also secure ongoing blessings and rewards, even after their passing. This spiritual dimension adds depth and significance to waqf endeavors, motivating individuals to contribute generously towards the welfare of others.

Other than religious rewards and spiritual beliefs, waqf initiatives also provide sustainable solutions for addressing poverty by generating ongoing revenue streams that can be directed toward supporting impoverished individuals and families. These funds can provide financial assistance, vocational training, or entrepreneurial opportunities, empowering beneficiaries to improve their economic circumstances. Moreover, waqf lands have been used extensively to construct and build mosques⁵ and hospitals. Such initiative aligns with one of the primary objectives of waqf, where these institutions serve as vital community hubs, facilitating religious worship, spiritual guidance, and medical care. Through waqf contributions, communities can establish and sustain these essential facilities, fostering social cohesion and providing critical services to the population.

Other than that, waqf endowments also play a crucial role in promoting education and furthering intellectual development within society⁶. The waqf funds collected have been directed towards establishing schools, libraries, and scholarship programs, enabling individuals to access quality education regardless of their socioeconomic background. By investing in disseminating knowledge, such waqf also contributes to future generations' intellectual advancement and empowerment. All in all, waqf endowments are instrumental in financing a wide range of community development projects to enhance infrastructure, public services, and overall quality of life. As stated earlier, these initiatives may include constructing public amenities such as schools, mosques, and hospitals. Such investment through waqf heightens community betterment and fosters sustainable development and prosperity for all members of society.

5 Examples can be the buildings of Masjidil Haram and Masjid al-Nabawi.

6 An example is the building of the University al-Azhar in Cairo, Egypt.

In essence, waqf emerges as a transformative force within Islamic social finance, channeling resources towards initiatives that uplift and empower communities. Its multifaceted impact spans generations, ensuring sustainable progress and prosperity for society as a whole. Through waqf, individuals have the opportunity to leave a lasting legacy of compassion, generosity, and social responsibility, enriching lives and nurturing collective well-being.

In Malaysia, most waqf initiatives and assets consist of waqf lands or immovable properties. This assertion is supported by data retrieved from the state Islamic Religious Council records. Malaysia is reported to have over 33 thousand acres of waqf land. However, a significant portion of these assets still needs to be developed. This lack of development has been identified in previous studies as one of the prominent issues within Malaysia's waqf landscape. Many earlier studies also examined the present state of waqf assets in many countries. They pointed to the need for innovative ways to establish and develop waqf projects in the contemporary world. Waqf properties typically designated for charitable purposes often remain underutilized due to funding constraints for maintenance and development. Waqf properties such as hospitals and universities can be bought by Islamic funds collected from investors and used as part of the portfolio for rental return⁷.

1.1. Challenges in Generating Stable Income through Waqf

Despite the considerable potential inherent in waqf immovable properties to contribute to societal welfare and foster economic growth, their effective utilization for generating stable income remains constrained. Prior research has shed light on the primary shortcomings of various models proposed and implemented for developing waqf assets. These include approaches such as capital raising and conventional financing methods like build and transfer, lease arrangements, or profit-sharing schemes. These strategies frequently encounter two overarching challenges: firstly, the inherent inadequacy of liquid funds and, secondly, the illiquidity of assets within the waqf framework.

7 Ermy Azziaty Rozali and Nur Ainul Basyirah Alias, "Pentadbiran Dana Wakaf Hospital Fatih, Istanbul (1470M-1824M)," *Jebat: Malaysian Journal of History, Politics & Strategy* 46, No. 1 (2019): 118.

The insufficiency of liquid funds presents a significant obstacle, limiting the availability of capital for investment in waqf properties. This constraint hampers the ability of waqf managers to undertake development projects or implement initiatives to maximize these assets' income potential. Additionally, the illiquidity of waqf assets poses a considerable barrier to their effective utilization. Unlike conventional investment assets, which can be easily bought, sold, or traded in the market, waqf properties often lack the flexibility to be readily converted into cash or other liquid assets.

Due to these challenges, traditional investment avenues frequently fail to harness the full income-generating capabilities of waqf properties. This underutilization represents a missed opportunity to optimize returns for investors and diminishes the potential benefits these assets could provide to the broader community. By addressing these underlying issues and exploring innovative solutions tailored to the unique characteristics of waqf assets, an opportunity exists to unlock their latent potential and realize a more significant socioeconomic impact for all stakeholders involved.

1.2. Way Forward in Addressing the Challenges

Limited investment options are available to generate income from waqf cash funds and immovable properties. Innovative solutions are required to overcome this challenge and enhance the ability of waqf immovable properties to generate stable income and increase rental returns. One promising approach involves the creation of Islamic Waqf Real Estate Investment Trusts, which have the potential to transform the management and utilization of waqf properties for income generation.

The methodology used in exploring such a solution will be qualitative, where content analysis will be employed as the primary method to examine case studies related to waqf properties and Islamic REITs. This method systematically analyzes and interprets the content of various documents, reports, and online resources to identify recurring themes, patterns, and underlying meanings. Furthermore, sukuk case studies are presented to understand waqf, time-sharing, and sub-lease structures in adopting the Islamic REIT as an innovative solution. The case studies presented in the later part of this chapter are Sukuk Saxony-Anhalt, Sukuk Zam Zam Tower, Sukuk MUIS, and Sukuk NZ Waqf.

2. Islamic Real Estate Investment Trust (I-REIT)

Real estate investment trusts first emerged as investment tools, allowing the public to obtain equity shares in real estate properties. In Malaysia, through its Guidelines on Listed Real Estate Investment Trusts (revised 2022), the Securities Commission defines REITs as unit trust schemes primarily investing or intending to invest in income-generating land, along with all associated natural components and attached structures. Notably, these investments exclude mineral, oil, and gas assets and resources⁸. Hence, REITs are realty and property funds that involve acquiring and managing a portfolio in real estate. To elaborate further, a REIT is a trust fund that invests in real estate properties and generates returns in the form of rental incomes. In Malaysia, the general requirement for REITs, according to the Securities Commission Guidelines on REITs, is that at least 50%⁹ of a fund's total asset value must be invested in real estate and/or single-purpose companies at all times and at least 75% of a REIT's total asset value must be invested in real estate that generates recurrent rental income at all times¹⁰.

Regarding the Islamic financial sphere, the equivalent of REITs was not introduced until 2006. During this time, the Islamic counterpart, exemplified by Al-Aqar KPJ Healthcare REITs¹¹, emerged as a pioneer in Islamic finance. This innovative Islamic financial instrument aligns with the principles of REITs while adhering to shariah-compliant guidelines, ensuring conformity with Islamic ethical and legal frameworks. In an Islamic REIT, stringent criteria are applied to the real estate tenants, requiring them to engage exclusively in shariah-compliant activities. In cases where tenants pursue mixed activities—comprising both shariah-compliant and non-compliant endeavors—a threshold is set, allowing for up to 20% of non-shariah-compliant activity¹². Furthermore, it is essential to note that Islamic REITs can allocate some of their funds to other shariah-compliant

8 Ibid.

9 Ibid, Chapter 8, Paragraph 8.32.

10 Ibid, Paragraph 8.05.

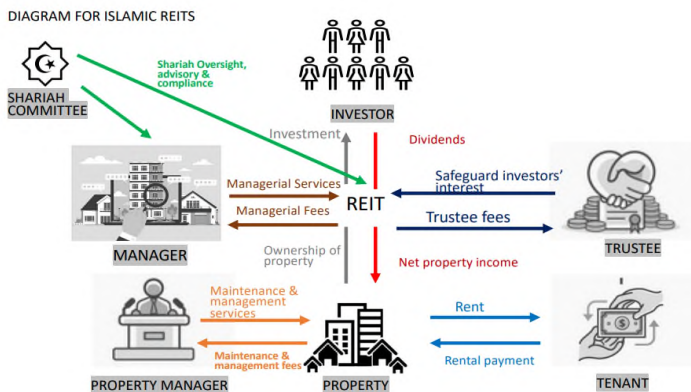
11 For Al-Aqar Healthcare Real Estate Investment Trust Corporate Profile, please see: <https://www.alaqar.com.my/corp-profile.php> (Access Date: 11.05.2024)

12 Shariah Advisory Council Securities Commission, *Guidelines for Islamic Real Estate Investment Trusts Frequently Asked Questions*, <https://www.sc.com.my/api/documentms/download.ashx?id=03b6312c-b409-4f0a-a270-b18f201c71d3> (Access Date: 11.05.2024)

asset classes, such as cash, deposits, and investment products. However, there are prescribed limits on the acceptable percentage of these assets within the Islamic REIT framework, ensuring that investments remain in accordance with shariah principles and guidelines.

2.1. Application of Waqf in Islamic REIT

Waqf entails the donation of property for religious or charitable objectives, while I-REITs facilitate investments in real estate in accordance with Islamic principles. Integrating waqf properties into the realm of REITs involves proposing a mechanism where these properties are managed or developed through I-REITs. Such an approach has the potential to generate sustainable income from waqf properties, aligning with the fundamental goal of waqf, which is to provide ongoing benefits to the community. As mentioned earlier, a stipulation mandates a minimum of 50% of the fund’s total asset value to be invested in real estate and/or single-purpose companies at all times. Furthermore, there is an additional requirement that at least 75% of a REIT’s total asset value must be allocated to real estate that consistently generates recurring rental income. Consequently, through this mechanism, the revenue generated from the rentals of waqf properties can be reinvested to develop these assets further and ensure the sustainability of waqf assets over time. The diagram, accompanied by the subsequent explanation below, elucidates the implementation of I-REITs in the context of waqf assets or properties:



Source: Authors' own

The Fund manager aggregates funds from investors who purchase units of the REIT. It is important to emphasize that acquiring the waqf property for the REIT necessitates a long-term lease agreement of 99 years. Further elaboration on the lease terms will be provided in subsequent sections of this chapter. For investors, buying REIT units represents a fractional beneficial interest in the managed pool of real estate, specifically the waqf property. When these properties or assets are leased out, investors receive dividends from tenant rentals, with the possibility of additional gains if REIT units are traded in the secondary market.

The trustee in the diagram serves as the waqf body responsible for safeguarding the fund's assets and protecting the interests of unit holders (investors). Meanwhile, the property manager offers property management services, receiving property management fees in return. Given that the implementation of waqf REIT is based on Islamic principles, a shariah committee is established to oversee the REIT and fund management processes, ensuring compliance with shariah principles. This oversight is critical for obtaining certification as an acceptable I-REIT by the Shariah Advisory Council ("SAC").

2.2. Main Issues in Waqf Islamic REIT

Despite the promising potential of waqf Islamic REITs, there has been limited exploration into this investment avenue for mobilizing waqf immovable assets. The primary challenge arises when considering the transfer of waqf properties to Islamic REIT funds. As a fundamental principle, waqf assets cannot be disposed of, as their ownership has been permanently transferred to Allah and remains unchanged. Consequently, these assets must stay within the waqf domain indefinitely. Therefore, the sale of waqf properties is not permitted, as it would contradict the inalienability aspect of waqf property.

Thus, to address this issue, this chapter explores the concepts of long-term leases and/or time-sharing leases applied in sukuk (Islamic bonds) as mechanisms for 'transferring' waqf properties to Islamic REITs.

➤ *Saxony Anhalt*

The setup of sukuk Saxony-Anhalt entails the establishment of a trust by the State of Saxony-Anhalt. This trust issues sukuk bond certificates and serves as a trustee for certificate holders. These certificates represent rights to lease agreements for land and buildings, primarily tax collection offices. The trust leases these properties from the state under a head lease agreement and subsequently sub-leases them back to the state under a sub-lease agreement. The head lease spans 100 years but can be terminated based on the terms of the sub-lease agreement, which lasts five years. Under the sub-lease agreement, a €100 million (US\$147 million) ijarah sukuk is implemented, wherein certain real estate assets previously owned by the state are sold to a particular purpose vehicle (“SPV”) and then leased back to Saxony-Anhalt. Such a transaction followed an ijarah structure involving the sale and leaseback of state-owned real estate assets for 100 years¹³. The concept of long-term lease was used in this Saxony-Anhalt sukuk.

➤ *MUIS Sukuk*

Majlis Ugama Islam Singapore (Islamic Religious Council of Singapore, abbreviated as “MUIS”) issued the musharakah sukuk to develop a waqf property owned by Arab merchant Shaikh Ali B Omar Aljunied. The musharakah arrangement of sukuk MUIS consists of two arrangements: a joint venture partnership (musharakah) and a leasing arrangement (ijarah) between an SPV created by MUIS and Ascott International, a property maintenance company responsible for coordinating the leasing agreement. In the ijarah arrangement, Ascott has committed to leasing the property for ten years, ensuring a consistent flow of income that aligns with the investors’ returns¹⁴.

➤ *Zam-zam Tower Sukuk*

King Abdul Aziz Waqf developed a multiplex of high towers named Zam Zam Tower, located near Masjid Al-Haram in Makkah, Saudi Arabia,

13 For Anhalt Sukuk Transaction Structure please see: <https://www.sukuk.com/sukuk-new-profile/stichting-sachsen-anhalt-trust-4460/#/?playlistId=0&videoId=0> (Access Date: 11.05.2024)

14 Anis Shakirah Mohd Muslimin (Ed.), *What You Need to Know About Islamic Investments in Singapore*, (2022), available at <https://ethis.co/blog/islamic-investments-in-singapore/> (Access Date: 11.05.2024)

by issuing a sukuk. In this sukuk, a 24-year reversionary ground lease was awarded to the developer. The ground is owned by the waqf, the buildings to the developer, and the manfa'ah (benefits) was sold to the sukuk holders. Due to the limitations in the laws of Saudi Arabia, it was not possible to use a normal sukuk ijarah (lease) as foreigners are unable to hold land in Makkah and Madinah and therefore, sukuk intifa'a was issued based on time sharing basis with a portion of ownership in the lease period. In this arrangement, the developer obtained a 24-year ground lease, while the waqf maintained ownership of the land, and the sukuk holders obtained rights to utilize the facilities. This setup resembles a time-share vacation facility model, where ownership is shared among multiple parties¹⁵.

➤ *Proposed Awqaf NZ Sukuk*

A collaboration between Awqaf New Zealand, the International Shariah Research Academy for Islamic Finance (“ISRA”), and the Securities Commission of Malaysia to issue a ground-breaking \$1 billion worth of waqf-sukuk to turn unused charitable resources into awqaf resources. The structure involves Awqaf NZ issuing sukuk to raise global capital for acquiring farmland in New Zealand. The purpose is to provide for kurbani (sacrifice) during the Islamic pilgrimage using the unused parts of the sacrificed animals as a source of waqf revenue¹⁶.

Utilizing the concepts outlined in the previously discussed sukuk structure, it is permissible for a waqf's assets to be sold on a leasehold basis without encountering issues related to istibdal¹⁷. This sale via leasehold can be facilitated to investors through either a 99-year leasehold arrangement or a time-sharing model. Consequently, the real estate can be transferred without the transfer of ownership. Therefore, waqf properties or assets can

15 Nur Diyanah Syakirah Mohd Shukri and others, “Waqf Development in Marawi City via Issuance of Perpetual Waqf Sukuk,” *International Journal of Management and Applied Research* 6, No. 2 (2019): 73.

16 Ehsanullah Agha, *Islamic Social Finance: The Case of Awqaf New Zealand Sukuk*, (2006). Available at <https://www.linkedin.com/pulse/islamic-social-finance-case-awqaf-new-zealand-sukuk-agma> (Access Date: 14.08.2024).

17 As waqf properties are dedicated to Allah in perpetuity, they cannot be sold. However, istibdal is permitted to exchange waqf property with another property of similar or higher quality and value. See Jasni Bin Sulong, “Permissibility of Istibdal in Islamic Law and the Practice in Malaysia,” *Journal of US-China Public Administration* 10, No. 7 (2013): 680.

be incorporated into a REIT as assets under a lease agreement. To emphasize, the waqf maintains ownership of the properties and assets while entering into a leasing contract with the REIT, which subsequently manages these assets. The income generated from these properties can be reinvested into the REIT, with the waqf becoming a shareholder.

Hasan and Sulaiman propose an innovative waqf-based I-REIT model for this¹⁸. This proposed model incorporates waqf properties into the I-REIT structure, overcoming legal constraints within the Malaysian framework. It begins by acknowledging the inherent difficulty in directly transferring waqf assets to REIT companies due to regulations stipulating the actual selling of assets. This contradicts the principles of waqf that dictate assets should not be transferred out of waqf ownership. However, despite these challenges, the model proposes a feasible mechanism to integrate waqf into the I-REIT structure at the investor level. In this proposed structure, investors are provided with the option to allocate all or part of their holding units of REITs to waqf. This allocation can occur either at the inception of the issuance of I-REITs or at any point during their lifespan. Additionally, the model suggests the adoption of temporary waqf, allowing investors to transfer their I-REIT units to waqf for a specified period, ranging from a short term of two or three years to a long term of up to 99 years. This flexibility aims to accommodate investors' preferences and charitable intentions, enabling them to contribute to waqf initiatives while maintaining their investment interests. The proposed structure involves establishing a REIT with Strategic Resource Investment Corporations ("SRICs") as the sponsor. To circumvent the restriction on selling waqf properties, non-waqf assets are identified and injected into the waqf REIT. These assets are then leased back to the SRICs, who sublease them to shariah-compliant tenants. The returns generated from tenancy are distributed to investors, and dividends from the waqf REIT are utilized by the SRICs to refurbish existing waqf assets not included in the REIT. Furthermore, the model aligns with recent legal developments in Malaysia, particularly in the state of Selangor, where Section 23 of the Wakaf Enactment 2015 allows for

18 Aznan Hasan and Syahnaz Sulaiman, "The Use of Islamic Real Estate Investment Trust (I-REITs) as a Contemporary Instrument in Developing Waqf Assets: Potential Structure, Issues and Challenges," *Intellectual Discourse* 24, (2016): 535.

the waqf of shares, bonds, sukuk, or other valuable instruments. This provision permits the waqf of dividends from such instruments, analogous to the proposed waqf I-REITs structure. By leveraging this legal framework and offering investors the flexibility to contribute to waqf initiatives, the model seeks to incentivize participation and foster charitable contributions within the I-REIT framework.

2.3. Strength, Weaknesses, Opportunities, and Threat (SWOT) Analysis in Adopting I-REIT as One of the Possible Income Generations from Waqf Properties and Assets

In ensuring that investment for waqf properties through I-REIT is a prudent solution, it is also crucial to conduct a SWOT analysis as outlined below:

Strength:

- **Stable Income Source:** waqf properties often have a stable and predictable income stream, as they are typically used for essential purposes such as education, healthcare, or religious activities. This can provide consistent returns to I-REIT investors.
- **Ethical and Social Impact:** Investing in waqf properties adheres to ethical and socially responsible investing principles, fostering positive community development by bolstering essential services and institutions in harmony with the maqasid al-shariah.
- **Long-Term Sustainability:** Waqf properties are intended for perpetual benefit, aligning with the long-term investment horizon typically associated with real estate investments. This long-term perspective can contribute to the stability and sustainability of returns for investors in waqf Islamic REITs.
- **Shariah Compliance:** Waqf Islamic REITs adhere to shariah principles, ensuring that investments are made in accordance with Islamic ethical and legal guidelines. This commitment to shariah compliance can attract investors seeking halal investment opportunities and enhance the credibility of Islamic REITs in the market.

Weaknesses:

- **Regulatory Challenges:** Managing waqf properties, which are subject to both financial and religious laws, can involve navigating complex regulatory frameworks. This could lead to delays and increased administrative burdens. In Malaysia, addressing the challenge also involves navigating the regulatory framework concerning waqf immovable properties, encompassing both federal and state jurisdictions.
- **Limited Flexibility:** Some waqf properties may have usage restrictions due to their religious or charitable purpose. This can limit the potential for adaptive reuse or diversification of the property's income sources.
- **Asset Management Complexity:** Managing a diverse portfolio of waqf properties within an Islamic REIT structure requires specialized knowledge of real estate management and Islamic finance principles. This complexity could increase operational costs and pose challenges for effective asset management.
- **Limited Market Awareness:** Despite the potential benefits of waqf Islamic REITs, investors, and stakeholders may be limited in their awareness and understanding of these investment vehicles. This lack of awareness could hinder the growth and adoption of waqf Islamic REITs in the market.

Opportunities:

- **Growth Potential:** As the popularity of Islamic finance and ethical investments increases, I-REITs have an opportunity to attract a broader investor base looking to align their investments with their values.
- **Community Engagement:** I-REITs managing waqf properties can actively engage with the local community and involve them in decision-making processes, fostering positive relationships and enhancing the properties' value.
- **Innovation in Financing Structures:** There is an opportunity to innovate and develop new financing structures tailored specifically to waqf Islamic REITs. By leveraging innovative financing

mechanisms such as sukuk or crowdfunding, waqf Islamic REITs can access additional sources of capital and expand their investment portfolios.

- **Technology Integration:** Technology integration, such as blockchain and smart contracts, could streamline processes related to waqf property management and investment transactions within Islamic REITs. This technological integration could improve transparency, efficiency, and accessibility in waqf Islamic REIT operations.

Threats:

- **Economic Volatility:** Like any real estate investment, waqf properties managed through I-REITs could be affected by economic downturns, leading to potential property values and rental income declines.
- **Liquidity Challenges:** Waqf properties may be illiquid assets, which could pose challenges if I-REIT investors seek to exit their positions quickly.
- **Regulatory Uncertainty:** Changes in regulatory frameworks governing waqf properties and Islamic finance could introduce uncertainty and compliance challenges for waqf Islamic REITs. Regulatory changes may impact investment structures, taxation, and governance requirements, potentially affecting the attractiveness of waqf Islamic REITs to investors.
- **Market Competition:** Waqf Islamic REITs may face competition from conventional REITs and other investment vehicles in the real estate market. Competition for quality assets, tenants, and investors could exert downward pressure on rental yields and returns for waqf Islamic REITs.

In summary, while waqf Islamic REITs offer promising opportunities for social finance and community development, they also face challenges that require careful consideration and strategic management. By leveraging their strengths and opportunities while mitigating weaknesses and threats, waqf Islamic REITs can fulfill their potential as catalysts for revitalizing neglected waqf properties, driving positive social impact and financial returns for investors.

3. The Way Forward

In addition to the promising outlook of Islamic waqf REITs, several policy implications, recommendations, and areas for future research can further enhance their effectiveness and impact.

Firstly, regulatory bodies, waqf authorities, financial institutions, and other relevant stakeholders need to collaborate to promote the development of Islamic Waqf REITs. This collaboration can involve capacity-building initiatives, knowledge-sharing platforms, and awareness campaigns to educate stakeholders about the benefits and opportunities associated with Islamic Waqf REITs. By fostering a supportive ecosystem, policymakers can create an enabling environment for the growth and expansion of Islamic Waqf REITs, thereby unlocking their full potential.

Moreover, policymakers should explore innovative financing mechanisms and incentive structures to encourage investment in waqf properties through Islamic REITs. This could involve introducing tax incentives, grants, or subsidies for investors and developers engaged in waqf property development projects. Additionally, policymakers can consider establishing dedicated funds or investment vehicles to facilitate the aggregation of waqf properties and their inclusion in Islamic REIT portfolios. By removing barriers to entry and providing financial incentives, policymakers can stimulate investment activity in waqf properties and promote their sustainable development.

In terms of future research, several areas warrant further investigation. Firstly, more empirical studies are needed to assess the financial performance, risk-return characteristics, and social impact of Islamic Waqf REITs compared to conventional REITs and other investment vehicles. Additionally, research on the optimal asset allocation strategies, portfolio diversification techniques, and risk management practices for Islamic Waqf REITs can provide valuable insights for investors and fund managers. Furthermore, studies examining the legal, regulatory, and governance frameworks governing Islamic Waqf REITs in different jurisdictions can help identify best practices and areas for improvement.

Lastly, it is essential to reiterate that the originality of this chapter lies in its comprehensive exploration of the integration of waqf properties into the

Islamic REIT framework and the potential benefits and challenges associated with this approach. By synthesizing theoretical insights with practical examples from sukuk structures and real-world case studies, this chapter offers a unique perspective on the role of Islamic Waqf REITs in promoting sustainable development and ethical investment practices. Moving forward, continued research and innovation in this area can contribute to the growth and evolution of Islamic finance, ultimately advancing socio-economic development and financial inclusion across Muslim-majority and minority communities worldwide.

Conclusion

Through Islamic waqf REITs, the income-generating potential of waqf properties can be unlocked in several ways. Firstly, REITs can mitigate risks and enhance income stability by acquiring a diversified portfolio of waqf properties across different sectors, such as commercial, residential, and mixed-use developments. Additionally, asset management strategies, including property development, renovation, and repositioning, can further enhance rental yields and capital appreciation.

Moreover, Islamic waqf REITs can facilitate the professional management of waqf properties, ensuring efficient operations, optimal rental yields, and compliance with regulatory requirements. This approach can attract institutional investors and enhance investor confidence in waqf property investments.

By channeling funds from Islamic REIT investors into waqf properties, Islamic waqf REITs create a win-win scenario, generating stable income for investors while preserving waqf properties' social and religious objectives. This innovative investment opportunity unlocks the income-generating potential of waqf immovable properties and promotes sustainable development and community social welfare. Islamic waqf REITs offer a promising solution to enable waqf immovable properties to generate stable income and escalate rental returns. By leveraging the collective investment capabilities of Islamic finance principles, these REITs can unlock the untapped potential of waqf properties, creating value for investors and communities alike.

References

- Agha, Ehsanullah. *Islamic Social Finance: The Case of Awqaf New Zealand Sukuk*. 2006. Available at <https://www.linkedin.com/pulse/islamic-social-finance-case-awqaf-new-zealand-sukuk-agma>.
- Anis Shakirah Mohd Muslimin (Ed.). *What You Need to Know About Islamic Investments in Singapore*. 2022. Available at <https://ethis.co/blog/islamic-investments-in-singapore/>
- Bin Sulong, Jasni. "Permissibility of istibdal in Islamic law and the practice in Malaysia." *Journal of US-China Public Administration* 10, No. 7 (2013): 680-689.
- Hasan, Aznan and Syahnaz Sulaiman. "The Use of Islamic Real Estate Investment Trust (I-REITs) as a Contemporary Instrument in Developing Waqf Assets: Potential Structure, Issues and Challenges." *Intellectual Discourse* 24, (2016): 521-540.
- Laluddin, Hayatullah, Sayed Sikandar Shah Haneef, M. T. H. Mohammad, and Maya Puspa Rahman. "Revisiting the Concept of Waqf: Its Maintenance, Issues and Challenges." *International Journal of Islamic Thought* 20, (2021): 53-64.
- Rozali, Ermy Azziaty and Nur Ainul Basyirah Alias. "Pentadbiran Dana Wakaf Hospital Fatih, Istanbul (1470M-1824M)." *Jebat: Malaysian Journal of History, Politics & Strategy* 46, No. 1 (2019): 112-130.
- Shariah Advisory Council Securities Commission. *Guidelines for Islamic Real Estate Investment Trusts Frequently Asked Questions*. Available at <https://www.sc.com.my/api/documentms/download.ashx?id=03b6312c-b409-4f0a-a270-b18f201c71d3>.
- Shukri, Nur Diyanah Syakirah Mohd, Siti Nuralina Ahmad Zamri, Aishath Muneeza and Hanif Ghulam. "Waqf Development in Marawi City via Issuance of Perpetual Waqf Sukuk." *International Journal of Management and Applied Research* 6, No. 2 (2019): 68-80.
- Securities Commission Regulations. *Guidelines on Real Estate Investment Trust* 2022. Available at <https://www.sc.com.my/api/documentms/download.ashx?id=ad5d52fc-4eb6-4184-b4e7-d341d4781086>
- Shepard, William E. *Sayyid Qutb and Islamic Activism: A Translation and Critical Analysis of Social Justice in Islam*. Leiden: Brill, 1996.

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

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Introduction

Waqf, at its essence, can be characterized as the act of dedicating movable or immovable properties to a religious, charitable, or social cause. This dedication, made to pursue God's approval, aims to offer enduring social and public services. Two facets of this definition warrant emphasis: the commitment to immovable assets and the notion of perpetuity¹. Typically, these immovable assets encompass real estate for public utilities such as mosques, educational institutions, orphanages, health facilities, shops, soup kitchens, and public baths².

Stemming from the Arabic word implying “to hold or preserve”, waqf has long been a cornerstone in Islamic socio-economic traditions. When a property, typically land or real estate, is committed as waqf, it becomes an enduring tool for community welfare in the name of Allah (SWS). Consequently, these properties, once endowed, are shielded from routine transactions, representing the essence of long-lasting communal benefit.

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- 1 Tuba Akar, “The Role of Waqf in Shaping and Preserving Urban Areas,” in *Held in Trust: Waqf in the Islamic World*, ed. Pascale Ghazaleh (Cairo: The American University in Cairo Press, 2011).
- 2 Niaz Ahmed Khan and Sultana Jareen, “The Waqf and Human Security in Muslim Majority Countries: Traditions, Modern Practices, and Challenges,” in *Human Security and Philanthropy: Nonprofit and Civil Society Studies*, ed. Samiul Hasan (New York: Springer, 2015), 183.

Historically, waqf has been a cornerstone of social welfare, with individuals dedicating properties to noble causes, thereby ensuring their assets contribute to ongoing community services. While these assets, particularly real estate, hold potential for revenue generation through leasing, they face modern challenges that threaten their effectiveness. Mismanagement, underutilization, stagnation, and improper planning are key factors that can impair the operational and financial viability of waqf assets. Such challenges can lead to waqf properties becoming dormant, not only resulting in financial losses but also causing deterioration and damage. These challenges and decline directly undermine the assets' potential to serve the community and fulfill waqf's foundational aim of providing sustained societal welfare.

This study contrasts the waqf real estate management practices of Türkiye and Malaysia against contemporary challenges. Türkiye draws upon its rich Ottoman legacy to innovatively revitalize waqf properties, masterfully blending historical traditions with modern commercial practices. This approach not only preserves the cultural and spiritual significance of waqf assets but also enhances their economic viability. Through restoring their historic mosques and transforming ancient bazaars into thriving commercial hubs, Türkiye demonstrates a dynamic balance between safeguarding heritage and pursuing sustainable development. These efforts reflect a broader strategy to rejuvenate waqf properties, making them relevant and beneficial in today's society. Conversely, Malaysia is refining its strategic approach to tap into the commercial potential of its extensive, underutilized waqf lands, ensuring that all developments align with Islamic law. A key initiative in Malaysia's strategy is the development of affordable housing projects on waqf lands. This move seeks to mitigate the pressing demand for affordable living spaces while upholding waqf's religious and charitable principles. The country's efforts highlight the dedication to pioneering innovative methods to optimize the use of waqf assets, with the dual aim of enhancing their societal and economic contributions within the bounds of the shariah.

This research integrates academic and practical perspectives through a doctrinal approach, complemented by a comparative analysis and insights from a 2023 seminar featuring leading waqf scholars and practitioners³.

3 The joint workshop on "Development of Waqf Properties into Commercial and Housing Development" was held on May 11, 2023, and organized by Istanbul Sa-

This study first lays the groundwork by tracing the historical foundations and evolution of waqf real estate management in Türkiye and Malaysia, highlighting their distinct paths from traditional to contemporary practices. Subsequently, the study delves into the administrative strategies and legal reforms undertaken by both countries to adapt waqf real estate management to modern needs, followed by exploring innovative financial models introduced to sustain and enhance the value of waqf properties in the country. The paper then addresses the various challenges confronting waqf real estate today, ranging from regulatory hurdles to financial constraints, and how these challenges are being navigated within each country's unique socio-legal context. Ultimately, the document concludes by presenting a comparative review consolidating the insights gained, pinpointing effective strategies, and outlining recommendations for decision-makers, waqf managers, and involved parties. This aims to fully leverage waqf resources for socio-economic advancement that is consistent with Islamic values.

1. Administration of Waqf Real Estate in Türkiye

Türkiye's historical engagement with waqf real estate is profoundly intertwined with the legacy of the Ottoman Empire. Over six centuries, significant socio-economic shifts, cultural evolutions, and the dynamic interplay between religion and governance have markedly influenced the practice and management of waqf in the country. The Ottoman administration extensively utilized waqf as a mechanism for societal welfare, contributing to establishing a governable and cohesive society⁴.

Within the Ottoman framework, real estate was pivotal to the waqf system well before the advent of cash waqf⁵. Iconic structures such as mosques, madrasas, shops, baths, and notably *tekkes/zaviyes* (dervish-established shelters) served as concrete expressions of the waqf's charitable aims. It was observed that these shelters, supported by waqf donations

bahattin Zaim University in collaboration with the International Islamic University Malaysia. Participants included academics and a representative from the General Directorate of Foundations Türkiye.

4 Akar, "The Role of Waqf in Shaping and Preserving Urban Areas," 171.

5 Murat Cizakca, *A History of Philanthropic Foundations: The Islamic World from the 7th Century to the Present* (Istanbul: Boğaziçi University Press, 2002).

from Ottoman sultans, became crucial centers of economic, social, and cultural importance. Each *zaviye* was intrinsically connected to a waqf, ensuring that these waqf estates nourished the dervishes residing there⁶. They offered a wide array of services, ranging from providing accommodation and meals to delivering religious education. It was also observed that the government primarily focused on constructing military structures, such as castles and fortifications, alongside palaces for the royal family and critical public works like roads and bridges. Meanwhile, buildings for religious, educational, commercial, healthcare, and charitable purposes, intended for the public's benefit, were developed through waqf⁷.

During its initial phase, the Ottoman waqf model was distinctly decentralized. Endowments were autonomously managed, often by administrators chosen by the founding benefactor⁸. This framework mirrored the Ottoman Empire's diverse socio-cultural tapestry, with each waqf reflecting the unique needs of its community. However, the 19th century brought challenges. European colonial powers, notably Britain and France, perceived waqfs as impediments to their imperial ambitions. The Ottomans, financially strained during events like the Crimean War, faced European demands to dismantle the waqf system as a condition for monetary aid. Consequently, a move towards centralization began with the creation of a Ministry of Awqaf, which, together with the Ministry of Finance's control over waqf revenues, signaled a constriction of the traditional waqf system. The transition from the Ottoman Empire to the Republic of Türkiye saw further changes. By 1954, all cash waqfs were consolidated under the Bank of Waqfs. The Directorate General of Foundations was established as a central entity, streamlining governance while maximizing the socio-economic potential of waqf properties⁹.

The transition from the Ottoman to the Republican era marked a paradigm shift in waqf governance. Previously under Islamic law, waqf in the early republican period started being governed by secular laws and codes, most

6 Akar, "The Role of Waqf in Shaping and Preserving Urban Areas."

7 Reyhan Sabri, "Ottoman Waqf Building Practices: From Decentralisation to Centralisation," in *The Imperial Politics of Architectural Conservation*, (2019), 15–44.

8 Sabri, "Ottoman Waqf Building Practices," 19.

9 The General Directorate of Foundations operates under the auspices of the Ministry of Culture and Tourism, delivering its services through a network of 25 Regional Directorates across Türkiye.

notably the Waqf Code of 1935 and the Civil Code of 1926. Consequently, as observed by *Babacan*, this has influenced its approach to property development, which now diverges from traditional Islamic principles¹⁰. Nevertheless, the stipulations of waqf deeds continue to be rigorously upheld¹¹.

The overview below presents the evolution of waqf from the Ottoman Empire to the Republic of Türkiye, based on a timeline extracted from the observations of *Ozan Marasli*¹². Highlighting critical developments, it charts the transition from the foundational establishment of waqf ministries in the Ottoman era to significant reforms and challenges faced during the Republic's era. The narrative captures key moments of transformation within the waqf system, showcasing its adaptability and the shifts from religious to secular governance.

1.1. The Ottoman Era: Foundation of Waqfs

1586: The *Evkaf-ı Haremeyn Nezareti*, known as the Ministry of Foundations of Holy Cities, was established to manage the awqaf allocated to institutions in Mecca and Medina, along with various other parts of the country.

1809: The Ottoman waqf landscape diversified with the inception of the *Evkâf-ı Selâse Nezâreti* or the Ministry of Three Awqaf. This was instituted in honor of three notable endowments - *Evkâf-ı Hamidiyye*, *Evkâf-ı Laleli*, and *Mahmûdiyye*, emphasizing the breadth and depth of the waqf system¹³.

1826: The founding of *Evkâf-ı Humâyûn*, the premier sovereign ministry dedicated to waqf. Originally established to oversee the imperial endowments within the capital, the scope of the *Evkâf-ı Hümâyûn Nezareti* was significantly expanded in 1835 to include provincial waqf endowments¹⁴.

10 Mehmet Babacan, "Economics Of Philanthropic Institutions, Regulation And Governance In Türkiye," *Journal of Economic and Social Research* 13, No. 2 (2011): 77.

11 Babacan, "Economics Of Philanthropic Institutions," 76.

12 Ozan Maraslı, "Current Economic State of Awqaf in Türkiye," in *Joint Workshop on Development of Waqf Properties into Commercial and Housing Development* (Istanbul: Istanbul Sabahattin Zaim University, 2023).

13 Ahmed Akgündüz, "The Ottoman Waqf Administration in the 19th And Early-20th Centuries: Continuities And Discontinuities," *Acta Orientalia Academiae Scientiarum Hungaricae* 64, No. 1 (2011): 75.

14 Ceren Katipoğlu, "Rethinking Construction and Planning Processes in the Ottoman Provinces," *International Journal of Science Culture and Sport* 1, No. 4 (2013): 77.

1.2. Transition to Aznan the Republic: Challenges and Reforms

1924: The inception of the Directorate General of Foundations (Vakıflar Genel Müdürlüğü, “DGF”). This year witnessed a significant shift as public services formerly overseen by waqf were transferred to the Ministry of Education and municipalities. Alongside this transition, several waqf assets were put on the market.

1926: The Civil Code of 1926 introduced significant changes for waqf. They were transitioned from their traditional status of religious endowments to the secular designation of “*tesis*” or facilities. This transformation marked the beginning of waqf’s secularization and decontextualization from its Islamic roots.

1935: The enactment of the Law of Waqf (no. 2762) brought further secular implications to the waqf institution. This law introduced the compromise fee (*Taviz bedeli*), secularized definitions, management practices, and the financial administration of waqf. Moreover, it largely restricted the investment pathways for cash waqf to interest-based transactions.

1967: The enactment of the Law of Waqf (no. 903) marked a rebirth for the Turkish waqf system. The waqf’s property rights received renewed affirmation, and there was a concerted effort to solidify the bond between waqf entities and corporations. A pivotal inclusion was the introduction of tax exemptions for waqf.

2008: A landmark year in the chronicles of waqf history in Türkiye. The Law of Waqf (no. 5737) facilitated the restitution of waqf assets from government bodies to the integrated waqf system. There was a renewed push towards restoring historical waqf assets, coupled with an easing sale of waqf assets via a relaxed compromise fee. The rejuvenation of the Majlis of Awqaf further highlighted the period’s significance.

2. Development and Revival of Waqf Real Estate in Türkiye

Türkiye’s waqf landscape, with approximately 9,000 (fused waqf assets)¹⁵ historical assets like masjids, madrasahs, khans, and other architectural

15 “Fused waqf assets”, also known as “fused foundations”, refer to waqf or foundations that were established prior to the implementation of the abolished Turkish Civil

marvels, is a magnificent reflection of its deep-rooted Ottoman legacy. A remarkable 64.2% of these historical assets, approximately 5,781 properties, have undergone thoughtful renovation. These efforts have been concentrated on retaining their original designs and historical authenticity¹⁶.

Marasli further observed that the Directorate General of Foundations has played a pivotal role in these rejuvenation initiatives. The DGF's approach has been multifaceted, incorporating innovative strategies such as the "flat for land" basis, "renting in return for renovation", and the "build, operate and transfer" ("BOT") model. These methods aim to restore and revitalize these historical properties, ensuring their sustainable use in the modern age¹⁷.

DGF meticulously manages real estate properties under its umbrella. These properties, while significant foundation assets, serve varied purposes. The Directorate is responsible for ensuring these properties align with the foundation's objectives. Management includes various activities, from leasing and sale to allocation and granting usage rights.

DGF employs multiple assessment techniques to guarantee equitable and enduring management of these foundational real estate assets. The "construction and repair evaluation" approach considers a range of costs tied to the construction or refurbishment of a property. The "floor evaluation" method determines the asset's value based on its area or usable space. Meanwhile, the "restoration versus valuation" strategy balances the expenses and advantages of renovating aged or impaired properties with their present worth. Lastly, the "rental income evaluation" scrutinizes the property's prospective rental earnings to establish its market value¹⁸.

Today, Türkiye's waqf ecosystem intertwines historical traditions with modern practices. Fused (Mazbût) waqfs, representing the Ottoman waqf tradition and established before 1926, mainly derive their financial support

Code No. 743 and are managed by the Directorate General of Foundations in accordance with the Foundations Law No. 2762.

16 Maraslı, "Current Economic State of Awqaf in Türkiye."

17 Mürsel Sari, "Turkish Experience in Administrative and Financial Management of Foundations," in *Joint Workshop on Development of Waqf Properties into Commercial and Housing Development* (Istanbul Sabahattin Zaim University, 2023).

18 Sari, "Turkish Experience in Administrative and Financial Management of Foundations," 23.

from rental incomes. They operate under the DGF's guidance and stick closely to their original objectives. Annexed (Mülhâk) waqfs, although similar in their Ottoman roots, are governed by the descendants of their founders. New waqfs, emblematic of the post-1926 era, cater to contemporary needs and use many financial sources. Additionally, the spectrum of waqf is enriched with minority awqaf and irsâdî awqaf¹⁹.

2.1. Waqf Asset Restoration Methods

Since 2003, the Directorate has revitalized 198 deteriorated waqf assets from the Ottoman and even the Seljuk periods through its preferred “restore-manage-transfer” method. In this approach, a dilapidated waqf asset is leased to an entrepreneur for 10 to 20 years. The entrepreneur is tasked with restoring the asset to its original architectural glory, managing it for a set period, and then transferring ownership back to the General Directorate.

Another strategy employed is the “build-lease/manage-transfer” model, which applies to waqf-owned urban land. This land is leased to a developer for approximately 20 years, during which the developer constructs a building on the property and oversees its management. After the lease term, the developed asset reverts to the Directorate's control. This method has been applied to 208 assets since 2003, evident in projects across İstiklal Street - Vakıf Gökçek Han, Beşiktaş – Nispetiye, Karaköy, and Başakşehir 789 Blocks 1 Parcel Education²⁰.

The “construction in return for a flat” model offers a reciprocal arrangement in which the real estate owner allocates a portion of the land to a contractor, who, in exchange, provides the owner with specific constructed segments of the property. These restoration efforts have culminated in the revival of several historic landmarks, including the Haseki Hürrem Sultan Bathhouse in Sultanahmet, IV. Vakıf Han in Eminönü, and the iconic Fatih - Süleymaniye Mosque.

Overall, Türkiye's integration of traditional waqf practices with contemporary real estate management highlights its dedication to preserving its illustrious Ottoman heritage.

19 Maraşlı, “Current Economic State of Awqaf in Türkiye,” 7.

20 Sari, “Turkish Experience in Administrative and Financial Management of Foundations.”

2.2. Restoration Challenges and Shariah Compliance in Türkiye's Waqf Properties

Building on the detailed examination of Türkiye's restoration methods for waqf assets, it is crucial to acknowledge the broader context within which these efforts occur, including the notable challenges that emerge when traditional Islamic principles intersect with contemporary legal and operational frameworks. As *Marasli* has observed, the path of preservation and revitalization is fraught with hurdles such as “qurbah” (the concept of proximity in the allocation of waqf benefits), “substitution (*istibdâl*)” (the practice of replacing one waqf asset with another), complex taxation issues, the shortfall in shariah oversight, and the trend towards the NGOization of waqf entities. Reclaiming waqf assets that the state has appropriated over time is a particularly pressing issue²¹.

A significant tension arises from the need to navigate the space between the Islamic principles that underpin waqf assets and the secular laws that govern their administration in contemporary Türkiye. This tension is most palpable when waqf assets engage in activities or business practices, such as the sale of alcohol or financial transactions involving interest (*riba'*), which are strictly prohibited under shariah law. This situation highlights the essential need for robust shariah oversight mechanisms to ensure that the operations of waqf assets do not stray from their Islamic ethical foundations.

Despite these challenges, the strategic drafting of waqf deeds provides a robust framework for ensuring adherence to shariah principles. The deeds typically emphasize the perpetuity of the waqf, ensuring that selected assets generate revenue and support welfare institutions integral to the waqf's mission. This generated income plays a critical role in sustaining the charitable activities and institutions associated with the waqf. Furthermore, waqf deeds often specify the maintenance and repair of the assets, including the appointment of dedicated personnel, highlighting a comprehensive approach to preserving the spiritual and material integrity of waqf properties in line with their founding principles.

21 *Marasli*, “Current Economic State of Awqaf in Türkiye.”

3. Administration of Waqf Real Estate in Malaysia

Transitioning from Türkiye, this section of the paper now explores the administration of waqf real estate in Malaysia. Historically, the administration of waqf properties in this country was under the purview of individuals such as the village chief or family members²². These administrators, also known as *mutawallis*, were responsible for ensuring the proceeds or benefits of these properties were channeled appropriately for religious or philanthropic purposes, as initially intended by the endower.

However, as time passed, there were concerning instances where waqf properties were mistaken for inheritable assets or mismanaged by private administrators. Consequently, on occasion, these properties ended up as inherited private assets, sold and left to deteriorate, deviating from their intended charitable purpose.

3.1. Centralization of Waqf Administration in Malaysia

The need for a more structured and streamlined approach to waqf administration became evident when Malaysia's independence was approaching. This led to the centralization of the waqf administration, in which all waqf assets within a state were vested under the sole trusteeship of the State Islamic Religious Council ("SIRC")²³. This significant administrative shift aimed to address and prevent the mismanagement issues observed under individual trusteeship. By positioning the SIRC as the sole trustee, the intention was to guarantee the perpetuity of the waqf and prevent potential mishandling or misappropriation by private individuals.

Today, through the relevant state enactment, each SIRC bears the responsibility of registering, managing, developing, and maintaining the waqf properties within its jurisdiction. This centralized system would also ensure that the waqf assets are administered based on shariah principles. To safeguard the sanctity and integrity of this system, the state fatwa committee scrutinizes the major management and investment decisions relating to

22 This is prior to the promulgation of each states' Administration of Islamic Law Enactment which appoints the State Islamic Religious Council as the sole trustee of waqf for each state.

23 Done through each states' Administration of Islamic Law Enactment.

Hukum Syarak pertaining to waqf²⁴. This rigorous oversight ensures that all operations strictly adhere to Islamic principles. This includes considerations regarding the development and construction of waqf lands, particularly the practice of *istibdal*, which involves exchanging waqf land for another piece of land to benefit local infrastructure projects like roads and utilities²⁵.

Historically, waqf assets in Malaysia were predominantly *Waqf Khas*, designated for specific beneficiaries or purposes such as mosques, orphanages, and madrasahs, as dictated by the waqf deed²⁶. This specificity often restricted land use for other potentially beneficial purposes, leading to underutilization. Moreover, these waqf properties were established without consideration for income generation, affecting their long-term viability.

The centralization of waqf administration in Malaysia has marked a pivotal shift in the utilization of waqf assets, emphasizing *Waqf Am* – waqf dedicated for public use. This transition empowers the SIRC with broader flexibility in asset development and application without the need to consult the *Wakif* or their heirs. Freed from personal constraints, SIRC has expanded their developmental endeavors to include a diverse array of projects. These initiatives extend beyond traditional focuses such as mosques, *tahfiz* schools, and cemeteries to embrace commercial properties, tourism ventures, housing developments, institutions of higher education, and healthcare facilities²⁷.

The Malaysian government has recognized the potential of waqf to enhance the nation's socio-economic framework significantly. In a proactive move, it has embarked on establishing shariah-compliant regulations aimed at developers within the waqf sector. This initiative includes commissioning studies to introduce regulations specifically targeting housing developers interested in waqf property development, ensuring adherence to Islamic

24 For example, in Selangor, Part IX of the Selangor Waqf Enactment 2015 stipulates the duty of the SIRC to refer to the Fatwa Committee for any questions on Hukum Syarak in connection with the waqf.

25 Zati Ilham Abdul Manaf, "Waqf Real Estate Development Disputes in Malaysia: In Search for Solutions," in *International Conference on Intellectual Advancement* (Male, Maldives: Islamic University of Maldives, 2022).

26 Sharifah Zubaidah Syed Abdul Kader and Mohamad Nor Asiah, "The Legal Position of Waqf Lands in Malaysia," in *Waqf Laws and Management*, ed. Syed Khalid Rashid (Kuala Lumpur: IIUM Press, 2017), 85.

27 Yayasan Waqaf Malaysia, "Sejarah Pembangunan Wakaf," 2024, <https://www.ywm.gov.my/pengenalan-wakaf#sejarah-perkembangan-wakaf> (Access Date: 14.08.2024).

principles. To tackle the issue of underutilized waqf lands, the Malaysian Government has actively allocated funds through the Ninth and Tenth Malaysia Plans (RMK 9 and 10), with a keen focus on reviving idle waqf lands. In 2009, as part of RMK-9, a significant RM 256.89 million was designated for waqf project developments, encompassing 19 physical projects such as shop lots and mosques, alongside RM 12.5 million for non-physical projects like the development of databases and online platforms. However, due to economic constraints, the allocation saw a reduction to RM 72.76 million under RMK-10 in 2010, funding merely ten selected projects. Despite these efforts, only 0.16 percent of total waqf lands were developed. Then, the Minister of Islamic Affairs highlighted the resource gap, estimating a need for at least RM 80 billion to develop all waqf lands in Malaysia fully²⁸. This highlights the government's commitment to enhancing the economic potential of waqf lands through income-generating and community welfare projects, as well as the considerable financial challenge and the ambition to adhere to shariah principles in their development.

Despite these substantial financial allocations, the results reveal a stark reality: only 0.16 percent of waqf lands have been developed. This highlights a critical insight—reliance on government funding alone is insufficient to meet the expansive needs of waqf development. Moreover, beyond the initial development, there is an ongoing requirement for resources to maintain these properties, which is essential for upholding the fundamental element of perpetuity intrinsic to waqf.

This situation points to the necessity of diversifying funding sources and involvement in the development, management, and repair of waqf properties. As seen in several successful development projects, private sector participation emerges as a vital component in this equation²⁹. By encouraging private investment and collaboration, there is an opportunity to enhance the development

28 Anwar Allah Pitchay et al., "Cooperative-Waqf Model: A Proposal to Develop Idle Waqf Lands in Malaysia," *ISRA International Journal of Islamic Finance* 10, No. 2 (2018): 227.

29 For example, UDA Waqf Sdn Bhd, a private developer company, has been involved in developing housing projects on waqf lands located in Penang, Malaysia. Sharen Kaur, "UDA Launches Waqf Development in Penang," *New Straits Times*, 2023, <https://www.nst.com.my/property/2023/07/932211/uda-launches-waqf-development-penang>.

of waqf lands and ensure their sustainable management and maintenance. This partnership between public and private entities can serve as a dynamic force, propelling the effective utilization of waqf properties while adhering to the core principles of shariah and ensuring their long-term viability.

3.2. Models for Waqf Property Development in Malaysia

Following the discussion on the administration of waqf real estate in Malaysia, it is clear that while the centralized management system has introduced structure and oversight, challenges remain, particularly in financing and maintaining these properties. Recognizing these challenges, Malaysia has embarked on innovative initiatives to unlock the commercial potential of waqf lands, specifically focusing on housing accommodations and other income-generating projects. These initiatives are designed to be shariah-compliant, aligning with Islamic principles while seeking to optimize the utilization and development of waqf assets.

3.2.1. Build Operate Transfer

Innovative financing models such as the Build Operate Transfer method have been fundamental to maximize the utility of waqf lands within Malaysia. This approach facilitates partnerships between private financiers and the SIRC, allowing for the strategic development of waqf properties. This model allows for the development of facilities that, after a predetermined period, significantly enhance the value of waqf properties before they revert to the SIRC³⁰. A prime example of this successful collaboration is the partnership between the Islamic Religious Council of the Federal Territory and Lembaga Tabung Haji, which led to the construction of the Bank Islam Tower in Kuala Lumpur's golden triangle. Initially appraised at RM31.9 million, the property's value is projected to soar to RM300 million after a 25-year lease period, reflecting a nearly tenfold increase. This project is a testament to the potential of waqf lands to contribute significantly to the socio-economic development of the Muslim community while adhering to shariah principles. The tower not only serves as a commercial and social hub but also houses the city's

30 Azman Bin Mohd Noor and Saidatolakma Bt Mohd Yunus, "Application of the Build, Operate, Transfer (BOT) Contract as a Means of Financing Development of Waqf Land: Malaysian Experience," *Arab Law Quarterly* 28, No. 2 (2014): 136–57.

largest Friday prayer hall, showcasing the multifaceted benefits of such developments. Similar to the build-lease/manage-transfer model observed in Türkiye, this initiative reflects a shared understanding across nations of leveraging innovative financing to enhance the value and impact of waqf properties.

3.2.2. Joint Venture

Joint Ventures (“JVs”) have emerged as a critical strategy in the financing and developing waqf lands within Malaysia, significantly revitalizing these properties through collaboration between the government, institutions, and, notably, private entities. The Ninth Malaysia Plan marked a pivotal moment with the Federal Government allocating RM265 million to foster a range of waqf land development projects, including commercial ventures like waqf hotels and retail outlets, as well as social projects such as health centers, residential buildings, and religious facilities. This initiative, drawing on the strengths of various stakeholders like the Department of Waqf, Zakah & Hajj (JAWHAR), State Islamic Religious Councils (SIRCs), and the Federal Government, has set a new precedent in utilizing waqf lands effectively.

In extending this collaborative model, significant partnerships have also formed with government-linked companies (GLCs), such as UDA Waqf Sdn Bhd, engaging in JVs with SIRCs for housing projects on waqf land. These agreements typically involve Majlis Agama Islam Negeri Pulau Pinang (“MAINPP”), which supplies waqf land and assists in expediting development approvals. The financial burden of development falls on the developer, in this case, UDA, which then benefits from the revenue after compensating MAINPP with the current land value and an additional profit return³¹.

3.2.3. Waqf Share Scheme

In Malaysia, the Waqf Share Scheme (“WSS”) has been adapted to facilitate real estate development on waqf lands, showcasing a novel blend of traditional Islamic philanthropy with contemporary financial strategies. By inviting public investment through the sale of waqf shares, this approach

31 Nur Afiqah Anuar et al., “Evaluating the Performance of Waqf Land Development: A Case Study of Waqf Seetee Aisah, Pulau Pinang,” *ESTEEM Journal of Social Sciences and Humanities* 6, No. 1 (2022): 109–21.

enables the collective financing of property development projects, such as residential buildings, commercial outlets, and healthcare facilities, directly contributing to the betterment of the Muslim community.

Donors are given cash waqf certificates upon purchasing shares, acknowledging their contributions to specific real estate projects. The proceeds from these investments are then utilized to finance the development, ensuring that these projects not only serve social and religious purposes but also generate sustainable income for further waqf initiatives. This method illustrates a strategic way to unlock the potential of waqf lands, turning them into productive assets that benefit the community, enhance the socio-economic landscape, and preserve the essence of waqf as a perpetual charity.

Despite these innovative financing models, as noted above, a significant portion of waqf lands in Malaysia still needs to be developed, with many not generating any income. This highlights the need for careful planning regarding these lands' financial viability and maintenance. The responsibility falls on the SIRCAs as trustees and administrators to ensure these lands are developed to sustain their value and utility in perpetuity, adhering to the foundational principles of waqf.

4. Comparative Analysis: Türkiye and Malaysia

4.1. Historical Context and Administration

The waqf system has played pivotal roles both in Türkiye and Malaysia, though their histories and administrative approaches differ significantly.

Historically, Türkiye's waqf real estate has its roots in the Ottoman Empire. During this era, waqf endowments were not just religious symbols but were integrated into the socio-economic structure, supporting schools, hospitals, and infrastructure. However, a significant reform took place with the advent of the Republic of Türkiye in 1923. Once managed autonomously, waqf properties were centralized under governmental control as the nation steered towards secularism.

In contrast, Malaysia's waqf tradition is deeply ingrained in its socio-cultural landscape. Waqf practice was seen in Malaya with the advent of Islam in the state in the 8th century and was primarily confined to religious

practice. Initially, waqf properties were overseen by individual families or mutawallis. These properties mainly catered to mosques, cemeteries, and religious education, with a noticeable challenge being the lack of consistent revenue generation. Due to concerns about mismanagement and misappropriation, Malaysia, much like Türkiye, shifted to a centralized administration model. By the time of its independence, the State Islamic Religious Council became the principal trustee of waqf properties in its jurisdiction.

While both Türkiye and Malaysia pivoted towards centralizing waqf property administration, their motivations stemmed from different historical and socio-political contexts. Türkiye's shift was part of a broader secularization process, while Malaysia's was a response to administrative challenges and a desire to utilize waqf assets better.

4.2. Modern Management and Development of Waqf Real Estate

In the contemporary landscape of waqf real estate management, Malaysia and Türkiye offer distinct yet progressive approaches tailored to their socio-economic contexts while adhering to traditional Islamic principles.

In Malaysia, the centralization under the SIRC's marks a significant departure from traditional waqf management. This shift, focusing on *waqf am* or public waqf, provides SIRC's the autonomy to diversify development beyond religious confines. The result is a broader engagement in socio-economic projects. Additionally, Malaysia's federal government plays an active role in modernizing waqf management by introducing shariah-compliant regulations and initiatives, ensuring that while development is in progress, it remains rooted in adherence to Islamic principles.

Conversely, Türkiye's waqf evolution resonates with a blend of restoration and modern adaptation. The General Directorate of Foundations holds the administrative reins, but the approach is increasingly collaborative. While rejuvenating the waqf's historical significance, there is a contemporary emphasis on ensuring its relevance to modern needs.

Both Malaysia and Türkiye are reshaping their waqf real estate landscapes to cater to modern needs, but their strategies diverge based on historical context and current socio-political priorities.

4.3. Financing and Commercial Exploration of Waqf Real Estate

Malaysia, facing challenges with traditional waqf assets, grapples with revenue generation issues. Under the centralized administration of the SIRCs, the nation has shifted its attention from waqf for religious purposes towards waqf development, which is sustainable in nature. Innovative financing mechanisms bolster this transformative direction. For instance, the build-operate-transfer approach harnesses private investors' capabilities to finance, construct, and operate on waqf lands for a stipulated period. Following this, the enhanced property reverts to the waqf institution. Other inventive methods, such as joint venture schemes and the waqf-shares scheme, further demonstrate Malaysia's dynamic strategies to optimize waqf real estate, all while ensuring the assets' alignment with their inherent religious and philanthropic purposes.

On the other hand, Türkiye's historical waqf ecosystem benefited from a degree of self-reliance, supported by a carefully planned source of income outlined in their carefully drafted waqf deeds. Modern Türkiye, while cherishing this legacy, acknowledges the necessity for reinvention. Contemporary efforts are geared towards commercially developing waqf properties, striking a balance between time-honored traditions and pressing modern needs. Collaborative endeavors with the private sector play a pivotal role in this change. Concurrently, Türkiye's inclination to innovate financing methodologies showcases its commitment to keeping waqf assets productive, relevant, and beneficial to the broader society.

Malaysia and Türkiye each have distinct approaches to managing and commercializing waqf real estate, reflecting their unique historical and cultural contexts. Malaysia focuses on revitalizing underutilized waqf assets through shariah-compliant investments, closely aligning with Islamic law to enhance the value and utility of these properties for the community's benefit. This approach highlights a commitment to integrating Islamic principles directly into the economic strategies of waqf development.

On the other hand, Türkiye, with its rich waqf heritage, navigates the management of waqf assets within a more secular framework. While Türkiye respects its Islamic traditions in waqf management, it does so through a lens that also considers the broader objectives of cultural

preservation and societal development without the strict adherence to shariah compliance emphasized in Malaysia.

The contrast between Malaysia's and Türkiye's strategies highlights the diverse methodologies in adapting waqf real estate to contemporary needs. Each country's approach is influenced by its specific historical experiences, cultural values, and regulatory environments, showcasing the multifaceted ways in which Islamic heritage and modern economic practices can converge in the stewardship of waqf properties.

4.4. Challenges and Future Prospects of Waqf Real Estate

In Malaysia, the central challenge confronting the management and development of waqf real estate is the limited availability of funds. This financial constraint becomes more pronounced when considering the development, conservation, and maintenance of waqf properties. The inherent principles of waqf, particularly those emphasizing its perpetuity and the prohibition against alienation, further complicate matters by restricting access to conventional financing avenues. Consequently, SIRCS, as trustees and appointed administrators, bear substantial responsibility. Their role transcends mere management; they must innovatively drive profitability from waqf lands while staunchly preserving the essence of waqf – its enduring principle of perpetuity.

On the other hand, in Türkiye, the approach to waqf real estate management faces unique challenges, striking a balance between preserving the historical and cultural importance of waqf properties and meeting contemporary development goals. Ensuring that waqf properties significantly contribute to the socio-economic landscape is a nuanced task in a society that honors its past while embracing modernity. The focus extends beyond simple revitalization to leveraging the socio-economic potential of these properties in a way that respects their historical significance within a framework that may not strictly follow Islamic law.

As both nations navigate their unique challenges, they share a common underpinning goal: to ensure the relevance and resilience of waqf in the contemporary era. For Malaysia, this might mean innovative financial strategies that respect Islamic jurisprudence, while for Türkiye, it is about harmoniously blending centuries-old traditions with modern-day socio-economic imperatives.

5. Lessons from Türkiye

Following the comparative analysis between Malaysia and Türkiye in managing and developing waqf properties, it becomes evident that each country's approach offers distinct perspectives and valuable lessons. As we shift our focus to Türkiye, we uncover practices and experiences that hold significant implications for enhancing waqf management in Malaysia. Türkiye's historical strategies and modern adaptations in the realm of waqf real estate provide a rich source of insights, particularly in diversifying income resources, engaging with the private sector, and fostering sustainable, income-generating waqf properties. These aspects emphasize the adaptability and resilience of the waqf system in Türkiye and highlight potential pathways for Malaysia to revitalize its waqf assets. By examining Türkiye's approach, we can identify strategies that promote a more dynamic and economically viable waqf landscape in Malaysia while mindful of shariah principles.

5.1. Developing Sustainable and Income-Generating Waqf Properties

Focusing on developing sustainable and income-generating waqf properties, Türkiye offers valuable lessons, particularly in integrating historical wisdom with modern economic practices. This strategy ensures that the waqf assets not only serve their immediate religious and social functions but also contribute significantly to long-term socio-economic development. A critical aspect of this approach involves ensuring that future waqf deeds include specific clauses aimed at sustaining the waqf's viability and relevance across generations.

Malaysia, facing challenges with financial constraints, can draw from Türkiye's experience. The emphasis should not solely be on acquiring or developing real estate but on ensuring that these assets, through strategic positioning and utilization, become self-sustaining entities generating consistent revenue. Transitioning towards this model would mitigate Malaysia's reliance on external funding or governmental support, paving the way for a waqf system that is economically independent and capable of funding its growth and contribution to community welfare while upholding the element of perpetuity essential in waqf.

Embedding sustainability directly into the waqf deeds is paramount. Such clauses would guarantee that the development and maintenance of waqf properties are carried out with a long-term perspective, ensuring they remain productive and beneficial for future beneficiaries. This forward-thinking approach, focusing on developing sustainable properties that are capable of generating income, is crucial. It not only aligns with the core Islamic principles of waqf but also ensures that these endowments continue to fulfill their intended purposes while adapting to the community's evolving needs.

5.2. Maintenance and Repair

Maintaining the longevity and functionality of waqf properties through regular repair and upkeep is essential, as witnessed by the Ottoman historical practices established by the Waqf Ordinance of 1863. This ordinance set a significant precedent in the Ottoman Empire for the systematic management of waqf assets, mandating detailed inventories for properties needing maintenance and allocating specified budgets for their restoration. This meticulous approach highlights the critical role of preservation in sustaining the philanthropic and religious purposes of waqf assets over time³².

Following this approach, the states in Malaysia could consider integrating maintenance and repair-related provisions into their waqf legislation, taking a leaf from the historical ordinance. By enacting policies that require the regular assessment of waqf properties and ensuring adequate funding for their care, the waqf laws can reinforce the perpetual service these assets provide to the community. Furthermore, it would empower the State Islamic Religious Councils in Malaysia to manage these properties proactively. This strategic inclusion ensures that waqf assets are meticulously cared for, preserving their ability to meet beneficiary needs while adapting to the evolving demands of the community. Through such a proactive and structured approach, the SIRCs would ensure the waqf assets' continuous contribution to the socio-economic well-being of the community.

32 Sabri, "Ottoman Waqf Building Practices: From Decentralisation to Centralisation," 41.

5.3. Collaboration with Private Sector

Türkiye's approach to engaging the private sector in waqf property development offers valuable lessons for Malaysia. It showcases significant improvements in how waqf assets are utilized and their value enhanced. This collaboration has demonstrated the transformative potential when the innovative capabilities of the private sector meet the historical importance of waqf properties, resulting in creative real estate strategies, increased economic value, and better functionality of these assets.

However, this partnership introduces the complex challenge of adhering to shariah principles amidst commercial goals. Despite Türkiye's progress in waqf property development, there have been instances where the adherence to shariah principles was not entirely consistent. Thus, for Malaysia, it is crucial to structure these partnerships with a strong emphasis on maintaining the integrity of waqf. Ensuring compliance with shariah can be achieved through establishing transparent regulatory frameworks, conducting thorough and regular oversight, and guaranteeing that commercial activities are conducted in a manner that aligns with Islamic values.

In Malaysia, most efforts to develop waqf properties thus far have involved government-linked companies. To effectively expand and enhance the impact of waqf property development, there is an essential need to provide incentives for the wider participation of private entities. Encouraging this broader involvement necessitates offering compelling incentives such as tax breaks, regulatory assistance, or shariah-compliant profit-sharing arrangements, making investment in waqf properties more appealing to private developers. By introducing such incentives, Malaysia can diversify the contributions to waqf development, ensuring these properties not only serve their traditional roles but also become dynamic assets contributing to the community's socio-economic development.

Conclusion

Reflecting on the strategies employed in managing waqf real estate between Türkiye and Malaysia, it becomes evident that each country's approach offers distinct insights into optimizing the utility and sustainability of these Islamic endowments. Türkiye's historical emphasis on preserving waqf assets

provides a model for maintaining these properties' religious and cultural significance. Malaysia, with its focus on developing and revitalizing underutilized waqf lands, highlights the potential for these assets to contribute significantly to the socio-economic well-being of the Muslim community.

A key takeaway from the discussion is the critical importance of ensuring the perpetuity of waqf, a principle deeply rooted in Islamic tradition. This principle highlights the need for waqf properties to be managed in a way that not only serves immediate community needs but also preserves their value and utility for future generations. Drawing inspiration from historical practices, incorporating maintenance and repair clauses in waqf deeds can serve as a foundation for sustainable waqf management, ensuring these assets remain vibrant and functional over time.

While Malaysia has made strides in leveraging waqf properties through development initiatives, Türkiye's example of preservation and integration into modern economies provides valuable lessons. For Malaysia, adapting these lessons involves creating a balanced strategy that aligns with local contexts and shariah principles. This includes exploring diverse income-generating opportunities for waqf properties that maintain religious integrity while enhancing economic viability.

However, it is crucial to tailor these strategies to the unique Malaysian context, considering the central role of the State Islamic Religious Councils and the potential for public-private partnerships. Such collaborations should prioritize shariah compliance, ensuring that the development and commercialization of waqf properties do not detract from their spiritual essence.

In conclusion, the future of waqf real estate management in Malaysia lies in an integrated approach that combines the strengths of both Türkiye's preservation-focused methods and Malaysia's development-oriented ambitions. By ensuring that waqf properties are maintained, developed, and utilized in sustainable, shariah-compliant ways and aligned with the needs of the Muslim community, Malaysia can enhance the socio-economic impact of waqf, securing its role as a vital resource for future generations. This balanced approach promises not only to uphold the Islamic tradition of waqf but also to adapt it to meet contemporary challenges and opportunities.

References

- Akar, Tuba. "The Role of Waqf in Shaping and Preserving Urban Areas." In *Held in Trust: Waqf in the Islamic World*, edited by Pascale Ghazaleh. Cairo: The American University in Cairo Press, 2011.
- Akgündüz, Ahmed. "The Ottoman Waqf Administration in the 19th And Early-20th Centuries: Continuities And Discontinuities." *Acta Orientalia Academiae Scientiarum Hungaricae* 64, No. 1 (2011): 71–87.
- Anuar, Nur Afiqah, Muhammad Azwan Sulaiman, Nor Nadirah Akmar Mokhtar, Nurul Nadiah Zainol, Mona Isa, and Wan Yusoff Wan Zahari. "Evaluating the Performance of Waqf Land Development: A Case Study of Waqf Seetee Aisah, Pulau Pinang." *ESTEEM Journal of Social Sciences and Humanities* 6, No. 1 (2022): 109–121.
- Babacan, Mehmet. "Economics Of Philanthropic Institutions, Regulation And Governance In Türkiye." *Journal of Economic and Social Research* 13, No. 2 (2011): 61–89.
- Cizakca, Murat. *A History of Philanthropic Foundations: The Islamic World from the 7th Century to the Present*. Istanbul: Boğaziçi University Press, 2002.
- Ilham, Zati Abdul Manaf. "Waqf Real Estate Development Disputes in Malaysia: In Search for Solutions." In *International Conference on Intellectual Advancement*. Male, Maldives: Islamic University of Maldives, 2022.
- Kader, Sharifah Zubaidah Syed Abdul, and Mohamad Nor Asiah. "The Legal Position of Waqf Lands in Malaysia." In *Waqf Laws and Management*, edited by Syed Khalid Rashid. Kuala Lumpur: IIUM Press, 2017.
- Katipoğlu, Ceren. "Rethinking Construction and Planning Processes in the Ottoman Provinces." *International Journal of Science Culture and Sport* 1, No. 4 (2013): 70–83.
- Kaur, Sharen. "UDA Launches Waqf Development in Penang." *New Straits Times*. 2023. <https://www.nst.com.my/property/2023/07/932211/uda-launches-waqf-development-penang>.
- Khan, Niaz Ahmed, and Sultana Jareen. "The Waqf and Human Security in Muslim Majority Countries: Traditions, Modern Practices, and Challenges." In *Human Security and Philanthropy: Nonprofit and Civil Society Studies*, edited by Samiul Hasan. New York: Springer, 2015.
- Maraşlı, Ozan. "Current Economic State of Awqaf in Türkiye." In *Joint Workshop on Development of Waqf Properties into Commercial and Housing Development*. Istanbul: Istanbul Sabahattin Zaim University, 2023.
- Noor, Azman Bin Mohd, and Saidatolakma Bt Mohd Yunus. "Application of the Build, Operate, Transfer (BOT) Contract as a Means of Financing Development of Waqf Land: Malaysian Experience." *Arab Law Quarterly* 28, No. 2 (2014): 136–57.
- Pitchay, Anwar Allah, Mohamed Asmy Mohd Thas Thaker, Al Amin Mydin, Zubir Azhar, and Abdul Rais Abdul Latiff. "Cooperative-Waqf Model: A Proposal

- to Develop Idle Waqf Lands in Malaysia.” *ISRA International Journal of Islamic Finance* 10, No. 2 (2018): 225–36.
- Sabri, Reyhan. “Ottoman Waqf Building Practices: From Decentralisation to Centralisation.” In *The Imperial Politics of Architectural Conservation*. 2019.
- Sari, Mürsel. “Turkish Experience in Administrative and Financial Management of Foundations.” In *Joint Workshop on Development of Waqf Properties into Commercial and Housing Development*. Istanbul Sabahattin Zaim University, 2023.
- Yayasan Waqaf Malaysia. “Sejarah Pembangunan Wakaf,” 2024. <https://www.ywm.gov.my/pengenalan-wakaf#sejarah-perkembangan-wakaf>. (Access Date: 14.08.2024)

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

Hind El-Ouzzani*

Introduction

The waqf is an Islamic model of permanent charity, primarily for the poor classes. For centuries, this played a significant role in the flourishing of the Islamic State. “*The waqf denotes a non-compulsory Islamic charitable action and has its origins in the prophetic era*”¹. The waqf has always accompanied Islamic history and has contributed significantly to the social security of the most vulnerable populations by promoting education, health, and spirituality.

With the genesis of Islamic finance in the world, researchers began to take an increasing interest in the waqf as a means of ethical and solidarity financing, if not the most moral, compared to other means of financing.

The history of the waqf dates back to pre-Islamic times. However, this type of institution is considered important in Islamic societies, and waqfs have greatly impacted economic and social life worldwide. The waqf system has enjoyed great importance among Muslims since the era of Prophet Muhammad (SWS) and for centuries, as it is a work of charity that draws one closer to God.

The waqf in Morocco is invaluable; Moroccans have shown a crucial interest in the waqf for centuries. However, during the period of colonization of the country, the waqf system was diverted to deal only with the

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1 BID, “Impact de Développement Du Fonds d’Investissement Des Biens Awqaf / Un Modèle de Développement Durable,” 2019.

religious aspect and, more particularly, the construction of mosques and schools of traditional education. Unfortunately, after the country's independence, Moroccans continued to believe that the waqf was synonymous with the construction of mosques. Considerable efforts have been made to restore the waqf to the place it deserves, but with a speed that does not correspond to the challenges of the current situation.

This paper comes within the framework of Morocco's challenging economic and social situation. From the 2010s, contrary to the period 2000-2009, the capacity of the Moroccan economy to create wealth and employment began to decrease. The quality of education and the provision of care remain below the standards of the World Health Organization. Social inequalities continue to widen, with severe difficulties of inclusion aggravated by weak social protection. Therefore, the public sector in Morocco has a limited capacity to implement quality public services². Morocco has implemented several projects to eradicate poverty with the aim of improving the well-being of its citizens. Still, it has never included Islamic instruments such as zakah and waqf.

The central issue to which we seek to provide some answers is "how is it possible to develop the waqf in Morocco and release its potential to contribute to the socio-economic development of the country?"

Given its positive role in developing the social well-being of Muslims for centuries, the waqf deserves to be surrounded by a specific interest, especially since the post-COVID period, combined with the inflation that the world has been experiencing since 2021.

The waqf system makes participation in education, public health, financing micro-enterprises, and even granting interest-free credit possible. This requires revitalizing awqaf assets in a way favorable to the constitution of public wealth.

The paper is divided into two sections. The first one covers the origins of waqf, its functions, and its role in socio-economic development. The second section presents the management of awqaf and its challenges in Muslim countries. It also discusses the particularities of the waqf model in Morocco and the prospects for its revitalization.

2 CESE, *Le Nouveau Modèle de Développement Du Maroc* (2019), 150.

1. The Waqf: Origins, Forms and Functions

The waqf originated even before the era of Prophet Muhammad (SWS). It can take different forms. The system aims to solve social and humanitarian problems, such as poverty reduction and economic empowerment³. For centuries, it has fulfilled several functions: religious, social, scientific, and financial.

1.1. The Waqf and its Legitimacy

In Arabic, the word “waqf” comes from the verb “waqafa”, which designates the fact of remaining immovable and not moving. The waqf, therefore, indicates prohibition and immobilization⁴. It falls within the framework of philanthropic actions encouraged by Islam and other ethical behaviors such as mutual aid, giving, and social solidarity.

Waqf is a lasting religious donation. It is charitable work that draws closer to God. The Quran, the Sunnah, and the practice of the Prophet’s companions cite its lawfulness⁵. Its legitimacy originates in the Holy Quran as follows: “*You will never have charity unless you give largesse on what you cherish*”⁶. Similarly, a famous hadith of the Prophet Muhammad (SWS) states: “*When the son of Adam dies, his work stops except in three things: lasting charity, useful knowledge, or a virtuous child who prays for him*”⁷.

Waqf had been real estate, such as land or buildings, but the fuqaha (jurists) later allowed the awqaf to use movable goods, such as utensils, books, weapons, and animals. Other ulemas have authorized the waqf in the form of money to grow through transactions like the mudarabah and to devote the earnings to the beneficiaries of the waqf⁸.

3 Muhammad Fathrul Quddus, Fatin Fadhilah Hasib, and Universitas Airlangga, “Waqf in History a Systematic Literature Review Based on Web of Science,” *Journal of Muslim Society Research* 8, No. 1 (2023): 79–94.

4 Majid Soulaïmane El-Azimi, “Al Waqf Wassila Faala Li Nahdat Al Mojtamaa,” *Journal de La Faculté Des Études Islamiques et Arabes* 5, No. 36 (2020).

5 Layachi Feddad, “Fiqh Al Waqf: Présentation Des Différents Aspects Fiqistes Du Waqf,” in *La Zakat et Le Waqf: Aspects Historiques, Juridiques, Institutionnels et Économiques*, ed. Boualem Bendjilali (Bénin, 1997), 235–260.

6 Holy Quran, Al-Imran 92.

7 According to Abū Hurayrah, reported by Muslim. Hadith no1383 in Riyadh As-Sālihīn.

8 Noubi Mohamed Hassan, *Al Waqf Wa Al Omran Al Islami* (Riad: Université le roi Saoud, 2010).

1.2. The Historical Aspect of the Waqf

Charitable endowments have a considerably older history than Islam, and it is also very likely that Islam was influenced by earlier civilizations like Mesopotamia, Greece, and Rome, as well as the pre-Islamic Arabs⁹. Over time, all human societies had known a primary form of the waqf, such as places of worship, libraries, and roads among the Greeks and Romans¹⁰.

For centuries, the waqf was the keystone for economic, educational, health services, etc. Its foundations and works are still extant and bear witness to its wealth despite its suffering from marginalization, restrictions, and theft.

1.2.1. In Non-Muslim Countries

After the disappearance of the Roman State, churches constituted the only forms of waqf in Europe. We had to wait until the beginning of the 13th century to see the emergence of a few “foundations” for charitable purposes, such as hospitals and schools.

The experience of the Islamic awqaf inspired the West, and more precisely, of the Ottoman civilization, to create universities thanks to waqf endowments. These are, for example, Oxford, Cambridge, the London School of Economics and Political Science, Harvard and Stanford¹¹.

1.2.2. In Muslim Countries

The Kaaba construction can be considered the first religious waqf known to humankind. However, the waqf had experienced its real boom with the first Muslim community in Medina, particularly by the mosque of Quba.

With various objectives and forms, going from the religious to the societal level, Muslims became aware of the role of the waqf. In the beginning, they invented the “waqf zurri” for the benefit of their offspring; they then

9 Murat Cizakca, “Awqaf in History and its Implications for Modern Islamic Economies,” *Islamic Economic Studies* 6, No. 1 (1998).

10 Monzir Kahf, *Al Waqf Al Islami* (Damas: Dar Fikr, 2000).

11 BID, “Impact de Développement Du Fonds d’Investissement Des Biens Awqaf / Un Modèle de Développement Durable.”

started another aspect of the waqf with an economic vocation, favoring investment, the income of which is intended for social and charitable works. They thus founded for the first time in the history of humanity the long-term economic institution that very much resembles what is qualified today by “organisms of civil society”.

From the 3rd century of hijrah, all social functions had goods in waqf format to ensure their expenses, perpetuate them, and offer education and health services. Offering other services to orphans, such as the supply of drinking water, child protection, etc., was also a question.

Muslims in different corners of the world, regardless of their social level, have continued to contribute to immobilizing their property. Muslim kings, princes, and rich people - even the poor - immobilized housing and land so that the income generated could be used to build mosques, libraries, hospitals, serve donations to the destitute, lend without interest, etc.

At the time of the decline of the Muslim countries, the waqf suffered a bad fate. Much of the waqfs was demolished, and lands, wells, and buildings were violently attacked.

1.2.3. Waqf in Morocco

In Morocco, the waqfs are considered a heritage of the Muslim community. Their income has been used for religious learning, charities, mosques, schools, orphanages, hospitals, and sometimes for street lighting and drinking water. The Moroccan sultans (Saadians, Marinids, and Alaouites) built and restored several mosques and schools in Marrakech, Safi, Casablanca, and many others¹².

During the second half of the last century, as pressure from the European powers increased, further concessions were granted to the Europeans and their protected ones. These concessions were in the form of *ibdal/istibdal*, leading to the usurpation of waqf properties.

The Awqaf management organization was an example of a typical French colonial system. Moroccan control over the institution seemed to survive, but all native decision-making powers that mattered were abolished.

12 El Mekki Ennaciri, “Al-Ahbass Al-Islamiya Fi Al-Mamlaka Al-Maghribia,” (Rabat: Ministère des Habous et des affaires Islamiques, 1992).

Despite the vigilance of Moroccans, the French tights have seized a large part of awqaf goods through sales at ridiculous prices or through long-term rentals. The French colonization of Morocco limited the field of awqaf to constructing mosques. Unfortunately, this idea continued after Morocco's independence and hindered the development of the waqf in Morocco until today¹³.

1.3. The Forms of the Waqf

The main countries where the waqf experienced its real boom are Egypt, Türkiye, Syria, Palestine, Lebanon, Saudi Arabia, Tunisia, Iran, Andalusia, and Morocco. Other foundations existed notably in Persia, Bukhara, and India. These waqfs took many forms.

1.3.1. Mosques and Universities

Mosques are the most popular form of waqf in the world, and they were the first thing that Muslims built once they conquered a country, a city, or a village¹⁴. Muslims built several mosques, which were later transformed into universities and equipped with libraries. This was the case of Zaitouna in Tunisia, Al Azhar in Egypt, the Haouzas in Iran, and several others in Türkiye¹⁵.

In Morocco, the first waqfs were also mosques. The Al Qarawiyyin Mosque in Fez, constructed as a university that exists today, is an exceptional case. It was built in 877 by a woman (Fatima Al Fihri), and seen the historical place it occupies as one of the oldest universities in the world, having scientific and political roles for tens of centuries.

1.3.2. Awqaf of Benevolence

Islam encourages believers to care for people experiencing poverty and people passing through "Abir Sabil." Throughout the centuries and in all Muslim countries, providing for the needs of the needy, such as food and

13 Ennaciri, "Al-Ahbass Al-Islamiya Fi Al-Mamlaka Al-Maghribia."

14 Ahmad Al-Raisuni, *Al-Waqf Al-Islami Majalatuhu Wa Ab'aduhu*, (2014).

15 Abderrahmane Lahlou, *Al Bank Al Islami Fi Al Maghrb: Al Masar Tarikhi Wa Al Intidarat Al Iqtisadiya Wa Al Mojtamaia* (Casablanca: Almadariss, 2015).

free accommodation for passengers or the elderly, has been practiced a lot. Damascus, Baghdad, and Al Kairouan housed auspices for various charitable purposes.

In Morocco, these activities took the form of “*zaviyes*”, places of worship, education, jihad, accommodation, and catering. Some of them have been converted into guesthouses in the city of Fez.

1.3.3. Awqaf for Public Infrastructure

Given the water scarcity, donors were interested in dedicating wells, irrigation works, and public granaries. They also wanted to supply town infrastructure, mainly drinking water, fence walls, and public roads. These initiatives became more critical towards the end of the Ottoman Empire. The most important thing was establishing the railway line linking Medina to Istanbul via Palestine and Damascus in the 19th century.

In Morocco, donors planned to equip towns with drinking water and dig wells. Given Islam’s importance of cleanliness, waqfs were oriented towards constructing Moorish baths. They also prioritized the construction of bridges, public lighting, and cemeteries.

1.3.4. Awqaf for the Sick and Needy

Thanks to the waqf system, individual care of the sick and handicapped could be collectively and continuously carried out. Sick people were cared for by qualified people under the supervision of doctors like Ar-Razi, Ibn Sina, and Ibn Rushd. To ensure the functioning of these establishments, other goods were transformed into waqf through their income, and forms of hospitals called “*bimaristan*” emerged. This name has been deformed into “*marstan*” in Morocco. In Fez, Meknes, Rabat, Marrakech, Tangier, and many other cities, there were marstans and those reserved for the mentally ill, such as Sidi Frej in Fez and Mohammed El Ghazi in Rabat. The sick enjoyed pensions, and salaries were paid to those who cared for them. There were also waqfs for the blind, such as the one of Abi El Abbas Essabti in Marrakech. We must not omit to quote a very particular waqf devoted to injured storks in the form of care and food until they recover.

We must also mention other particular types. Services in the form of waqf were also provided to facilitate the celebration of the poor's marriages. In Marrakech, there was a house for women with marital disputes where they could be fed and housed until their problems were resolved.

2. The Management of the Waqf and the Challenges of Its Development

Social services cost the state enormously, while the waqf can bear such a burden as it has been able to for decades. The waqf fulfilled an essential social role in pre-modern Muslim societies by impacting urban life and economies¹⁶.

In many countries, waqf institutions do not receive the attention they deserve. Despite their high potential, their current state is unsatisfactory, and mismanagement is the leading cause. The crucial challenge facing the awqaf is to ensure that their heritage is preserved and developed so that they can contribute to social and economic development. This requires efficient management of waqf assets, based primarily on professionalism and innovation.

2.1. The Handicaps of Waqf in the World and the Solutions Proposed

Over the centuries, waqf institutions have played an essential role in solving various socio-economic problems. Today, there are increasing expectations around the waqf as a third sector. Waqfs are attracting more attention from the public and private sectors. Governments in the Muslim world are increasingly aware of the waqf's economic potential. *Dafterdar* states that the waqf's role in overtime as a lever for socio-economic development has been heavily neglected¹⁷. After the independence of many governments, it was considered a public good.

16 Yaacov Lev, *Charity, Endowments and Charitable Institutions in Medieval Islam*, ed. University Press Of Florida (Miami, 2005).

17 Mohamad Hisham Dafterdar, "The Role of Awqaf in Modern Economic Development," *Islamic Banking and Finance* 2, No. 1 (2015): 41–57.

2.1.1. Contemporary Waqf Issues

The main obstacles hindering the development of the waqf in the world are the absence of an appropriate legal framework, the image problem of the mutawallis (trustees), and the low public confidence in the waqf. There are also factors related to the mode of governance, which pays little attention to financial efficiency and profit generation, unlike commercial companies. Strategically, a waqf institution is obligated to respect the conditions of waqif (endower), donor expectations, and the legal environment.

Waqfs manage various activities like investment, property management, and fundraising. Their main purpose is to provide human services, positively influencing the quality of lives of people experiencing poverty. Other beneficiaries include mosques, schools, cemeteries, roads, bridges, and water wells, complicating their mission.

By nature, waqf foundations are trans-generational organizations concerned with the long rather than the short term, negatively affecting their business decisions.

Financially, they are generally inefficient; social efficiency takes precedence over financial efficiency, and they risk depleting their resources due to operating and capital costs¹⁸. Despite their commercial potential, waqf assets are not appropriately managed. Legislative shortcomings, administrative shortcomings, lack of political will, indifference of the awqaf leadership, and lack of honesty and integrity are the main factors hindering the development of the waqf. To solve these problems, waqf institutions must professionally manage them within a modern administration.

2.1.2. Solutions Proposed for the Development of the Waqf

Lack of awareness of waqf is a major obstacle to harnessing its potential. To revitalize the sector, various awareness channels are necessary. On the other hand, waqf institutions and Islamic banks can provide direct financing and invest in Islamic capital market instruments with underlying social impact projects. Two sources of financing, the cash waqf and the

18 Dafterdar, "The Role of Awqaf in Modern Economic Development."

musharakah sukuks can revitalize the waqf and meet the financial needs related to the development of waqf properties¹⁹.

Cash waqf is a powerful alternative method of the Western economic system and one of the potentially effective instruments of poverty reduction. Moreover, it is the backbone of microenterprise development through the waqf model²⁰. Cash waqf has several advantages. The first is the possibility of more comprehensive public participation; everyone can contribute a sum of money according to their income level. On the other hand, it helps to generate liquidity due to the continuous inflow of donations and enjoys a certain flexibility when raising funds and investing them, unlike tangible assets.

The cash waqf mechanism could fulfill the function of qard hasan (interest-free loan) well. Through interest-free loans, the waqf fits well with empowerment programs for people experiencing poverty. These funds are likely to free small businesses from the cost of debt.

Tax incentives, including income tax exemptions, such as laws in the United States relating to philanthropy, are a fundamental driver to encourage donation operations. These tax incentives may also relate to investment income related to awqaf²¹.

Legal flexibility, through provisions governing the temporary waqf, the family waqf, and the testamentary waqf, with broader possibilities under the conditions of the waqfs, is highly desirable.

As for modern modalities, several scholars have proposed using sharia-compliant contracts, such as mudarabah and musharakah, as leasing is a weak investment tool. Another suggested contract is al-istisnaa, whereby the waqf institution entrusts a funding body to construct a building on waqf land with deferred payment of costs²².

19 Saim Kayadibi, Zarinah Hamid and Norma Md Saad, "The Contribution of Waqf Institutions in Malaysia and Turkey in Improving the Socio-Economic Conditions of the Society," *Turkish Journal of Islamic Economics* 4, No. 1 (2017): 1–29.

20 Abdul Hamid Mar Iman and Mohammad Tahir Sabit Haji Mohammad, "Waqf as a Framework for Entrepreneurship," *Humanomics* 33, No. 4 (2017): 419–440.

21 Kahf, "Al-Waqf Al-Islami."

22 Al-Ayyachi Sadeq Faddad, *Tanmiyat Mawarid Al Waqf Wa Al Mohafada Alayha*, 2002.

To ensure its development, it is necessary to consider enlarging the waqf vertically and horizontally: vertically, by retaining existing awqaf and increasing their income, and horizontally, by encouraging new awqaf. It is also necessary to support research and studies about the development of the awqaf, particularly those related to the ethical and psychological aspects of the waqf concerning individuals²³.

2.2. The Management of the Waqf in Morocco and the Obstacles to its Development

The Ministry of Awqaf and Islamic Affairs exclusively governs the waqf sector in Morocco. In 2016, to ensure the proper structure of awqaf, the Ministry created a department called Direction des Awqaf, the only entity authorized to manage waqf assets in Morocco.

2.2.1. The Management of the Waqf in Morocco

After the independence of Morocco in 1956, considerable efforts were made to manage the remaining properties and their preservation, supported by a Moroccan royal will, under the supervision of the Ministry of Awqaf. The Ministry of Awqaf manages three main activities: goods, preservation of awqaf, and investment. These are entrusted locally to the Nidharats Al Awqaf under the supervision of the High Council for Control of Awqaf Finances.

In most cases, the goods were transformed into waqf concerns, including mosques and their annexes (to cover their operating costs). The Ministry of Awqaf also receives an annual budget from the Moroccan state and international grants, such as those from the Islamic Development Bank.

Mosques and traditional educational institutions benefit from awqaf income through student facilities, teachers' allowances, and literacy programs.

2.2.2. The Missions of the Moroccan Directorate of Awqaf

The Directorate of Awqaf is responsible for developing strategies, plans, studies, and projects related to managing waqf assets, supervising

23 Salim Hani Manssour, *Al Waqf Wa Dawroho Fi Al Mojtamaa Al Moassir* (Arrissala, 2004).

administrative procedures, preserving the sustainability of assets (safeguard, litigation, rehabilitation), and encouraging donors to the waqf. The Directorate has three primary missions: preservation of awqaf properties, awqaf investment, and management of awqaf properties.

2.2.2.1. Preservation of Awqaf Properties

The supervising ministry oversees the “registration of the goods” enacted in the statute waqf and possibly manages their litigation shutter. According to the official website of the Ministry of Awqaf and Islamic Affairs²⁴, at the end of 2017, the area of registered titles exceeded 9,000 hectares, with approximately 14,000 land titles obtained, resulting in a very significant evolution compared to 2016.

At the same time, litigation management has increased, particularly given the legal actions due to the encroachments of certain awqaf lands. About fifty exchanges of goods in cash were carried out, and land was made available, an increase of around 600% compared to 2015. This is 283,715m² given to the inhabitants of villages, associations, and local authorities for constructing mosques, developing spaces of a social nature, and constructing schools for traditional education.

2.2.2.2. Investments in Awqaf

The awqaf’s investment budget in 2017 was devoted to several projects, particularly strengthening buildings threatened with ruin (474,993.78 MAD), building and extending socio-cultural establishments (10,027,564.39 MAD), and improving income properties (27,340,304.85 MAD). On the other hand, 9,291,696.80 MAD was devoted to restoring the Merdasa Ben Youssef in Marrakech and 44,000,000 MAD to rehabilitate certain cities (Rabat, Salé, and Sidi Bennour). 159,500,000.00 MAD was dedicated to constructing the administrative and cultural complex of the Casablanca awqaf alongside those of Tangier, Ben Slimane, and Nador.

24 <https://www.habous.gov.ma/> (Access Date: 14.08.2024).

2.2.2.3. Awqaf Property Management

Urban assets are numerous and varied and constitute the most important heritage of the awqaf in terms of financial profitability. For the year 2017, they generated income of 350,236,645.35 MAD, mainly from rental transactions and lease transfer rights. Conversely, agricultural assets, particularly agricultural leases and the sale of crops and wood, constitute a significant source of self-financing. Based on statistics from the Ministry of Awqaf and Islamic Affairs, the following table summarizes the urban and agricultural incomes of the waqfs in Morocco for ten years in MAD.

Year	Urban income (in MAD)	Agricultural income (in MAD)
2008	215,368,842.00	67,945,343.00
2009	227,440,780.00	76,859,719.00
2010	239,355,868.01	71,298,742.00
2011	264,252,547.35	62,254,977.00
2012	285,558,931.13	70,691,559.00
2013	296,564,187.05	70,305,817.26
2014	307,646,020.31	80,865,855.00
2015	311,197,548.72	74,567,031.00
2016	336,052,749.40	86,792,246.00
2017	350,236,645.35	66,101,224.35

Table 1: Evolution of urban awqaf income from 2008 to 2017

These figures indicate an upward trend in urban incomes during the ten years studied. On the other hand, agricultural incomes tend to stagnate, hence the need to give more importance to waqf goods of the agricultural type.

2.3. Legal Framework of the Waqf in Morocco

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, which established a broader legal framework for the waqf, and the constitution of the Superior Council for the Control of Finances of Public Awqaf in 2012, which is responsible for the good management of awqaf and the development of their income according to the principles of good governance.

The Moudawana was prepared from 1997 to 2010 with the aim of having a complete legal framework with all the rigor required in terms of style and vocabulary. The Moudawana addresses the constitution of the endowment, its conditions, its effects, the types of waqf, and the organization and control of public finance of awqaf.

The Moudawana of the Awqaf (June 14, 2010) defines the waqf as “*any asset immobilized on a permanent or temporary basis, and its usufruct is allocated to a public or private charity. It is established by contract, will, or force of law. The waqf can be general, contractual, or common*”²⁵.

The Higher Council for Public Finance Control of the Awqaf was created on February 23, 2012, in accordance with Dahir No. 1.09.236 relating to the Moudawana of the Awqaf (articles 157 to 165). This body aims to control and propose actions to ensure good management, according to transparency and good governance principles, the protection of funds in waqf status, and the development of their income.

2.4. The Problems of Awqaf in Morocco

Among the most disabling scourges is that individuals no longer assume responsibility for public matters and consider that the state alone should take care of them. Despite the efforts made to develop the waqfs in Morocco, the sector suffers from a range of obstacles that go against the challenges of the socio-economic development hoped for in this country.

25 Amina Laminou and Ahmed Chakir, “Waqf Crowdfunding: Proposition d’un Modèle Alternatif d’inclusion Sociale Dans Le Contexte Marocain,” *Recherches et Applications En Finance* 5 (2021): 72–89.

For a whole century (1912-2012), the waqf system suffered from several problems. First, there was weak legal protection against the waqif (endower), mawqouf (endowed), nadher (trustee), and others. Secondly, the low contribution of the waqf in socio-economic development due to poor management linked, in particular, to the specificities of the public sector. Lately, waqf operations have declined due to a lack of trust and the absence of waqf culture²⁶.

2.5. How is it Possible to Develop the Waqf in Morocco?

The waqf system certainly has an impact on socio-economic development. To do this, we must first try to change the mentality of Moroccans vis-à-vis the waqf and, simultaneously, manage the heritage of Moroccan awqaf with an entrepreneurial spirit while facilitating the administrative procedures for donations.

2.5.1. Awareness of the Importance of Waqf

The preliminary challenge is that the waqf in Morocco suffers from an image problem. This problem is mainly linked to the construction of mosques. Moroccans should pay more attention to the importance of waqf, especially in the education and health sectors. This awareness comes through increased awareness about the purpose and benefits of waqf.

Indeed, the waqf would not have developed without the support of funds. Therefore, it is essential to establish a culture of donation. On the one hand, we must revitalize the culture of public philanthropy and strengthen public confidence by highlighting Law No. 18.18 (July 18, 2022) relating to the organization of fundraising operations with the public. On the other hand, it is necessary to revitalize waqf donations by communicating their advantages and facilitating administrative procedures (e.g., digitization).

26 Abderrazak Essbihi, "Al Khota Al Manhajiya Li Tatwir Kawanin Al Awqaf," in *Al Waqf Fi Tounes, Al Wakia Wa Al Afaq*, (Tunis, 2012), 1-49.

2.5.2. The Simplification of the Procedures for the Realization of Waqf

The waqf sector is under the supervision of the Moroccan State and comes exclusively from the public administration, characterized by rigidity, administrative slowness, and low autonomy.

Given the world's perpetual complexity, a revival of the waqf system in Morocco is of great importance. It would also involve citizens in socio-economic development through generosity and facilitate donation procedures. Government policies towards the waqf should be positive and work to facilitate its development at all levels. Tax incentives could help encourage donations from individuals and companies.

2.5.3. Professionalism in the Management of Awqaf

Management of awqaf focuses essentially on renting property, whether agricultural land or furniture, in the cities. It relies mainly on self-financing and state support. The inventory of waqf properties is complicated to operate, given the donations' age, the areas' narrowness, and their dispersion at the level of Moroccan territory. Consequently, litigation occupies a large part of the management of awqaf activity, given the illegal occupation of certain awqaf property.

It is also imperative to review the management of the awqaf form, favoring an institution enjoying certain independence under state control instead of a public administration characterized by bureaucracy. Good governance, a focus on investment, professionalism, and a spirit of innovation are necessary. Awareness of the importance of good waqf management must be developed, based increasingly on the spirit of investment rather than the conservation and management of awqaf properties.

The search for financial profitability in parallel with social profitability is very legitimate in ensuring the sustainability of awqaf. The use of new technologies and their modes of exploitation allows the valuation of waqf income and the use of its returns.

2.6. Results and Development Paths of the Waqf in Morocco

Morocco's socio-economic challenges make it urgent to provide solutions, particularly those relating to financing. Morocco has an extensive heritage of awqaf assets in the form of buildings, shops, bare land, agricultural land, etc. The development of waqf deserves to be more important in contributing 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 to change their idea that the waqf is linked only to the construction of mosques. It is also necessary to establish a culture of donations for social purposes, such as the construction of hospitals and universities, among Moroccans. Secondly, it is necessary to manage the heritage of the Moroccan awqaf more efficiently by simplifying the administrative procedures of the waqf donation with a professional and innovative spirit. Finally, capitalizing on the experiences of other Islamic countries where the waqf is highly developed, such as using cash waqf, is extremely useful.

Conclusion

In Morocco, efforts to generalize social services have made it possible to reach the basic level of schooling and to expand the supply of care. However, these efforts have not been accompanied by an improvement in the quality of public education, training, and health services. The challenges facing Morocco make it urgent to provide answers, and financing is the keystone. The revitalization of the waqf model could constitute a means of sustainable financing.

Sensitize Moroccans to the advantages of the waqf and mediate around the subject to encourage donation, facilitate the administrative procedures relating to the operations of awqaf, and encourage them to carry out waqfs in the sectors of education, scientific research, and the health sector instead of focusing solely on the religious aspect.

Encouraging reflection and dialogue on ways to strengthen the waqf is of major urgency to achieve Morocco's development objectives, which include catching up with and revitalizing the third sector.

It is time for the waqf to regain its place and demonstrate its effectiveness in various fields other than the religious aspect, namely education, health, and urban planning. Speed in the process is highly desired, particularly by two major axes. Firstly, the vision of Moroccans vis-à-vis the waqf must be changed, and it must not be confined to the angle of donations for religious purposes, particularly the construction of mosques. Secondly, it is time to enhance the awqaf heritage with an entrepreneurial spirit and encourage individuals and organizations to donate to benefit other sectors experiencing significant difficulties in health, education, drinking water, etc.

This paper's main limitation is that it is rather descriptive. It should be filled with investigations into the recommendations proposed for future research.

References

- Abdelhalim Saqr, Atiya. *Iktissadiyat Al Waqf*. Cairo: Dar En-Nahda, 1998.
- Abderrazak Essbihi. "Al Khota Al Manhajiya Li Tatwir Kawanin Al Awqaf." In *Al-Waqf Fi Tounes, Al Wakia Wa Al Afaq*. Tunis, 2012, 1–49.
- Al-Raisuni, Ahmad. *Al-Waqf Al-Islami Majalatuhu Wa Ab'aduhu*. 2014.
- Al-Azimi, Majid Soulaïmane. "Al Waqf Wassila Faala Li Nahdat Al Mojtamaa." *Journal de La Faculté Des Études Islamiques et Arabes* 5, No. 36 (2020).
- BID. *Impact de Développement Du Fonds d 'Investissement Des Biens Awqaf / Un Modèle de Développement Durable*. 2019.
- CESE. *Le Nouveau Modèle de Développement Du Maroc*. 2019.
- Cizakca, Murat. "Awqaf in History and Its Implications for Modern Islamic Economies." *Islamic Economic Studies* 6, No. 1 (1998).
- Dafterdar, Mohamad Hisham. "The Role of Awqaf in Modern Economic Development." *Islamic Banking and Finance* 2, No. 1 (2015): 41–57.
- Echchabi, Abdelghani, and Oladapo Hakeem Babatunde. "Waqf Awareness among University Students in Malaysia: An Empirical Study." *International Journal of Excellence in Islamic Banking and Finance* 3, No. 2 (2013): 1–13.
- Ennaciri, El Mekki. *Al-Ahbass Al-Islamiya Fi Al-Mamlaka Al-Maghribia*. Rabat: Ministère des Habous et des affaires Islamiques, 1992.
- Faddad, Al Ayyachi Sadeq. *Tanmiyat Mawarid Al Waqf Wa Al Mohafada Alayha*. 2002.
- Feddad, Layachi. "Fiqh Al-Waqf : Présentation Des Différents Aspects Fiqistes Du Waqf." In *La Zakat et Le Waqf: Aspects Historiques , Juridiques, Institutionnels et Économiques*, edited by Boualem Bendjilali (1997), 235-260.
- Hassan, Noubi Mohamed. *Al Waqf Wa Al Omran Al Islami*. Riad: Université le roi Saoud, 2010.
- Iman, Abdul Hamid Mar, and Mohammad Tahir Sabit Haji Mohammad. "Waqf as a Framework for Entrepreneurship." *Humanomics* 33, No. 4 (2017): 419–440.
- Kahf, Monzir. *Al Waqf Al Islami*. Damas: Dar Fikr, 2000.
- Kayadibi, Saim, Zarinah HAMID, and Norma Md Saad. "The Contribution of Waqf Institutions in Malaysia and Turkey in Improving the Socio-Economic Conditions of the Society." *Turkish Journal of Islamic Economics* 4, No. 1 (2017): 1–29.
- Lahlou, Abderrahmane. *Al Bank Al Islami Fi Al Maghrb: Al Masar Tarikhi Wa Al Intidarat Al Iqtisadiya Wa Al Mojtamaia*. Casablanca: Almadariss, 2015.
- Laminou, Amina, and Ahmed Chakir. "Waqf Crowdfunding: Proposition d'un Modèle Alternatif d'inclusion Sociale Dans Le Contexte Marocain." *Recherches et Applications En Finance* 5, (2021): 72–89.
- Lev, Yaacov. *Charity, Endowments and Charitable Institutions in Medieval Islam*. Miami: University Press Of Florida, 2005.

- Manssour, Salim Hani. *Al Waqf Wa Dawroho Fi Al Mojtamaa Al Moassir*. Arrissala, 2004.
- Quddus, Muhammad Fathrul, Fatin Fadhilah Hasib, and Universitas Airlangga. "Waqf in History: a Systematic Literature Review Based on Web of Science." *Journal of Muslim Society Research* 8, No. 1 (2023): 79–94.
- TLahiri Jouti, Ahmed. "An Integrated Approach for Building Sustainable Islamic Social Finance Ecosystems." *ISRA International Journal of Islamic Finance* 11, No. 2 (2019): 246–66.

Innovative Financing Methods for Waqf Development: Case Studies by Warees Investments in Singapore

Adam, Hudzaifah Alyaman*

Introduction

Waqf stands as one of the most important institutions and legacy of the early Singapore Muslim pioneers, which continues to benefit the wider community even today. These predecessors bestowed a significant heritage to uplift and extend positive influence that would surpass their own lifetimes to improve the socio-economic welfare of religious institutions, charitable organizations, and the poor and needy.

Given Singapore's land scarcity, waqf real estate and properties, which form a significant portion of the overall waqf assets, are deemed to be prime and highly valuable. Their total value is more than SGD 1 billion as of 31 December 2022, comprising over 100 properties, mostly located either within or on the fringes of the city center. Despite the significant intrinsic value of these properties, many of these waqfs do not have sufficient funds to undertake significant restoration or redevelopment works to optimize their use and value further, as all income derived from it must be disbursed to the beneficiaries annually in accordance with the Administration of Muslim Law Act (AMLA), Singapore¹.

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1 Masagoes Muhammad Isyak, *Enhancing Community Assets: Sustaining Wakaf Legacy, Fulfilling the Trust*, (World Scientific Publishing Co Pte Ltd, 2018), 165 - 179.

Such development projects require significant capital investments, and securing appropriate financing is crucial for success. Selecting the proper form of financing ensures the long-term sustainability of the waqf. It protects the interest of its beneficiaries from overexposure to risks arising from the differing forms of financing. This paper aims to explore the various types of real estate financing options that Warees Investments Pte Ltd² (“Warees Investments”) and the Singapore Islamic Religious Council (“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.

1. Traditional Financing Methods

1.1. Debt-based financing

Traditional real estate development financing methods primarily include debt 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 view³ 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.

To avoid using waqf property as collateral, Warees Investments, through its subsidiary, WHA Heritage Pte Ltd (“WHA Heritage”), entered into a joint development venture with waqf Masjid Al-Huda to develop a piece of land the waqf owns illustrated as follows:

2 Warees Investment, a wholly owned subsidiary of Muis, is one of the region’s premier endowment asset management companies. It is responsible for managing and unlocking the value of waqf assets in Singapore (www.warees.sg).

3 Ahmad Furqon, “The Ideal Model of Waqf Financing,” *Journal of Islamic Economics, Management, and Business* 2, No. 2 (2020), 39.

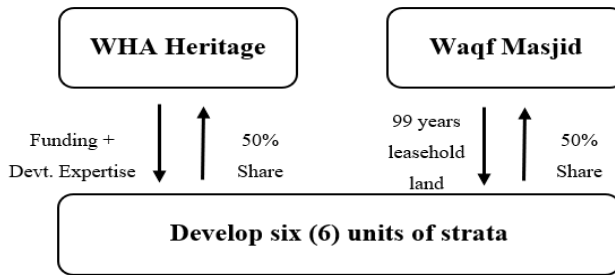


Figure 1

As per Figure 1, WHA Heritage will contribute funding and real estate development expertise while Waqf Masjid Al-Huda carves out a 99-year lease (*Hukr*) from its freehold land to develop it into six (6) luxury semi-detached units for sale called Alias Villas. At the expiry of the lease, the land and development revert to the waqf.

As a private entity that owns physical income-generating assets that can be used as collateral, Warees Investments had access to various lines of credit that shield the waqf from financing risks. Therefore, it took up a revolving credit facility loan for the development of Alias Villas on behalf of WHA Heritage. A critical risk of debt-based financing is the high interest rate, especially in the current climate. In the case of Alias Villas, timing was crucial. Selling the semi-detached units within the 1.5-year development period was necessary to avoid paying interest over a long-term period.

Four (4) out of six (6) of the units were eventually sold before they were completed, and the waqf, through the joint venture, retains two (2) of the units as part of a 50% share, which will be leased for rental income.

1.2. Equity-based financing

Equity financing, on the other hand, involves raising capital by selling ownership stakes in the development project. Investors, for example, individuals, corporations, or trust funds (including cash waqfs), will contribute funding 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.

The next case study investigates how seven (7) waqfs with dilapidated properties entered into a joint development venture with a cash waqf and Warees Investments to restore these assets to enhance and optimize their income, as illustrated below:

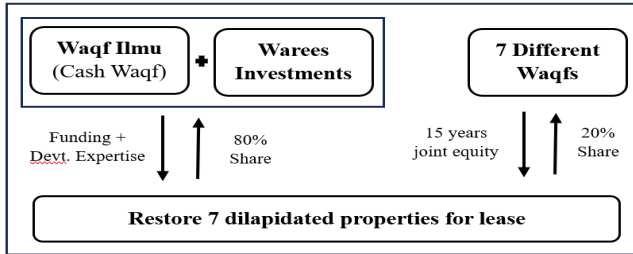


Figure 2

The mandate for Waqf Ilmu, a cash waqf, allows its funds to be invested in income-generating instruments so that the proceeds can be distributed back to its beneficiaries, namely the various religious institutions in Singapore. In the present case study, as per Figure 2, Waqf Ilmu utilized its funds to invest in a joint venture development with seven (7) different waqfs to restore their dilapidated properties given that these waqfs do not have cash reserves for it to undertake restoration works. Likewise, Warees Investments also invested in joint venture development and provided its development expertise.

Collectively, Waqf Ilmu and Warees Investments, as the investors, have an 80% stake in the joint venture development, while the remaining 20% is shared collectively by the seven (7) waqfs over 15 years. The proportion above would also share the net rental income derived from these properties.

A critical challenge of equity-based financing is determining the profit ratios, which require extensive negotiations and buy-ins from the different parties. In the present case study, the investors had a higher stake in the joint venture development as their contribution, in the form of cash, had higher risks as compared to the waqfs that contributed to their dilapidated properties.

Careful considerations were also made to ensure that the seven (7) waqfs do not suffer lower returns than what they have been receiving to disburse thus far. Therefore, the subsequent management of these restored assets by Warees Investments is critical to ensure that the rental income doubles or more after restoration works so that the investors can recuperate their investments in a shorter period and disbursements by the seven (7) waqfs are not duly affected.

At the joint venture's expiry, the investors will exit, and the seven (7) waqfs can fully retain their individual properties and benefit from the total net rental income.

2. Alternative Financing Methods

2.1. Waqf-Based Sukuk (Bonds)

In recent years, alternative financing methods have gained popularity, and one such method that has been utilized 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.

The following case study explores how Muis and Warees Investments employed a waqf-based sukuk for the redevelopment of Waqf Bencoolen, illustrated as follows:

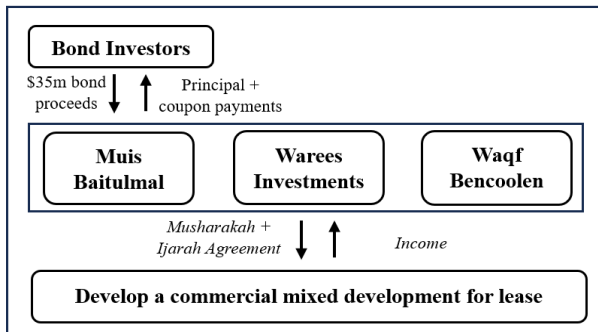


Figure 3

As illustrated in Figure 3 above, an innovative financing model consisting of two parts, “*musharakah*” (partnership) and “*ijarah*” (leasing), was structured to develop a commercial mixed-development comprising a serviced apartment, commercial retail units for lease and an integrated mosque.

In the first part of the *musharakah*, the waqf contributed land, while Muis Baitulmal provided the necessary amount to develop it, which is \$35 million through the issuance of sukuk. Warees Investments, on the other hand, provided development and management expertise. In terms of profit distribution, as per most *musharakah* agreements, it is divided accordingly based on capital invested. The sukuk holders, through Muis Baitulmal, earned coupon repayments of 3.03%, which were derived from the leased income of the serviced apartments.

The second part of the model, the *ijarah*, was entered between Muis and Ascott for the latter to operate the serviced apartments, which comprise an annual guaranteed income and profit sharing. Warees Investments serves as the asset manager to ensure the operator’s optimal performance during development.

A critical challenge of waqf-based sukuk is the need for specialized expertise to protect the interests of the different parties involved. Additionally, the high costs associated with its issuance and the ability to repay the bond investors upon maturity pose significant risks. In the present case study, careful considerations were implemented to ensure a steady stream of income from the serviced apartment through an annual guaranteed income by the operator to fulfill the annual coupon repayment commitment and its principal. It was eventually fully repaid within the ten (10) years of maturity period.

At the same time, the income from the commercial units was solely structured to benefit the waqf, specifically so that disbursements to its beneficiaries were ring-fenced from the risks arising from the complex financial structure.

2.2. Crowdfunding via Institutional Investors

Another alternative financing method to consider is crowdfunding through institutional investors. This method benefits institutions with excess funds or surpluses in their reserves. Allowing them to participate in waqf financing for development projects allows a win-win situation for both the investor and waqf, benefiting the wider community.

The next case study looks at how Warees Investments pooled together several institutional investors to provide partial financing to develop a residential complex on land owned by a waqf, as illustrated below:

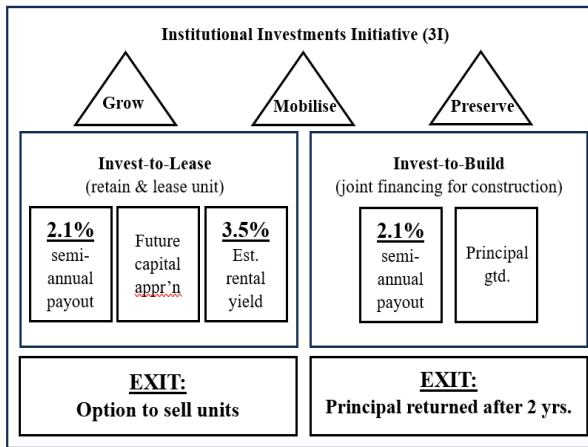


Figure 4

Similar to Waqf Masjid Al-Huda earlier, Waqf Sherifa Zain Alsharoff carved out a 99-year lease from its freehold site to develop a mixed residential and commercial development for sale and lease, The Red House. At the expiry of the lease, the land and development revert to the waqf.

As illustrated above in Figure 4, the financing structure that was uniquely undertaken for The Red House development was termed the Institutional Investments Initiative (3I) and had three (3) main objectives, namely to 1) grow the community assets, 2) mobilize institutional participation and 3) to preserve community heritage. The financing structure itself consists of two (2) parts: 1) Invest-to-Lease and 2) Invest-to-Build.

Under the Invest-to-Lease scheme, four (4) institutional investors participated in investing in seven (7) units totaling \$8.95m, which entitled them to a 2.1% semi-annual *hibah* payout for two (2) years during the construction period before leasing out the units upon completion at an estimated gross yield of 3.5% per annum. Thus, the *hibah*, as well as the subsequent recurring income derived from leasing the units, will allow the institutional investors to benefit their specific beneficiaries while providing waqf with the necessary financing for the development. The institutional investors may subsequently choose to sell the units to enjoy capital gains, given that real estate in Singapore appreciates over time.

Under the Invest-to-Build scheme, five (5) mosques participated in investing \$1 million each, which entitled them to a 2.1% semi-annual *hibah* payout for two (2) years. This was a beneficial arrangement for all parties where mosque investors could place their reserves in a shariah-compliant instrument while enjoying higher returns than conventional fixed deposits (approximately 1% per annum at the time of investments). The principal was guaranteed, and the mosques could redeem their principal amount at the end of the two-year period through the sale of the residential units by the waqf.

Nonetheless, one of the critical challenges for crowdfunding financing is that it requires careful management of investor expectations to ensure all parties benefit from the arrangement. Building trust among investors is crucial, as investors need confidence that their investments will be handled responsibly and that the platform will act in their best interests. Poorly managed projects can erode this trust.

Real estate markets can also be cyclical, and economic downturns can significantly impact the value of real estate investments. Therefore, crowdfunding platforms would require investment management strategies during such economic downturns. Additionally, it is essential to provide clear exit strategies for investors, such as options to sell their units or exit their investment when a project matures. The lack of exit options can, in turn, deter potential investors.

Conclusion

In conclusion, exploring various real estate financing methods for waqf development projects in Singapore highlights the remarkable efforts made to preserve and enhance these valuable assets. As an enduring legacy of early Singaporean Muslim pioneers, waqf continues to play a vital role in benefiting the broader community. However, the challenges posed by land scarcity and financial constraints necessitate innovative financing solutions.

As such, 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 embracing both traditional and innovative financing methods, Singapore's waqf institutions are working diligently to ensure the sustainability and prosperity of their assets for generations to come.

References

- Abdul Karim, Shamsiah. "Contemporary Shari'a Compliance Structuring for the Development and Management of Waqf Assets in Singapore." *Kyoto Bulletin of Islamic Area Studies* 3-2 (March 2010).
- Furqon, Ahmad. "The Ideal Model of Waqf Financing." *Journal of Islamic Economics, Management, and Business* 2. No. 2 (2020).
- Majlis Ugama Islam Singapura. *The Next Lap: Rethinking and Driving Positive Change for the Community*. 2022. <https://www.muis.gov.sg/-/media/Files/Corporate-Site/Annual-Reports/Muis-Annual-Report-2022.ashx>
- Muhammad Isyak, Masagoes. *Enhancing Community Assets: Sustaining Wakaf Legacy, Fulfilling the Trust*. World Scientific Publishing Co Pte Ltd, 2018.

Corporate Waqf of Indonesia: Implementation and Institutional Transformation

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Khusniati Rofiah***

Introduction

Historically, waqf has played an important role, especially in the Muslim world. Waqf benefits have delivered the practices of social charity such as hospital service, educational institutions, and other social prosperity institutions to serve across religious communities¹. Various assets and waqf practices have given space for the ups and downs in waqf development in every era phase. Unlike zakah, which is only for the internal of Muslims, waqf practice, as confirmed by the experts of Islamic law, allows non-Muslims to take part as public benefit recipients². Besides, non-Muslims can also become waqif (endower) in waqf. As practiced in the past, waqf is related to immovable wealth where waqif submits the asset as land or public building, especially for waqf recipients³.

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- 1 Timur Kuran, "The Provision of Public Goods Under Islamic Law: Origins, Impact, and Limitations of the Waqf System," *Law and Society Review*, (2001): 841–98.
- 2 Miriam Hoexter, "The Waqf and the public sphere," *The public sphere in Muslim societies*, 2002, 119–38.
- 3 Asep Saepudin Jahar, "Bureaucratizing Sharia in Modern Indonesia: The Case of Zakat, Waqf and Family Law," *Studia Islamika* 26, No. 2 (2019): 207–45.

Waqf development continues in line with contemporary Islamic law fatwa dynamics, such as the practice of cash waqf⁴. In turn, waqf assets in the form of money will enlarge asset development through waqf shares. It implies that the presence and participation of company institutions in waqf practice cannot be denied. One of the contemporary constructions in waqf is known as corporate waqf. Corporate waqf is not a component of cash waqf, but it is an independent entity of waqf because corporate waqf has its characteristics and broadened meaning in contemporary waqf⁵, as practiced in many countries with various innovations and variants, such as in Türkiye, Bangladesh, Pakistan, Malaysia, Singapore, etc.

Corporate waqf, in general, can be understood as the involvement of a company entity in waqf activities⁶. Corporate waqf practice in Malaysia, for instance, through Johor Corporation (“JCorp”), which started its business in 1998 and developed becoming a waqf entity through Waqf An-Nur Corporation Berhad (“WANCorp”), one of the best practices of contemporary waqf. WANCorp, in developing waqf assets, can carry out its share capitulation in Malaysia. The dividend obtained from the share development is then used, reinvested, and given to The Islamic Religion Council (“MAIN”) for social importance in Malaysia. Through the model of this productive waqf then, Jcorp implements its beneficiary program sustainably⁷. The practice of productive waqf like Jcorp then inspired The Islamic Religion Council of Selangor State (“MAIN Selangor”) and Muamalat Bank Malaysia Berhad (“BMMB”) to make a collaboration program in developing a waqf fund called Muamalat Selangor Waqf. MAIN Selangor also starts to introduce the waqf share scheme. Meanwhile, the best practice of

4 Murat Cizakca, “The Islamic Gold Dinar—Myths and Reality,” *ISRA International Journal of Islamic Finance* 3, No. 1 (2011): 49–63.

5 Asharaf Mohd Ramli and Abdullaah Jalil, “Corporate Waqf Model and its Distinctive Features: The Future of Islamic Philanthropy,” dalam *Dipresentasikan Pada Worlds Universities Islamic Philanthropy Conference Di Kuala Lumpur*, (Malaysia, 2013).

6 Miftahul Huda, Luqman Bin Haji Abdullah, Lukman Santoso, and Lia Noviana, “Ulema Viewpoints on Corporate Waqf as Legal Entity,” *Journal of Legal, Ethical and Regulatory Issues* 24, No. 2 (2021): 1–9; Aisha I Saad, “The Corporate Waqf in Law and Practice,” *Berkeley Journal of Middle Eastern & Islamic Law* 10, No. 1 (1 January 2019): 1–22, <https://doi.org/10.15779/Z38NC5SC93>.

7 Ramli and Jalil, “Corporate waqf model and its distinctive features.”

contemporary waqf in Türkiye is developed by Koc Holdings, the first legal entity to establish and manage waqf property since the beginning of 1967⁸.

Corporate waqf has also developed in the Indonesian context, especially in collecting waqf assets as company shares. The Foundation of Waqf Board Islamic University of Indonesia Yogyakarta (“YBW UII”), one of the waqf-based institutions, has also started applying corporate-based contemporary waqf. Meanwhile, the practice of contemporary waqf in Islamic Boarding School institutions can be seen from the nazir of the waqf practiced by Tebuireng Islamic Boarding School Jombang. It has developed a productive waqf the form of a limited company entity.

Six principles of corporate waqf development apply shares as mawqūf bih, waqf company as nāzīr entity, shakhṣīyah ahlīyah (legal capacity), and wilāyah (legal authority), waqf li nafsīhi, mushtarak waqf, waqf ibdāl, and administration of waqf share assets⁹.

Considering this corporate waqf institution is the new practice of institutional waqf developing in Indonesia, then there are some basic principles in corporate waqf based on waqf fiqh, namely *shakhṣīyah i'tibārīyah* either the expert (legal capacity) or *wilāyah* (legal authority), *wāqif* waqf or themselves, *al-waqf* which determines themselves, mixed/hybrid waqf (*waqf mushtarak*) or the combination of *waqf khayrī*, *waqf dhurrī*, and *istibdāl*¹⁰. More principally, there are six principles of corporate waqf development such as *mawqūf bih* share, the corporate waqf as *nāzīr entity*, *shakhṣīyah ahlīyah* (legal capacity) and *wilāyah* (legal authority), *waqf li nafsīhi*, *mushtarak waqf*, *waqf ibdāl*, and asset administration of waqf shares¹¹.

The concept of corporate waqf, as one form of Islamic waqf nowadays, has been explored in various contexts. Bakar¹² and Saad¹³ discussed its po-

8 Murat Cizakca, “Awqaf in History and its Implications for Modern Islamic Economies,” *Islamic Economic Studies* 6, No. 1 (1998).

9 Miftahul Huda, “Sharia Principles in Implementing Corporate Waqf,” *PalArch's Journal of Archaeology of Egypt/Egyptology* 17, No. 3 (2020): 461–73.

10 Asharaf Mohd Ramli and Abdullaah Jalil, *Banking Model of Corporate Waqf: An Analysis of Wakaf Selangor Muamalat*, (2013).

11 Miftahul Huda, “Sharia Principles,” 465.

12 Ridzwan Bakar, Wardah Sakinah, Rapih Zaini, and Farzana Sarmin., “Corporate Waqf University: A Sustainability Model,” *Journal of Emerging Economies and Islamic Research* 7, No. 1 (31 January 2019): 24–36.

13 Norma Md Saad et al., “Managing Corporate Waqf in Malaysia: Perspectives of Selected SEDCs and SIRC,” *Jurnal Syariah* 25, No. 1 (1 January 2017): 91–116.

tency as a payment instrument for private universities and the entities' facilities to give back to the community. *Hayat's* study offers a model of waqf management from the practice of productive waqf in Hamdard, Pakistan, as a successful example of corporate waqf¹⁴. Meanwhile, *Ahmad* digs further into the determinant factor of corporate waqf contribution by identifying factors such as knowledge, subjective norms, and attitude¹⁵. This research collectively highlights corporate waqf's potency in overcoming economic inequality and improving community prosperity.

By taking a more comprehensive perspective, this study focuses on the implementation and transformation of productive waqf management in Indonesia until delivering the idea at once an offer of a corporate waqf development model based on traditional wisdom. This model offer is essential as a contributive effort in developing a model of sustainable waqf management. This study also tries to explore the application of the main principles of corporate waqf ("CWCP") based on shariah principles and the reinforcement of its institution in the model of contemporary corporate waqf.

1. Corporate Waqf Core Principles

Theoretically, corporate waqf is understood as the management of waqf assets and distribution of waqf results by the entity, either independently or cooperating with other parties. This definition can be explored further in four categories of the waqf dimension: the management of waqf and asset, waqf distribution, entity and individual party, or cooperation with other parties.

In the first stage, the company endows funds. The corporate entity develops the waqf asset alone to make it productive. In this situation, the corporate entity owns waqf wealth itself. The waqf asset can be in the form of financial assets such as cash and shares or non-financial assets such as buildings or land. At the same time, the entity is nominated as the trustee

14 Naeem Hayat and Ammara Naeem, "Corporate Waqf: A Case of Hamdard (Waqf) Pakistan," *SSRN Electronic Journal*, (2014).

15 Muhammad Fakhurrrazi Ahmad, "Determinants of Corporate Waqf Contribution from the Perspective of Muslims in Malaysia," *ICR Journal* 11, No. 2 (30 December 2020): 252–76.

responsible for managing, maintaining, and investing the waqf asset. In other words, the entity is also a *nazir* or *mutawalli* of the waqf assets.

The corporate entity then can run itself as the only recipient or one of the waqf recipients to have the freedom to manage and utilize the result. This is known in fiqh as *al-waqf alā al-wāqif* or waqf made by the owner himself. This practice has been allowed by some experts of Islamic law. After receiving the result, they distribute it to the benefit recipients such as poor people, Islamic social institutions, etc. This provision allows the corporate entity to manage and utilize the result as a form of waqf productivity. This flexibility is essential to attract more participation from corporate entities to become a practice of corporate waqf. This means that the corporate entity can manage, plan, and distribute the fund creatively and productively, according to the entity and community needs, during the fund distribution. If a lousy economy occurs where the corporate entity experiences financial difficulty, they can use waqf funds for themselves and are not required to distribute it. This aspect of corporate waqf will enter a business importance element of the entrepreneurship waqf concept (*tabarru'*).

Corporate waqf is established by individuals involved in institutional entities, resulting in activities such as commerce and investment. This entity also must determine the ethics of company management, such as accountability, transparency, and professionalism in collecting and distributing the waqf asset. In line with the structure of state law, the entity can also establish, manage, and distribute waqf results to the benefit recipients independently¹⁶.

The conceptual explanation of corporate waqf core principles (shariah principles) is six principles of corporate waqf development namely the share as *mawqūf bih*, the company as a waqf entity; *shakhṣīyah ahliyyah* (*legal capacity*) and *wilāyah* (*legal authority*), *waqf li nafsihi*, *waqf mushtarak*, *ib-dāl waqf*, administration, and the management of corporate waqf¹⁷.

16 Jan Michiel Otto, *Sharia Incorporated. A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present* (Leiden: Leiden University Press, 2010).

17 Huda, "Sharia Principles in Implementing Corporate Waqf," 461.



Figure 1: Six Main Principles of Corporate Waqf

Share waqf as *mawqūf bih* is more understood as the effort to create a new asset in waqf development, especially corporate waqf. Ensuring the share as the new asset of waqf (*mawqūf bih*) is urgent and is the first shariah principle. This shows that sharing waqf is an attractive alternative asset with solid potential to develop waqf sustainably. The waqf assets always experience development. In the modern era, money waqf is an asset that can be developed. However, in the last ten years, waqf assets have experienced transformations, such as in the form of a company's share waqf¹⁸.

The second principle was legal certainty, namely, the company as a new entity of waqf management (*nāzir*). In waqf, *wāqif* (endower) is an individual (*shakhṣiyah haqīqiyah* or *ṭabī'iyah*). However, in corporate waqf, the *wāqif* is an entity. Therefore, the concept of individual or legal entity (*shakhṣiyah i'tibārīyah/qānūnīyah/ ma'nawīyah*) is a must as *nāzir* of waqf. Nevertheless, because most Islamic contemporary law experts disagree with this concept based on an analogy with *bayt al-māl*, the mosque, and educational institution, this can be considered finished. However, the two most essential

18 Buerhan Saiti, Adama Dembele and Mehmet Bulut, "The Global Cash Waqf: A Tool against Poverty in Muslim Countries," *Qualitative Research in Financial Markets*, (2021).

requirements that must be included in *shakhṣīyah i'tibāriyah* are *ahliyah* (the legal capacity) and *wilāyah* (the legal authority). These two requirements mean that *wāqif* must become a subject owner or agent (*wakīl*) appointed by the owner who made the contract based on the *wakālah* contract. This problem is probably more significant if the company plans to create a scheme of corporate waqf owned by the government, not individuals¹⁹.

The permit transformation of waqf self-management (*waqf li nafsih*) becomes the third shariah principle. Generally, waqf practice is defined as *Amal* (good deed) and *qurbah* (sacrifice). Thereby, most Islamic law experts state that waqf ownership does not return to waqif because it is correlated to the purpose of waqf. However, some practices of corporate waqf run for the *wāqif* itself as the official owner of the waqf. The mainstream point of view of Islamic law experts about this problem argues that it is invalid because *wāqif* cannot have back what they have given as waqf. This is the principle of al-Malikiyah attitude in their most decisive point of view, also the official opinion of al-Hanabilah (*al-madhhab*) and Muhammad Ibn al-Hasan from al-Hanafiyah. Meanwhile, on the other side, Abu Yusuf from al-Hanafiyah approves that waqif can regain their asset, which is the formal attitude of *al-Hanafiyah*²⁰.

The second opinion above, in the practice of corporate waqf, does not indeed mean returning the waqf asset. A practice like that is carried out to give the corporate institutions complete flexibility, ownership, and right to manage and distribute the waqf result or event using it. The institution can use the company waqf result for its utilization program and reuse it to maintain operational activity and business in certain situations. This flexibility will motivate more to be involved in corporate waqf and provide more spaces for shariah obedience. Nevertheless, this opinion legally confronts the existing law framework.

Another problem that seems to be emerging similarly to the previous one is the situation where *wāqif* determines himself as the single recipient of waqf or the primary benefit recipient or among the benefit recipients from

19 Ramli and Jalil, "Corporate waqf model and its distinctive features."

20 Miftahul Huda and Lukman Santoso, "Konstruksi Model Wakaf Perusahaan dalam Negara Hukum Indonesia," *Al-Daulah Jurnal Hukum dan Perundangan Islam* 9, No. 2 (2019): 222–249.

the waqf result. Al-Hanabilah, Al-Hanafiyah, and one opinion of Al-Shafi'iyah view this practice as permitted to encourage people to develop waqf. On the other hand, al-Shāfi'iyah and Muhammad Ibn al-Hasan from al-Ḥanafiyah view this practice as not allowed in general, with particular exceptions²¹.

The fourth principle is *musharak* waqf. For the benefit recipient, waqf can be *khayri* waqf (charity contribution) or *ahli/dhurri* waqf (waqf for the descendants). Based on the practice of corporate waqf, it has been observed that some institutions determine themselves or their subsidiary as the primary recipient of waqf results. Some experts of Islamic law agree with that practice. The combination of *khayri waqf* and *dhurri waqf* is known as *musharak waqf* from the fiqh perspective. From a managerial standpoint, *musharak waqf* can benefit the institutions involved in the corporate waqf. The institution can design the scheme of corporate waqf so that it can be in line with its distribution program. Therefore, the corporate waqf program and benefit distribution can be built together as a mutual relationship²².

The fifth shariah principle is implementing the more accessible and flexible *istibdāl waqf/exchange asset*. *Istibdāl* problem is pivotal for the sustainability of corporate waqf. Even though in practice, *istibdāl* is approved by some experts of Islamic law with specific conditions, after being reviewed in more detail to ensure shariah obedience on the practice of *istibdāl*. The model of corporate waqf, as initiated and practiced by WANCorp Malaysia, has run *istibdāl* practices such as the asset exchange of waqf with the principle of change profits. Mufti has made and admitted this concept of *istibdāl* in some countries such as Malaysia.

The sixth shariah principle is the presence of administration management in corporate waqf. The share waqf administration is essential in asset monitoring and protection procedures. Share waqf is a very potential asset in developing waqf sustainably. Therefore, the protection of waqf assets in the form of shares must be regulated by working with the Financial Service Authority, *nāzir*, and Indonesian Ulama Council²³.

21 Miftahul Huda and Lukman Santoso, "The Construction of Corporate Waqf Models for Indonesia," *International Journal of Innovation, Creativity and Change* 13 (2020): 720–34.

22 Huda, "Sharia Principles in Implementing Corporate Waqf"

23 Shamsiah Abdul-Karim, *Contemporary Shari'ah Structuring for the Development and Management of Waqf Assets in Singapore* (Durham University, 2010).

2. The Implementation of Corporate Waqf in Indonesia

Based on the best practices of productive waqf management in Indonesia, at least three (3) characteristics of corporate waqf are the reality of waqf practice.

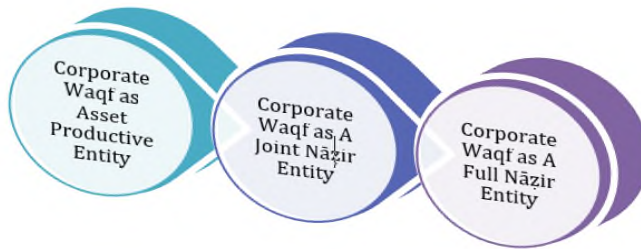


Figure 2: Three Characteristics of Corporate Waqf Implementation

First, corporate waqf is understood as an effort to manage the waqf asset by *nāzir* through cooperation with the corporate institution. This means that the corporate entity is only in the context of a third party that develops the waqf asset from *nāzir*. Second, corporate waqf is the effort to develop waqf by collecting the share waqf from various companies in the entity. This is like what has been done by the company in Johor, Malaysia, by creating the share waqf and the company An-Nur Corporation as the corporate waqf. Third is the effort to develop share waqf by entirely creating the corporate entity that manages the share waqf asset fully and independently²⁴.

In the first context, the implementation of the first principle in corporate waqf can be exemplified through the waqf management of an Islamic Boarding School, Tebuireng Jombang, and The Foundation of Waqf Board the Islamic University of Indonesia Yogyakarta, which has a specialty with their diversities. The implementation of corporate waqf principles at Tebuireng Jombang in the form of developing the productivity of waqf assets, either movable or immovable ones, in the frame of a single corporate waqf institution, namely Limited Company Berkah Tebuireng Jaya. The development of the waqf asset at Tebuireng Islamic Boarding School generates an effort to develop the asset with various innovations, such as

24 Magda Ismail Abdel Mohsin, *Corporate Waqf: From Principle to Practice: A New Innovation for Islamic Finance* (Pearson Malaysia Sdn Bhd, 2014).

agribusiness reinforcement with the company and increasing the capacity of *nāzīr*.²⁵ The waqf entity at Tebuireng Islamic Boarding School has also applied waqf *ibdal* and uses professional administration and management²⁶.



Figure 3: The Implementation of Corporate Waqf at Tebuireng Jombang

While UII has developed a company institution as an effort of asset productivity by applying multi-companies in each unit until delivering multi-companies under the control of YBW UII Yogyakarta, such as the presence of development and expansion outside the university, hospital development, and SPBU (Gas Station) of UII²⁷ waqf based and other productive businesses, YBW UII Yogyakarta also has developed the waqf asset either movable or immovable ones, included applying a professional waqf administration and development. However, they still do not develop the assets as shares²⁸.

25 Miftahul Huda, “Wakaf Dan Kemandirian Pesantren Dari Tebuireng Hingga Gontor,” *Islamica: Jurnal Studi Keislaman* 7, No. 1 (2012): 211–31.

26 Miftahul Huda and Lukman Santoso, “Implementation of Corporate Waqf Core Principles in the Development of Waqf in Indonesia,” *Academic Journal of Interdisciplinary Studies* 11, No. 5 (2 September 2022): 114–24.

27 Miftahul Huda, “Manajemen Fundraising Wakaf: Potret Yayasan Badan Wakaf Universitas Islam Indonesia Yogyakarta dalam Menggalang Wakaf,” *Justicia Islamica* 11, No. 1 (2014).

28 Huda and Santoso, “Implementation of Corporate Waqf Core Principles in the Development of Waqf in Indonesia,” 114.



Figure 4: The Application of Corporate Waqf Principles at YBW UII Yogyakarta

Most corporate-based waqf development, especially in the form of a limited company in the first context, is developing productive waqf assets by making the company the productivity driving force. The second and third contexts manifest the presence of company share as a waqf asset either partially or fully in the effort context and even before being developed.

3. The Institutional Transformation of Corporate Waqf in Indonesia

Waqf developed in various Muslim countries. Its development experiences ups and downs and is strongly influenced by each country's social-political condition, including its development in multiple regions in Indonesia. Indonesia has developed various models of contemporary waqf, including corporate waqf. However, it is still not comprehensive yet. Some examples are such as²⁹ Indonesia Waqf Saving (TWI), Waqf Foundation of Building the Nation Heart (YWB-NB), Al-Azhar Waqf, Indonesia Waqf House (RWI), Global Waqf Corporation (GWC), Al Khairaat Foundation, and some other similar businesses³⁰.

29 Rozalinda, *Manajemen Wakaf Produktif* (Jakarta: PT Raja Grafindo Persada, 2015).

30 Muljawan, *et al, Wakaf: Pengaturan dan Tata Kelola yang Efektif* (Jakarta: Bank Indonesia, 2016).

In the Indonesian context, a more comprehensive waqf regulation, including corporation and share waqf, is reflected in Law Number 41 Year 2004 about waqf. This transformation was confirmed by establishing Government Regulation No. 42 in 2006 about the Implementation of Waqf Law. The era at once marks the actual symptoms of waqf law integration in the form of law (*Takhrij al-Ahkâm fi al-Nash al-Qânun*). Forming the Indonesia Waqf Board (BWI) is one of its results³¹.

Through the waqf law product, the waqf management and distribution effort has comprehensive legal protection, significantly developing a productive waqf. This legal product mainly regulates the component of movable waqf assets, especially in the form of company shares and cash, as applied in some modern Muslim countries³².

In a company, an entrepreneur can specialize some of his share waqfs as waqf property in which its divided result is distributed for the people's prosperity. Share waqf can also be taken from the profit of all the shares owned by the owner. All depend on the willingness and desire of the share-owner because the important thing is not the tiny share result but more on the commitment of waqif partiality towards the prosperity of Muslims.

International Islamic Fiqh Academy, at the 19th conference, took place in the United Emirates on 1-5 Jumadil Ula 1430 H/ (26-30 April 2009) and issued a decree about share waqf. This conference issued a decree that contained permission to share waqf, considering that the waqf is one of the fiqh discussions widely opened for receiving *ijtihad* (the result of discussion). It is included in the worship, which can be reasoned (*ma'qul al-ma'na* bond to *syara' purpose*) to manifest the waqf benefit for waqif and *mauquf 'alaih*³³. If referring to the opinion of previous fiqh scholars, the discussion about this shared waqf can be categorized into beneficial waqf. Beneficial waqf is the waqf whose benefit can be enjoyed by the owner and others.

31 The issuance of this legal product marks a new history of legal products derived from Islamic teachings in Indonesia.

32 Asharaf Mohd Ramli and Abdullaah Jalil, "Corporate Waqf Model and Its Distinctive Features: The Future of Islamic Philanthropy," (December 2013), 9.

33 International Islamic Fiqh Academy Ijtihad Decision No. 181 (7/19) on Waqf of Shares, Cheques, Ma'nawi Rights and Benefits.

The Fatwa Commission of Indonesia Ulama Council (“MUI”) has also allowed the sharing of waqf, which is analogized to cash waqf. The fatwa by the MUI Fatwa Commission about cash waqf was issued on May 11th, 2002. In the fatwa, it is determined that someone, a group of people, an institution, or a legal entity in the form of cash do money waqf. Included in the definition of money is the securities. Cash waqf may only be distributed and used for the sectors shariah allows. The principal value of cash waqf must be guaranteed for preservation and may not be sold, gifted, or inherited.

However, in its practice, this waqf regulation also encounters obstacles, such as not being synergized yet with Law Number 40 Year 2007 about Limited Liability Companies (“UU PT”). This means that the share definition existed in Article 60 Paragraph (1) of UU PT, which mentioned that a share is movable and gives rights to the owner. In addition, it still does not have the waqf paradigm. The shared existence and right shift in the positive law, entirely with the ownership of one corporation’s characteristics, differ from the civil partnership and other similar legal entities³⁴. This transferability feature enables the company to do business without interruption when the owner changes. This, in turn, can increase the importance of shareholders and allow them to build and maintain diversification of their portfolio investment³⁵. However, the implication will certainly differ when its shift is in the waqf context, even though it still can be done.

This aspect must be synergized, and a share shift can alter its ownership status. Pursuant to Article 21 of Government Regulation Number 42, 2006, about the Implementation of Waqf Law, shares are included as movable things besides money because the law regulation can become waqf if it contradicts the shariah principle.

Related to waqf, which comes from the share done by a shareholder of a specific company, it is not apart from the provision of share transfer itself. The provision by UU PT also gives the company authority to determine the share ownership requirement by paying attention to the requirement determined by the authorized institution following the law regulations. The type

34 Helza Nova Lita, Yeni Salma Barlinti and Uswatun Hasanah, “Waqf Shares to Create Equitable Economic Distribution in Islam in Relation to the Law Number 41 of 2004 on Waqf,” in *Law and Justice in a Globalized World* (Routledge, 2017).

35 Ridwan Khairandy, *Hukum Perseroan Terbatas* (Yogyakarta: FH UII Press, 2014).

of personal share making as waqf previously must be adjusted with the related company Association Article provision. Besides, it is also related to the share that will be made as waqf. The share must be in the form of waqf, included in the share following shariah and not in the contrary with shariah³⁶.

Share or corporate waqf can prevail on the existing shares or the shares bought to be made as waqf. A company can apply corporate waqf by making the share it owns or purchasing the share of other companies as waqf³⁷. The limited liability company as a legal person in its activity, especially in business activity, has legal consequences or moral obligations like humans as the legal subject in general, particularly if the activity will significantly influence the community.

In the concept of corporate waqf, it is determined if there is a benefit or dividend resulting from the share waqf in a company. Then, the benefit is distributed directly to the community, and some is returned to increase its benefit³⁸.

The share waqf must be registered at the waqf board. Likewise, the Company Directors must conduct and save the list of shareholders following the provision of Article 50 of UU PT³⁹. The share waqf must also be reported and registered by the company directors, including the name and address of share waqf *nāzir*, the amount, number, date of share waqf implementation, and its classification in this case issued by more than one share classification. The share waqf is registered at the company and recorded in line with the provision of Article 50 of UU PT. However, based on the provision of Article 3 of Government Regulation No. 42, 2006, about The Implementation of The Waqf Law, the recording on the *nāzir* name does not show that the share waqf is owned by *waqf*. *Nāzir* only takes care of it per the purpose mentioned in the waqf contract. The shared waqf in the form of family waqf is for public prosperity or relatives based on the bloodlines (*nasab*) with *waqif*.

36 Girindra Mega Paksi, Asfi Manzilati, dan Marlina Ekawaty, *Wakaf Bergerak: Teori dan Praktik di Asia* (Penerbit Peneleh, 2020).

37 Budi Santoso, *Wakaf untuk Perusahaan* (Malang: Universitas Brawijaya Press, 2011), 52.

38 Budi Santoso, "Wakaf Untuk Perusahaan," 52-53.

39 Pasal 50 Undang-Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas.

Various models of institutional-based waqf have developed in Indonesia. They are at least categorized into three (3) models: the Islamic Boarding School waqf model, 2) the university-based waqf model, and 3) the corporate-based waqf model. The model of corporate waqf that starts to grow at least needs to be synergized and integrated with the models of corporate waqf overseas, such as Jcorp, Awqaf Holding, and Warees, which own a professional and integrated scheme included its monitoring area by the presence of an independent auditor until it can generate the progressive practices of contemporary waqf in Indonesia.

Conclusion

Waqf development in the contemporary era is increasingly dynamic, including in Indonesia. The dynamism, for example, can be seen from the diversity of waqf development models in various Muslim countries, such as Türkiye, Malaysia, Saudi Arabia, and others. In addition, the transformation towards productive waqf is improving in the form of cash, stock, and corporate waqf.

Optimizing the development and management of waqf assets in Indonesia must be done productively and innovatively, one of which is through corporate waqf. Therefore, adjustments and strengthening are needed on the regulatory side, as well as an integrative and holistic understanding among scholars in developing corporate waqf to catch up with other countries. Some integrative corporate waqf development models include financial business-based waqf, corporate business-based waqf, university business-based waqf, and pesantren business-based waqf.

Corporate waqf seeks to strengthen the development of waqf in an integrative manner, not only by strengthening the institutional nāzir but also by ensuring that company shares, as an alternative waqf asset, can provide sustainable benefits. In other words, corporate waqf can be a strategic alternative to accelerate the national economy and sustainably improve people's socio-economic situation.

References

- Abdul-Karim, Shamsiah. "Contemporary Shari'ah Structuring for Developing and Managing Waqf Assets in Singapore." PhD Thesis, Durham University, 2010.
- Bakar, Ridzwan, Wardah Sakinah, Rapih Zaini, and Farzana Sarmin. "Corporate Waqf University: A Sustainability Model." *Journal of Emerging Economies and Islamic Research* 7, No. 1 (31 January 2019): 24–36.
- Barlinti, H. N. Lita, U. Hasanah, Y. S. "Waqf Shares to Create Equitable Economic Distribution in Islam about the Law Number 41 of 2004 on Waqf." *Dalam Law and Justice in a Globalized World*. Routledge, 2017.
- Cizakca, Murat. "Awqaf in History and its Implications for Modern Islamic Economies." *Islamic Economic Studies* 6, No. 1 (1998).
- Cizakca, Murat. "The Islamic Gold Dinar—Myths and Reality." *ISRA International Journal of Islamic Finance* 3, No. 1 (2011): 49–63.
- Hayat, Naeem, and Ammara Naeem. "Corporate Waqf: A Case of Hamdard (Waqf) Pakistan." *SSRN Electronic Journal*, 2014.
- Hoexter, Miriam. "The Waqf and the Public Sphere." *The Public Sphere in Muslim Societies*, (2002), 119–38.
- Huda, Miftahul. "Manajemen Fundraising Wakaf: Potret Yayasan Badan Wakaf Universitas Islam Indonesia Yogyakarta dalam Menggalang Wakaf." *Justicia Islamica* 11, No. 1 (2014).
- Huda, Miftahul. "Sharia Principles in Implementing Corporate Waqf." *PalArch's Journal of Archaeology of Egypt/Egyptology* 17, No. 3 (2020): 461–473.
- Huda, Miftahul. "Wakaf dan Kemandirian Pesantren dari Tebuireng hingga Gontor." *ISLAMICA: Jurnal Studi Keislaman* 7, No. 1 (2012): 211–231.
- Huda, Miftahul, Luqman Bin Haji Abdullah, Lukman Santoso, and Lia Noviana. "Ulema Viewpoints on Corporate Waqf as Legal Entity." *Journal of Legal, Ethical and Regulatory Issues* 24, No. 2 (2021): 1–9.
- Huda, Miftahul, and Lukman Santoso. "Implementation of Corporate Waqf Core Principles in the Development of Waqf in Indonesia." *Academic Journal of Interdisciplinary Studies* 11, No. 5 (2 September 2022): 114–24.
- Huda, Miftahul, and Lukman Santoso. "Konstruksi model wakaf perusahaan dalam negara hukum Indonesia." *Al-Daulah Jurnal Hukum dan Perundangan Islam* 9, No. 2 (2019): 222–249.
- Huda, Miftahul, and Lukman Santoso. "The Construction of Corporate Waqf Models for Indonesia." *International Journal of Innovation, Creativity and Change* 13, (2020): 720–734.
- Ismail Abdel Mohsin, Magda. *Corporate Waqf: From Principle to Practice: An Innovation for Islamic Finance*. Pearson Malaysia Sdn Bhd, 2014.
- Jahar, Asep Saepudin. "Bureaucratizing Sharia in Modern Indonesia: The Case of Zakat, Waqf and Family Law." *Studia Islamika* 26, No. 2 (2019): 207–245.
- Khairandy, Ridwan. *Hukum Perseroan Terbatas*. Yogyakarta: FH UII Press, 2014.

- Kuran, Timur. "The Provision of Public Goods under Islamic Law: Origins, Impact, and Limitations of the Waqf System." *Law and Society Review*, (2001), 841–898.
- Md Saad, Norma, Suhaimi Mhd Sarif, Ahmad Zamri Osman, Zarinah Hamid, and Muhammad Yusuf Saleem. "Managing Corporate Waqf in Malaysia: Perspectives of Selected SEDCs and SIRC's." *Jurnal Syariah* 25, No. 1 (1 Januari 2017): 91–116.
- Muhammad Fakhurrhazi, Ahmad. "Determinants of Corporate Waqf Contribution from the Perspective of Muslims in Malaysia." *ICR Journal* 11, No. 2 (30 Desember 2020): 252–276.
- Otto, Jan Michiel. *Sharia Incorporated - A Comparative Overview of the Legal Systems of Twelve Muslim Countries in the Past and Present*. Leiden: Leiden University Press, 2010.
- Paksi, Girindra Mega, Asfi Manzilati, dan Marlina Ekawaty. *Wakaf Bergerak: Teori dan Praktik di Asia*. Penerbit Peneleh, 2020.
- Ramli, Asharaf Mohd, and Abdullaah Jalil. *Banking Model of Corporate Waqf: An Analysis of Wakaf Selangor Muamalat*. 2013.
- Ramli, Asharaf Mohd, and Abdullaah Jalil. "Corporate Waqf Model and its Distinctive Features: The Future of Islamic Philanthropy." *Dalam Dipresentasikan Pada Worlds Universities Islamic Philanthropy Conference Di Kuala Lumpur*. Malaysia, 2013.
- Rozalinda. *Manajemen Wakaf Produktif*. Jakarta: PT Raja Grafindo Persada, 2015.
- Saad, Aisha I. "The Corporate Waqf in Law and Practice." *Berkeley Journal of Middle Eastern & Islamic Law* 10, No. 1 (1 January 2019): 1–22.
- Saiti, Buerhan, Adama Dembele, and Mehmet Bulut. "The Global Cash Waqf: A Tool against Poverty in Muslim Countries." *Qualitative Research in Financial Markets*, 2021.
- Santoso, Budi. *Wakaf untuk Perusahaan*. Malang: Universitas Brawijaya Press, 2011.



Crowdfunding Waqf for Housing: Case From Saudi Arabia

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Introduction

Saudi Arabia Vision 2030 emphasizes a housing program that offers solutions for Saudi families to own or rent houses at affordable prices. They target the most underprivileged segments of Saudi society. The program has a developmental impact on the private sector and economic growth. Massive efforts should be made to support the stability and sustainability of society under all economic conditions. Hence, the author of this paper strongly believes that crowdfunding waqf for housing should be applied in all housing programs and initiatives within Saudi Arabia to maintain sustainability. The objective of crowdfunding waqf for housing supports the Global Sustainable Development Goals (“SDGs”), precisely SDG number 11, “Sustainable Cities and Communities,” which emphasizes offering safe, clean, and sustainable housing.

“No one will be left behind” with crowdfunding waqf. Scholars, legislators, communities, and individuals must cooperate and engage in the waqf revolution to transfer the 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.

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Affordable housing reduces poverty and inequality and achieves SDGs like good health and well-being, gender equality, clean water and sanitation, affordable and clean energy, economic growth, industry innovation and 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. However, the National Development Housing Foundation initiatives aim to engage individuals and organizations in the community in donations for housing via digital platforms like Jood Eskan (Jood Housing). Jood Eskan lists eligible criteria in which unprivileged 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 Saudi Arabia. The research gap of this paper is that this platform is based on sadaqah and zakah 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.

Waqf is a sadaqah jariyah (infinite and continuous dedication under terms and conditions by waqif -the donor of waqf-) and an exceptionally blessed philanthropy system. The dedicated waqf, whether cash or non-cash, is kept untouchable, and only its reimbursements are used per the requests of the waqif (waqf donor) for the beneficiary¹. Waqf is a sustainable system to alleviate all sustainable development goals for any Muslim economy, and when it is combined with a fintech tool like crowdfunding, it will substitute the interest system installed in many non-shariah compliant to enhance wealth distribution. Crowdfunding is an innovative fintech that combines both concepts of microfinance² and crowdsourcing. It allows indi-

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- 1 Siti Mashitoh Mahamood, "Pembentukan Dana Wakaf Menurut Perspektif Syariah dan Undang-undang Serta Aplikasinya di Malaysia," *Jurnal Syariah* 15, No. 2 (2007): 61-83; Paul Stibbard, David Russell QC, and Blake Bromley, "Understanding the Waqf in the World of the Trust," *Trusts & Trustees* 18, No. 8 (2012): 785; Suhaili Alma'amun, Muhammad Hakimi Mohd Shafai, Shahida Shahimi, and Muhammad Syaukani Ahmad Adnan, "Waqf-based Crowdfunding: A Case Study of Waqfworld.org," *International Journal of Islamic Economics and Finance Research* 1, No. 1 July (2018): 12-19.
 - 2 Jonathan Morduch, "The Microfinance Promise," *Journal of Economic Literature* 37, No. 4 (1999): 1569.

viduals to contribute to fundraising with any amount of money (no limits on minimum or maximum, as per the donor's desire) for social projects' benefit. When we combine waqf with fintech tools such as crowdfunding, we create an empowering waqf with a secure and efficient mechanism.

Housing waqf crowdfunding is an innovative idea by the author of this paper. Still, it has never been applied in Saudi Arabia, or the MENA region. House waqf crowdfunding has several positive impacts: it enhances community engagement, aligns with social goals, and attractive causes and projects for many waqf donors.

This paper uses "joodeskan.sa"³ as a case study to propose a crowdfunding waqf housing model that is expected to offer Jood Eskan sustainable funding for housing in Saudi Arabia through their existing platform. This paper is structured as follows: the introduction, which includes some literature review about waqf and crowdfunding; the sections on methods and data collection; and the results and discussion. The paper concludes with the section's conclusions and suggestions.

1. Literature Review

Online (digitalized) cash waqf operates efficiently, reduces waqf management costs, and securely enhances the fundraising process⁴ because donors donate directly to the platform, which is also a way to mitigate risk⁵. Crowdfunding is an innovative phenomenon that needs more literature on the subject matter. Many definitions define crowdfunding as "*the use of small amounts of money, obtained from a large number of individuals or organizations, to fund a project, a business or personal loan, and other needs through an online web-based platform*"⁶. Some scholars proposed crowdfunding in the Islamic

3 To access the website, visit: <https://joodeskan.sa>

4 Hanudin Amin, Abdul-Rahim Abdul-Rahman, Thurasamy Ramayah, Rostinah Supinah, and Masmurniwati Mohd Aris, "Determining the Online Waqf Acceptance: An Empirical Investigation," *The Electric Journal on Information System in Developing Countries* 60, No. 8, (2014): 1-8.

5 Mohd Faisal Mohamed Yusof, Mohd Faiz Mohamed Yusof, Mazlin Hani Hasarudin, and Nurhanani Romli. "Cash Waqf and Infaq: A Proposed E-Philanthropy in Malaysia," *Jurnal Kemanusiaan* 12, No. 1 (2014): 1-10.

6 Eleanor Kirby, and Shane Worner, "Crowdfunding: An Infant Industry Growing Fast," *IOSCO Research Department*, (2014): 1-63.

social finance subject, and they classified crowdfunding into four types: donation-based, reward-based, equity-based, and peer-to-peer lending⁷.

The first type is donation-based crowdfunding, where the donors contribute to a project without any financial return. It is like sadaqah donations and common for charitable projects. It is simple and accessible, there is no equity to manage as it requires no financial return, and it supports building a strong community. However, it usually raises smaller contributions in comparison to other crowdfunding types since it may only attract high-value donors if there are financial rewards.

The second crowdfunding type is reward-based crowdfunding, where the donors contribute to a cause or a project while receiving a reward in exchange for their contributions (this reward can be in the form of financial return, products, services, thank you – notes, or experiences related to the project itself). Through this type, a significant donation fund can be raised since this kind offers rewards and incentives. Also, it permits validating, testing, and gathering feedback on the project idea with the help of potential donors before the launch phase. Moreover, it does not involve any equity stakes, and no ownership sharing is given in exchange for funding donations. Nevertheless, managing the rewards can include some complexity, delay, and costs; also, in case of project failure, the donors may not receive their rewards.

The third type is equity-based crowdfunding, where donors receive shares or equity in exchange for donations. This type typically exists where startups of a project are seeking capital. It usually attracts significant donors who are often supporters of projects, so by this type, the donation funds are usually raised in substantial amounts compared to the previous two types. However, the owner of the project and the donors share the ownership and control of the project (“**equity dilution**”); this type also requires strict legal and governance regulations and compliance. Moreover, it is risky to have demanding donors who expect quick returns and results.

The fourth crowdfunding type is peer-to-peer lending (debt-based crowdfunding), where donors provide loans with an interest repayment. Donors of this type are primarily financial institutions. This is a risky type

7 Alma'amun, Mohd Shafai, Shahimi, and Ahmad Adnan, “Waqf-Based Crowdfunding.”

that includes financial burdens, and it is complicated if the project owner wants to build it as a waqf structure; the complexity lies in managing a waqf fund that involves both traditional crowdfunding and Islamic financial principles.

Some other scholars have proposed sadaqah-based crowdfunding, zakah-based crowdfunding, and waqf-based crowdfunding⁸. This paper proposes waqf-based crowdfunding for housing to Jood Eskan.

2. Methods and Data Collection

This research paper employs a mixed methodology, quantitative and qualitative, where the quantitative research was used to target potential donors to gauge their feedback, agreement, and support in terms of waqf funds, and the qualitative research methodology was focused on the policy maker, scholars, ulama, and some representative donors. The data collection methods were mainly literature reviews and discussions, as both the primary and secondary data were employed to obtain theoretical and conceptual information. The literature review was collected from conference papers, journals, articles, and books based on waqf, waqf-based crowdfunding, and waqf in housing. Then, the researcher of this paper preferred to do a pilot study, which was made with eleven participants from potential donors in Saudi Arabia (to clearly understand their behavior, preferences, and fears towards waqf crowdfunding). Later, we directed our pilot study outcomes and discussed them with our research sample participants. Subsequently, data and results were analyzed to create our proposed conceptual mechanism for implementing crowdfunding waqf for housing in Saudi Arabia on the Jood Eskan platform.

This paper reviews the Jood Eskan platform, which allows all individuals to donate to either zakah or sadaqah to help unprivileged Saudi families rent subsidies or housing provision support through initiatives they raise

8 Muhammad Amir Lutfi, and Mohd Adib Ismail. "Sadaqah-based Crowdfunding Model for Microfinancing and Health Care," *The Journal of Muamalat and Islamic Finance Research*, (2016): 31-51; Abidullah Abid, and Muhammad Hakimi Shafai. "Financial Problems of Bottom 40 Percent Bumiputera in Malaysia: A Possible Solution through Waqf-based Crowdfunding," *Turkish Journal of Islamic Economics* 4, No. 1 (2017): 49-65.

on the platform. All the contributions go for housing initiatives. However, a minimum percentage (not exceeding 7% only from sadaqah donations, not zakah) is deducted from the competent committees after their agreement to cover the costs and fees of the platform and partner associations and to ensure their sustainability. Also, an administrative fee is deducted in case of donation in currencies other than Saudi Riyal (SAR). Moreover, the most important thing is that all shareholders authorize the Jood Housing platform to carry out all work to deliver contributions and complete all relevant procedures through the platform's partners, whether from government agencies or partner NGOs, as stated in their platform. Figure 1 below illustrates the existent structure of the platform:

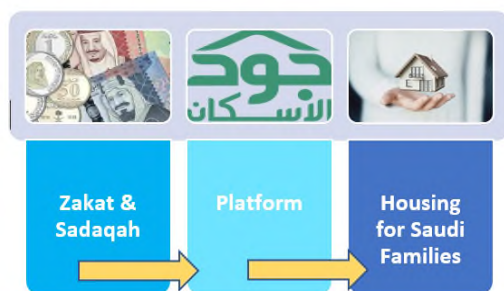


Figure 1: Structure of Existing Jood Eskan Platform

This paper reviews the waqf principle with an endowment mechanism and institution that manages the waqf fund. The idea of a waqf fund is that funds should be accumulated through the crowdfunding mechanism through the Jood Eskan platform, and proceeds should be invested 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. The waqf fund collected by the donors through the Jood Eskan platform requires efficient management to ensure that the investments align with Islamic principles, adhere to legal Saudi laws and regulations, and fulfill all the requirements. In order to do so, we should go through three stages: First, the waqf housing fund creation strategy; second, the housing waqf crowdfunding strategy; and third, the housing waqf crowdfunding investment strategy.

First stage: Waqf Fund Creation for Housing Strategy:

1. Establish the waqf structure under the Saudi legal framework and governance by the Saudi General Authority of Awqaf.
2. Assign the waqf management (it can be either through the Saudi General Authority of Awqaf or the Waqfy Platform⁹).
3. Register the waqf.
4. Prompt the waqf and grow it through the second stage, “housing waqf crowdfunding.”

Second stage: Housing Waqf Crowdfunding Strategy

1. Connect the Waqfy platform with the Jood Eskan platform to manage the crowdfunding waqf for housing.
2. Set up the campaign for housing waqf crowdfunding and develop the marketing strategy.
3. Launch the housing waqf crowdfunding campaign.
4. Communicate with the waqf crowdfunding donors.
5. Collect and process the waqf donation fund through the platform.
6. Allocate waqf funds through the third stage, “housing waqf crowdfunding investment strategy.”

Third stage: Housing Waqf Crowdfunding Investment Strategy

1. List all potential investment types
 - a. Shariah-compliant financial instruments, like sukuk, Islamic bonds, or investment funds.
 - b. Real estates
 - c. Income-generating assets, like assets that generate returns and rental income.
2. Ensure all tentative investments are shariah compliance-based. Consultants from the Saudi General Authority of Awqaf and/or the Saudi Waqfy Platform can help.
3. Assess all its risks and evaluate its returns.

9 To access the website, visit: <https://waqfy.sa>

4. Allocate and manage waqf funds—here, we will work with the Saudi General Authority of Awqaf and/or the Waqfy Platform.
5. Transparently report to waqf housing donors regularly.
6. Reinvest a partial percentage of the returns on investments and spend the remaining part on Jood Eskan applicants needing houses and house developments.

Following these three stages, proposed housing waqf crowdfunding for Jood Eskan, in collaboration with the Waqfy platform, can be effectively and efficiently established and managed.

To summarize, this paper highlights the achievement of housing sustainability for eligible families. The paper proposes the mechanism model strategy on the Jood Eskan 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 highlights the issues and challenges that may appear with crowdfunding waqf through the platform. This paper employs mixed methodologies in which it proposes the feasibility of creating a housing waqf fund through crowdfunding, which integrates both donation-based crowdfunding and reward-based crowdfunding, grounded in Saudi Arabia. Moreover, Jood Eskan is already achieving all operational and governance practice requirements with the Saudi Central Bank (“SAMA”) and the National Center for the Development of NGOs, so it would be easy to manage waqf crowdfunding. Figure 2 illustrates the proposed mechanism of installing crowdfunding waqf for housing in the Jood Eskan Platform.



Figure 2: Proposed Mechanism of Jood Eskan Platform

3. Results and Discussion

The operational structure of Jood Eskan to be transferred to the proposed crowdfunding mechanism for housing should consider that Jood Eskan is not a waqf institution. It performs as a mediator to raise funds and deliver them to the initiative cases applied in the platform for renting or owning a house.

Some issues should be considered while transferring the current mechanism to the waqf crowdfunding mechanism in the Jood Eskan platform. The level of awareness among potential donors in Saudi Arabia about crowdfunding waqf still needs much effort to increase awareness among the community and efficiently manage awqaf crowdfunding through platforms. Therefore, this research study has two questions: How can funding for the Jood Eskan Housing Platform be sustained? Can crowdfunding waqf for housing be implemented through the Jood Eskan platform? Based on the results obtained from the data collection process, it can be said that the Jood Eskan platform would create sustainable funding if they implemented waqf crowdfunding along with working with legal and authorized waqf institutions and NGOs that follow shariah advisory and aligning with shariah principles, like Waqfy platform and the Saudi General Authority of Awqaf. Moreover, Jood Eskan should develop a tracking service for the waqf donors to know where their money goes and to whom and in what, whether renting or buying initiative, to maintain transparency. However, the strong points are that the platform is already there, donors are already donating through the existing platform, and Jood Eskan can engage in the crowdfunding waqf program under it. They can call for waqf crowdfunding (fundraising) with a transparent campaign that digitalizes the waqf donation process through fintech (crowdfunding), which secures the waqf management process and will help attract more donors. Last but not least, Jood Eskan should express appreciation to donors and receive gratefulness to support that trustworthy feeling in them and gain them as sustained waqf donors.

Conclusion

Waqf crowdfunding is a blessing reality that should be revived in all Muslim countries, especially in Saudi Arabia, where locals and residents have servant hearts and raised with love towards donations. This paper brings wide-ranging sight based on the research and observations of the researcher of this paper. Furthermore, we would take this study to a practice and execution level with Jood Eskan. We believe that the Saudi General Authority for Awqaf, the Saudi Ministry of Municipal Rural Affairs and Housing, Jood Eskan, and the Waqfy platform will value the proposed mechanism for waqf crowdfunding for housing, and donors will donate to sustain waqf in the Saudi community.

The Saudi General Authority of Awqaf, waqf experts, and governmental agencies should engage in deliberations on both opportunities and challenges. The paper suggested installing the waqf crowdfunding mechanism under the Jood Eskan platform. Finally, it is time to take the lead in creating a sustainable community and developing a sustainable impact in Saudi Arabia and other Muslim communities.

References

- Abidullah, Abid and Muhammad Hakimi Shafai. "Financial Problems of Bottom 40 Percent Bumiputera in Malaysia: A Possible Solution Through Waqf-Based Crowdfunding." *Turkish Journal of Islamic Economics* 4, No. 1 (2017): 49-65.
- Alma'amun, Suhaili, Muhammad Hakimi Mohd Shafai, Shahida Shahimi, and Muhammad Syaukani Ahmad Adnan. "Waqf-Based Crowdfunding: A Case Study of Waqfworld.org." *International Journal of Islamic Economics and Finance Research* 1, No. 1 July (2018): 12-19.
- Amin, Hanudin, Abdul-Rahim Abdul-Rahman, Thursamy Ramayah, Rostinah Supinah, and Masmurniwati Mohd Aris. "Determining the Online Waqf Acceptance: An Empirical Investigation." *The Electric Journal on Information Systems in Developing Countries* 60, No. 8, (2014): 1-8.
- Amir Lutfi, Muhammad, and Mohd Adib Ismail. "Sadaqah-Based Crowdfunding Model for Microfinancing and Health Care." *The Journal of Muamalat and Islamic Finance Research*, (2016): 31-51.
- Kirby, Eleanor, and Shane Worner. "Crowdfunding: An Infant Industry Growing Fast." *IOSCO Research Department*, (2014): 1-63.
- Mohamed Yusof, Mohd Faisal, Mohd Faiz Mohamed Yusof, Mazlin Hani Hasarudin, and Nurhanani Romli. "Cash Waqf and Infaq: A Proposed E-Philanthropy in Malaysia," *Jurnal Kemanusiaan* 12, No. 1 (2014): 1-10.
- Morduch, Jonathan. "The Microfinance Promise." *Journal of Economic Literature* 37, No. 4 (1999): 1569-1614.
- Poetz, Marion K, and Martin Schreier. "The Value of Crowdsourcing: Can Users Really Compete with Professionals in Generating New Product Ideas?" *Journal of Product Innovation Management* 29, No. 2 (2012): 245-256.
- Mahamood, Siti Mashitoh. "Pembentukan Dana Wakaf Menurut Perspektif Syariah dan Undang-Undang Serta Aplikasinya di Malaysia." *Jurnal Syariah* 15, No. 2 (2007): 61-83.
- Stibbard, Paul, David Russell, and Blake Bromley. "Understanding the Waqf in the World of the Trust." *Trusts & Trustees* 18, No. 8 (2012): 785-810.



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DEBATES IN WAQF MANAGEMENT AND FINANCE

Foundations (waqf /pl. awqaf) have been used for many purposes and services in almost all societies throughout history. Today, waqf is still an important social institution. However, evolving conditions have created different issues regarding foundations and require reevaluation and examination of awqaf from a contemporary perspective. This is only possible by classifying the issues related to the waqf and analyzing them under specific headings. In this context, this volume, the first one of the Collection of Multidisciplinary Waqf Studies, is dedicated to the debates on waqf management and finance.

This volume, *Debates in Waqf Management and Finance*, the first of the *Collection of Multidisciplinary Waqf Studies*, includes various discussions on the good governance of awqaf and its relationship with finance through past and current waqf practices in different countries, such as Türkiye, Malaysia, Singapore, Indonesia, Saudi Arabia, and Morocco. The chapters based on in-depth analyses of literature, case studies, and interviews make this volume valuable and unique.