

WAQF IN MEDIEVAL ISLAM: AN OVERVIEW

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Abstract: *Waqf terminology was not found indirectly in the Al-Quran. However, sadaqah is often associated with waqf, which refers to religious endowments, since Prophet Muhammad emphasised that Muslim deeds can be contributed continuously to receive reward from Allah. The key reason for the idea of waqf was to restore the roots to nature for the sake of Allah, which in this sense meant to support the poor and vulnerable people in society. The aim of this paper is to look at the practise of waqf in mediaeval Islam and the position of cash waqf. In this article adopted the qualitative and content analysis method. This paper was successful in describing waqf, which is a structure distinct from Islamic states and other states in medieval Islam, and cash waqf was permitted during the Ottoman era. This paper is noteworthy because it demonstrated the popularity of the waqf paradigm in medieval Islam. Waqf clearly benefited the whole community.*

Keywords: *Waqf, Medieval Islam, Cash Waqf.*

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1. INTRODUCTION

The evolution of *waqf* could be observed through its properties and the effects of *waqf* on culture, both Muslim and non-Muslim, throughout Islamic history. Furthermore, *waqf* assists Muslim society in cultural development by providing medical, educational, and other public facilities that can be used for free in order to maintain the five elements of *maqasid Syariah*, which are life, faith, intellectual, generation, and wealth. During the early period of Prophet Muhammad SAW, he used *waqf* as a method for guidance against Islamic societies at the time in order to receive Allah's blessing due to the continuous value of *waqf* uses. According to the *hadith* of *Sahih Muslim*, "when a man dies, his actions cease except for three things: *sadaqah jariah* (unending charity), *beneficial intelligence*, or a *virtuous descendant who prays for him (the deceased)*." This demonstrates that the core of *waqf* acts as a form of worship to Allah. Furthermore, *waqf* has proven to be capable of boosting Islamic state economies from the early days of Islam to the present day by reducing poverty, creating employment opportunities, and reducing government spending. Recently, *waqf* has been regarded as part of Islamic finance inclusion. Islamic finance has been developed in many jurisdictions including Malaysia and Saudi Arabia (Mohd Zakhiri, 2012)

2. DEFINITION OF WAQF

Waqf, or endowment, plays an important role in promoting national equality and human development by forming a solid structure for organising, modifying, and controlling the state of richness and wealth in Islamic society. The *waqf* structure is one of the features that distinguishes Islamic society from others. The development of *waqf* is for founders to attain righteousness in Al Quran, Surah Al Imran (3:92), where the verse says, "Never can you attain the good [reward] unless you invest [in the way of Allah] from that which you love." and whatever you pay, Allah is aware of it. *Waqf* can be interpreted literally as detention, which means to stop or keep. In Islamic Law, *waqf* is an institutional arrangement in which the owner endows his or her property in the name of certain individuals or things, implying that the property is provided for the benefit of the needy (Muhammad Zubair Abbasi, 2012).

Many Islamic scholars have expressed their opinions on the concept of *waqf*. The classical concept of *waqf*, according to *Imam Abu Hanifah*, is the appropriation of something in such a way that the founder's right in it continues and the benefit of it goes to some charitable object. According to *Abu Zaharah*, *waqf* is the prevention of a benefit generating estate from corporal disposal by the use of usufruct and benefit in charity planned at the time and thereafter. *Imam Shafi'i* described *waqf* as keeping wealth that can help others and keeping it in the same form while the original owner is unable to consume it, while Sayyid Sabiq defined *waqf* as detention or stoppage. He described *waqf* as the retention of original source that will not be inherited, sold, or given as a gift while dedicating its profit to charitable acts (Abu Bakar Sani, 2016).

Based on the meaning given by the jurists, one may infer that *waqf* is an act in which you donate your property for charitable purposes, and once you have donated that property, you cannot assert ownership of it, but it is considered ownerless.

3. ROLE OF WAQF

Waqf plays an important role in Islamic socioeconomics, as evidenced by its presence in Islamic history. Since *waqf* is a charitable act, *waqf* assets will continue to grow while also being prohibited from declining due to the ban on consuming or leaving *waqf* assets as they are. As a result, *waqf* is not only an investment, but also a cumulative and growing investment (Mochammad Arif Budiman, 2014). In terms of economics, there are many advantages of using the *waqf* scheme.

Reduced government spending and participation in the economy is one of the positions that can be seen. Since the aim of *waqf* is to serve the public interest, providing a *waqf* fund for public schools, mosques, or other commodities allows the government to save money that can be used to improve the country by sustaining or developing other commodities. Furthermore, *waqf* helps to relieve the government's burden and decreases the government's role in the economy, as more government participation hinders the growth of the private sector. They will be able to expand their companies as there are more openings in the private sector. This was demonstrated during the Uthman era, when statesmen and wealthy people developed and built public facilities, and almost all state facilities and services were protected by *waqf*. This demonstrates how *waqf* has aided the government in lowering its management costs.

Furthermore, it can be observed that most Muslim-majority countries are generally poorer than other countries in the world, such as Africa and Bangladesh, as evidenced by global civilization. Poverty is undeniably a major issue that is difficult to eradicate, yet it can be mitigated by the use of the *waqf* scheme. *Waqf* funding has allowed schools, hospitals, and roads to operate for free or at a low cost, allowing vulnerable people to benefit from the services provided by *waqf*. Poor people could have a better life and be motivated to change their lives if these facilities were available.

Furthermore, the importance of *waqf* in promoting economic development can be seen, with *waqf* serving as a source of financial support, community service, and assistance. This can be seen in the efforts of *waqf* funding to promote the development of small and medium-sized businesses (SMEs). Help is provided not only in the form of financial assistance or loans, but also in the form of enhanced capacities, sustainable ventures, and the creation of more employment for others, especially the disadvantaged. Aside from providing financial assistance, a *waqf* institution could serve as their advisor, advising them on business development, strategic planning, and growth. *Waqf's* assistance

would also help to reduce retail costs, as large companies will have to lower their prices to compete with these small businesses in order to stay in operation.

4. HISTORY OF WAQF IN MEDIEVAL PERIOD

Historically, the idea of waqf was already in use during the time of Prophet Muhammad SAW, and it assisted in the establishment of Islamic socioeconomics. Waqf was also extended in terms of infrastructure by expenditure or *istithmar* to optimise its utility. Haji Mohammad MTS (2004) listed four inspiring events in early Islamic history that led to the establishment of the legal system of *waqf*:

1. The Prophet's donation of land for the construction of the *Quba'* mosque after he migrated to Medina.
2. The Rumah donation (a well bought by Saidina Uthman the third Caliph, to be used by public, including himself, for drinking water and household needs).
3. Talha's gift of a garden to his relatives on the advice of a Prophet.
4. Umar al-donation Khattab's of land in *Khayber* on the advice of a Prophet for the sake of charity to the needy, families, manumission, wonderers, and guests for Allah's way

These evidences indicate that *waqf* properties played a direct role in the development of an Islamic nation during the time of Prophet Muhammad and his companions. During the Umayyad caliphate, however, the application of *waqf* was continued from generation to generation until the Ottoman period. The idea of *waqf* was aligned with the Ottoman era during the administration of Nur al-Din (1118-1174) and Salah al-Din, also known as Saladin (1174-1193).

5. WAQF IN OTTOMAN PERIOD

During the Ottoman era, in addition to using *waqf* for charitable purposes, it was also used as a tool for conquest and colonisation, especially in Rumelia, which is now Turkey, and the Balkans, which are located between Georgia and Russia. They carried out this process by gaining territories through military victory, then distributing it to the *Sultan* in the form of private land to the *Sufi* leaders who participated in the military. It is an act of gratitude for the *Sufi*'s contributions to Islam, and most leaders will convert these properties into *waqf*, which means that the waqf will be selected from the endower's descendants. This is to ensure that the property will not be seized by the government and that the hospice's activities will continue in perpetuity, or in other words, that the hospice will continue to be a place for *Sufi* to practise Islamic religious practices. Another method of conquest during the Ottoman era is divided into two phases, the first of which is conquest of neighboring states, and the second of which is the establishment of direct control vassals against these states, which means that the states must provide military or financial support as required. Furthermore, they create a *timar* system on these territories, which is a tax grant in exchange for military service rendered to these states. Furthermore, conquest would not be limited to military and religious relations, but would also include the establishment of cultural, economic, and political affairs. To ensure the sheikh's autonomy and the perpetuity of the income produced by these taxes, they would convert their private property into *waqf*. *Sultans*, on the other hand, created *waqf* land as a gift for the fulfilment of public duties, where abandoned lands will be reclaimed and more facilities, such as a hospice or an agricultural centre, will be built to boost the state's economic activities. The task would be assigned to the sheikh, but if they failed to fulfil it, the *waqf* would be taken and granted to another sheikh who could fulfil it (Yidrim, 2011).

6. WAQF IN ADMINISTRATION OF NUR AL-DIN

Nur al-Din was a Syrian ruler who succeeded to power in 1145, according to the Encyclopaedia. He was the son of conqueror Zangi. He was a prominent leader in leading economics during his period, and he is well-known for his attributes of justice and fairness, which he demonstrated by establishing various buildings such as hospitals, madrasahs, mosques, and schools. (Nur al-Din, 2019). According to Daud (2015), in the early years of his rule in Aleppo, he founded the second *Shafi'i madrasah*, *al-Madrasah al-Halawiyyah*, after *al-Madrasah al-Zajjajiyyah*, which was a significant blow to the Shi'ite *madhab* at the time. Not to mention, his official increased the number of madrasahs from one to eight, laying a solid foundation for the *sunni madhab* in Aleppo, and it was the first strategic move in 1155 to create a strong education programme in Damascus through the establishment of *madrasahs*. *Waqf* made it

possible to carry out these strategic plans (Burhan Che Daud, 2015). As a result, numerous Muslim communities, including scholars, preachers, rulers, and ordinary citizens from within and outside Syria, such as Damascus, Baghdad, Mosul, and Iraq, backed his *tajdid* initiatives wholeheartedly. Furthermore, Burhan Che Daud (2015) stated that after gaining the confidence of the people, he began to use the *waqf* system to work on a holistic programme that includes social, economic, and social security in order to assist people. The establishment of *Dar al-Adl* (House of Justice), educational institutions, *jawami* (large mosques), *masajid* (small mosques), and the construction of *ribat* and *khanqah* (Sufi hospices) for *Sufi* masters and their students were among the infrastructures constructed through *waqf* policy. *Nur al-Din* effectively patronised constructive social and economic growth by *waqf* policy and its efficient approaches to sequentially evolving private law under his rulings. Burhan Che Daud (2015), citing Stefan Heidemann, relates *waqf* policy to private law. *Nur al-Din* used his *waqf* policy and its implementation to its full potential as a tool for social and economic development of Muslims in Syria. His *waqf* policy includes a diverse range of endowments, including local shops, bazaars, tenement buildings, commercial complexes, bakeries, mills, and public baths. Che Daud (2015) added that *Nur al-waqf Din's* policy created four legal categories of *masalih al-muslimin*: real estate that was part of the Umayyad family's legacy within the city, patrimony acquired with *waqf* and *mali* assets, family *waqfs* that turned to patrimony after the last beneficiary died, and commercial real estate built on public streets. In short, this model can explain *Nur al-waqf Din's* policy.

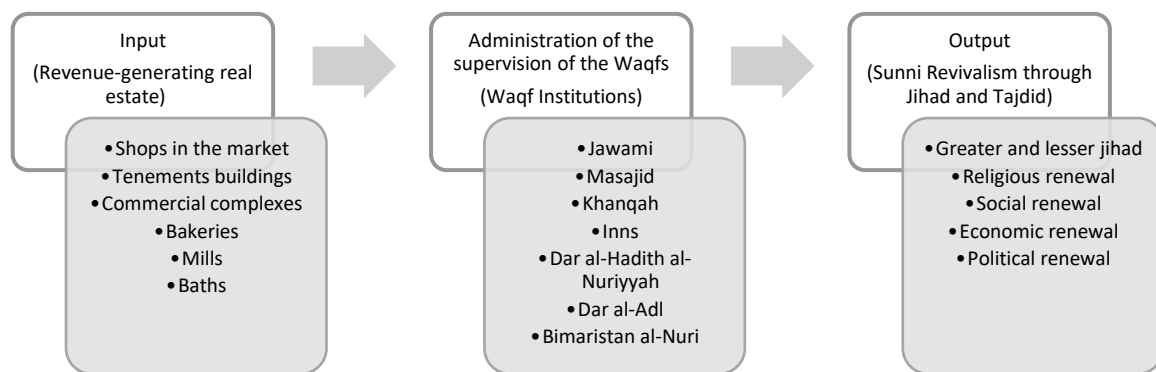


Figure 1. Nur Al-Din's Waqf Policy Model (Che Daud, 2015).

7. WAQF ADMINISTRATION UNDER SALADIN

Saladin used *waqf* as a major tool to gain political and military control over Egypt and Syria in preparation for the Crusades (Yehoshu A Frenkel, 1999). His *waqf* policy can be viewed as below;

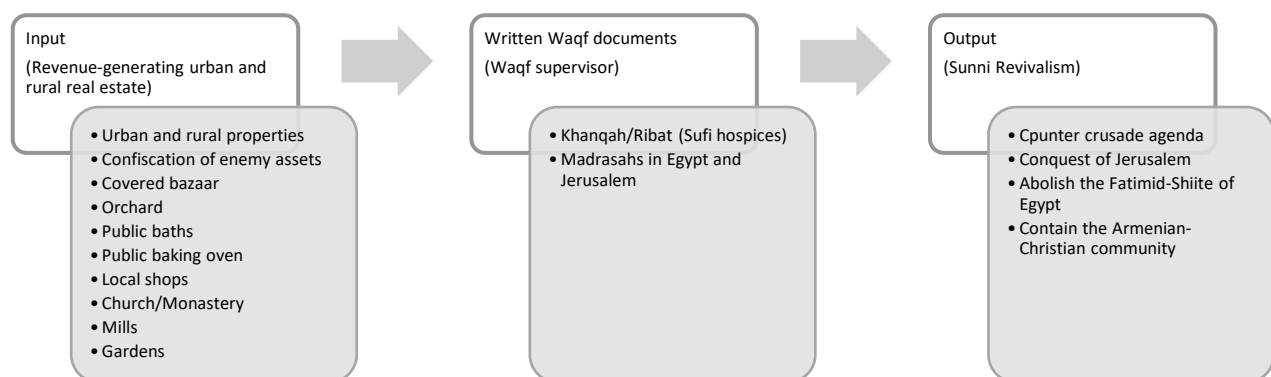


Figure 2. Saladin's Waqf Policy Model

According to Figure 2, Saladin's *waqf* was primarily concerned with waging war against the Crusades, where the Crusades attempted to divide Muslims under Saladin's rulings by spreading their biblical ideas of Glory, Gospel, and Gold. Thus, in order to raise more funds to strengthen his army, he instituted a new fiscal policy in Egypt, with five phases of implementation. Che Daud (2015) described these five phases as follows: "Change of Egypty agrarian administration that includes the reorganisation of *iq'* (land tenure), the modification of the tax collection system, and the introduction of a new system of payment for soldiers, b) Replacement of state payment system by *dnr jaysh* (money of account), c) Abolition of *muks* (taxes), d) Introduction of *zakat* Saladin's contributions to *waqf* policy can be seen in his success in carrying on the work of his predecessor ruler, *Nur al-Din*, by establishing *madrasahs* to lay a solid foundation for *Islam* to flourish during the Holy War. As a result, the establishment of *madrasahs* gained complete *Sunni* support, and the *Fatimid* state was attempted to be abolished. According to Frenkel, the main reason *Saladin* wanted to overthrow *Fatimid* state was because *Fatimid* state used extreme methods to ensure only *Shi'ite* is the only religion in *Islam* and other religions should be killed. For example, in the years 1135-1137, an *Imam* from the *Fatimid* state was forced to appoint a non-Muslim as vizier and instructed a Muslim mob to attack Armenian monasteries. During this conflict, *Saladin* was able to confiscate enemies' properties, known as *fa'y*, and reward his soldiers for their loyalty and support. After the *Fatimid* state was abolished, *Saladin* took over Cairo and Jerusalem to lay the groundwork for an Islamic state, and *Sunni* praised *Saladin* as *al-Malik al-Nasir* for defeating *Islam*'s enemies, such as the *Shi'ite* sector of *Islam*, and winning the Holy War against the Crusades.

8. TYPES OF WAQF

8.1 Waqf Am

Waqf am, also known as general *waqf* or public *waqf*, aims to serve the public interest without specifying beneficiaries or specific purposes. The property given under this *waqf* will be kept in perpetuity and cannot be disposed of by the donor, and no declaration of acceptance is required from the beneficiary, and the *waqf* will be considered complete once the endower's intention is fulfilled. According to the *Hanafi* and *Hanbali* schools, there is no requirement for the beneficiary to declare acceptance because simply declaring endowment is sufficient (Seman Kamal, Hoque, 2017).

8.2 Waqf Khas

Waqf khas is a private *waqf* in which the beneficiaries are specified, as well as the purpose for which it will be served by the endower. For *waqf khas*, the *mutawalli* or trustee of the *waqf* must fulfil the conditions specified in the *waqf*, unless the conditions are prohibited by *Shariah* or the law. The purpose of *waqf khas* is to provide additional income or financial assistance to the founder's descendants in order to help them maintain their lives. Furthermore, it serves as a mechanism for capital accumulation across generations, which is critical for economic growth and development, and it has been recognised in the United States. Yayasan *Waqf* Malaysia's Sijil Tunai Pendidikan, which aims to finance those in need of educational aids, is an example of *waqf khas*.

8.3 Contemporary Issues of Waqf

The evolution of the *waqf* system has resulted in contemporary issues such as the perpetuity principle in *waqf* and the use of cash *waqf*. These concerns will be examined in the context of the Islamic mediaeval period.

8.4 The Principle of Perpetuity in Waqf

In the context of Islamic *waqf*, perpetuity can mean that once an asset is designated as *waqf*, it remains *waqf* forever, its benefits are indefinite, and it must be managed by *mutawallis* or principals (Budiman MA, 2017). Since the Islamic mediaeval period, the principle of perpetuity has been used, and the essence of continuity has provided consistent benefits to the *Umayyid* caliphate period, the *Abbassid* period, and the Ottoman period. The perpetuity principle in *waqf* should be discussed in terms of family *waqf* (*dhirri*) and charitable trust *waqf* (*khayri*). The use of *dhirri*, for example, can be seen in endowment properties such as mansions, residential apartments, and orange grooves (*bayyarat*) (Salim Tamari, 2018). The principle of perpetuity appears to be applicable during the

classical Islamic period, but is this principle reasonable to apply in modern *waqf*? According to Syed Khalid Rashid (2018), the debate over the perpetuity and temporality of *waqf* is raging, with different perspectives held by Islamic jurists such as *Imam Maliki*, *Imam Hanbali*, *Imam Hanafi*, and *Imam Shafi'ie*. *Shafi'ies* and *Hanafis* were aligned together to hold a strong position on perpetuity, as opposed to *Malikis* and *Hanbalis*. Syed Khalid Rashid (2018), on the other hand, emphasised that there were two exceptions to *Hanafi's* point of view by reducing the perpetuity to temporality of *waqf*. For starters, the custom and characteristics of *waqf* demonstrate that it is incapable of being a perpetual *waqf*, such as burdens, weapons of war, and things that can only be used for a limited time. Second, *Hanafis* are permitted to change the use of *waqf* if the beneficiaries so desire (Khalid Rashid, 2018.) However, his two disciples, *Abu Yusuf* and *Imam Muhammad*, were opposed to this idea because *waqf* properties are only vested in Allah's rights and should be kept in perpetuity as an act of worship to Allah. Furthermore, the issue of perpetuity can be viewed in the context of a principal-agent relationship. *Mutawallis* have fiduciary responsibilities under Islamic law to manage *waqf* assets that are to be operated in perpetuity. *Mutawallis*, in this context, is an agent hired by the principal to manage his or her asset. Furthermore, the principal-agent relationship will create a problem in determining *waqf*, whether charitable or family *waqf*. According to Timur Kuran (2001), if the *waqf* is charitable, it will create a dilemma in the principal-agent relationship. He used the example of a principal dying, which puts the agent in a quandary about whether or not to continue the *waqf* operation. Once their principal dies, there is a chance that the *mutawallis* and appointed managers of the *waqf* will commit embezzlement. Furthermore, there will be mismanagement by *mutawallis* because there will be no principal to guide them in managing the *waqf*. In contrast to the family *waqf*, the founder of the family *waqf* deals with family security by stipulating an agreement to hire himself as *mutawallis* and his close relatives as his employees in order to earn a handsome salary. In this way, Timur Kuran (2001) demonstrated that he dedicated an idea to focusing on the family circle in order to secure financial and security in perpetuity. The main concept of *waqf* is to provide continuous benefits to society as a reward for Allah's blessings; however, the principle of perpetual *waqf* cannot keep up with technological advancements and is unable to adapt to the supply-demand of society (Timur Kuran, 2001). For example, the application of the principle of perpetuity in *waqf* had an impact on the welfare beings of *mutawallis* in charge of managing *waqf* assets. This is due to the fact that old *waqf* is no longer relevant in dealing with technological advancements, and their operation should be permanent as they are based on the principle of perpetuity. As a result, *mutawallis* will face difficulties as a result of this principle.

8.5 Cash Waqf

During the Ottoman period, the use of cash *waqf* was widely used within Islamic states to improve their economic situation at the time. However, the issue with cash *waqf* was that the value of commodities fluctuated from time to time and was inconsistent, which violated the principle of *waqf* perpetuity in Islamic law. *Imam Hanafis* and his disciples, *Abu Yusuf* and *Imam Muhammad*, were opposed to the use of cash as *waqf* because its properties were constantly changing and temporary. As a result, according to *Hanafis*, cash should be prohibited from being *waqf*. Murat Cizackca went on to say that during the ottoman period, *Imam Zufar* issued a *fatwa* requiring cash *waqf* to be invested through *mudharabah*. During the period 1667-1805, the application of *waqf* was to cover the economic, and Ottoman cash *waqf* lent money with a nearly constant return (Murat Cizaka, 1998). Evidently, during the Ottoman period, cash *waqf* was permitted. However, it is interesting to note that there are distinctions between the concept of *waqf* in Islam and charitable trust in western traditions (Mohd Zakhiri, 2021).

9. CONCLUSION

In the nutshell, throughout Islamic history, the benevolence of *waqf* has played a significant role in the contributions of Islamic society to its socio-economic, cultural, and religious growth. This paper was successful in describing *waqf*, which is a structure that differs from Islamic states and other states in that it is based on the concept of a perpetual object that was created out of charity and serves as a form of worship to Allah. Furthermore, historically, *waqf* was commonly used to cover a wide range of needs, including hospices, schools, public baths, orchards, and other public necessities. This paper

focuses on the Ottoman period's use of *waqf*, which was a popular figure under the administration of *Nur al-Din* and *Saladin*. *Nur al-Din*'s legacy was passed down to *Saladin*, who developed a powerful *waqf* model in their time. *Nur al-Din* focusing on *jihad* encompasses political, economic, and religious growth was the most distinguishing feature of their *waqf* model. *Saladin*'s *waqf* model, on the other hand, was primarily concerned with protecting faith through Holy War. Last but not least, the *waqf* is divided into two categories: public and private. However, this paper focused on two key problems, which are as follows: This paper was successful in describing *waqf*, which is a structure that differs from Islamic states and other states in that it is based on the concept of a perpetual object that was created out of charity and serves as a form of worship to Allah. This paper proposed that further research be done to enhance historical research on the specific uses of *waqf* during the Islamic mediaeval period.

10. ACKNOWLEDGMENT

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