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The Development of Islamic Economics for Social Welfare: Reassessing *Waqf*, *Zakāt*, and *Takāful* in Asia

Edited by
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AJI BOOKS

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Editor'sPreface

Islamic law, the Sharia, while it was revealed in a historical context markedly different from today's world, not only comprehensively addressed the economic, social, and cultural aspects of the time but laid down legislative measures tailored to both the immediate and anticipated future communal needs of that era. Moreover, Sharia was inherently equipped from those early days with mechanisms that allowed it to adapt to the evolving challenges and variations across different times and places, ensuring its continued relevance and applicability. This dynamic flexibility, deeply ingrained in the nature of Islamic law through the concept of *Ijtihād* (independent reasoning), has allowed it to adapt and evolve in response to changing societal demands. This book aims to further the discourse on key Islamic welfare institutions, particularly *Zakāt* and *Waqf*, demonstrating their enduring relevance and adaptability in modern contexts, focusing on the recent renaissance of these institutions.

At the heart of Islamic welfare is *Takāful*, the noun derived from the Arabic root verb "kafala," which signifies guaranteeing or bearing responsibility. While the term is frequently associated with Islamic insurance today as a counterpart to conventional systems, embodying mutual guarantee and shared responsibility, this book emphasizes the original meaning with broader interpretation. Within these pages, *Takāful* is explored as a foundational concept of Islamic welfare, representing mutual responsibility and solidarity among Islamic community members. This broader perspective underscores the role of *Takāful* in supporting charitable practices central to institutions like *Waqf* and *Zakāt*, highlighting its significance beyond just the financial aspects. These pillars of Islamic charity have played a crucial role in nurturing and sustaining Islamic societies by facilitating both obligatory and voluntary charitable acts.

This publication builds on research papers presented at a conference held on January 23rd and 30th, 2021 at the Asia-Japan Research Institute of Ritsumeikan University. It explores the evolution and flexibility of Islamic economic and financial institutions, with a focus on *Waqf* and *Zakāt*, which are fundamental to supporting and sustaining the various aspects of Muslim life. The narrative introduced in this book not only enriches theoretical understanding but also provides practical examples and case studies from *Waqf* and *Zakāt* institutions in Malaysia, Indonesia, and across Asia, offering a comprehensive look at their function and impact in the current era.

The *Waqf* system has had a profound impact on Muslim societies historically, particularly in developing public infrastructure such as mosques (masjids), marketplaces (souqs or bazaars), and hospitals. However, in recent times, many Muslim governments have reduced the role of *Waqf* through nationalization efforts, often justified by a push towards modernization based on Western models. Despite this, the latter half of the twentieth century saw an Islamic revival and the rise of Islamic finance, which ignited a resurgence in the significance of the institution of *Waqf*. Parallel to the revitalization of *Waqf*, there have been considerable efforts and legal rulings (*Ijtihād*) in the related institution of *Zakāt*, which in contrast to *Waqf*, has well-defined regulations established in the Qur'an, Hadith, and early Islamic legislation.

This revival is particularly notable in Southeast Asia, with a significant focus on Malaysia and Indonesia, where this book primarily concentrates its study.

The book comprises seven chapters, each exploring different dimensions of the above-mentioned pivotal institutions and elements.

In Chapter 1, the well-known expert on Islamic economics, Professor Monzer Kahf, introduces the social aspects of Islamic economics, focusing on four key areas: the role of Islamic finance in the social economy, the principle of cooperation within Islamic economics, the importance of mercy and caring in the economic system, and the institutions of *Zakāt*, *Ṣadaqa*, and *Waqf* as forms of charitable giving.

Next, in Chapter 2, Dr. Rahmatina Awaliah Kasri examines the innovative role of digital technology in revitalizing *Zakāt* and *Waqf*. She presents empirical case studies that highlight how digital innovations in Islamic social finance can enhance the performance of these institutions, specifically through digital *Zakāt* and digital cash *Waqf* platforms.

In Chapter 3, Professor Raditya Sukma addresses the importance of Cash *Waqf* Linked *Ṣukūk* (CWLS) in Indonesia. This innovation, presently unique to Indonesia, combines *Waqf* with financial instruments to support social purposes, particularly in healthcare during the COVID-19 pandemic, while providing a secure source of investment for *Wāqif* (the founder of the *waqf*/donor).

Then, in Chapter 4, Dr. Muhammad Hakimi Mohd. Shafiai discusses inclusive Islamic social finance through *Waqf* and *Qarḍ Ḥasan*. He proposes a combination of these instruments with academic and entrepreneurial incubation programs to promote sustainable development within Islamic finance.

In Chapter 5, Professor Dian Masyita evaluates the impact of Cash *Waqf* on reducing income inequality in Indonesia, exploring its potential to significantly improve economic disparities and contribute to fairer national development. She addresses the shortcomings in existing *Waqf* institutions and suggests ways to harness the huge untapped potential of Cash *Waqf.*

Next, in Chapter 6, Dr. Salman Ahmed Shaik explores the challenges of institutionalizing *Zakāt* and *Waqf* in contemporary economic systems. He details the evolution of wealth and production methods and suggests extending *Zakāt* rules to new forms of wealth to resolve discrepancies and recommends an integrated Islamic microfinance model that incorporates existing social institutions to encourage more engagement and enhance the delivery of Islamic social finance services.

In Chapter 7, the editor (Ammar Khashan), offers an analysis of the Islamic *Waqf* system, studying its historical origins and legal interpretations through the *Nuẓum* theory. He emphasizes the role of *Ijtihād* in adapting *Waqf* through *Nuẓum* theory to meet the evolving needs of Islamic societies.

This book sets the stage for an overall exploration of Islamic welfare institutions, particularly *Waqf* and *Zakāt*, aiming to bridge historical practices with contemporary applications, contributing to academia by enriching understanding of these fundamental components. By revisiting the foundational principles of *Waqf* and exploring its modern revitalizations, the book reflects a blend of historical continuity and innovative adaptation, thereby offering a comprehensive view of the dynamic nature of Islamic welfare systems.

I would like to extend my deepest appreciation to all the respected authors and collaborators whose insights and dedication have profoundly shaped this extensive exploration of *Waqf*, *Zakāt*, and *Takāful* in general. My special thanks go to the Asia-Japan Research Institute of Ritsumeikan University, which facilitated and hosted the event that sparked this publication, and to everyone who participated in the publication process. I am particularly grateful to Professor Kosugi Yasushi, the director of the Institute, for his substantial support and presence during all stages of this book's development, which significantly enriched the perspectives presented in this volume. Special thanks are also due to Professor Anthony Brewer, whose editorial efforts and guidance were indispensable in bringing this book to fruition. In conclusion, I would like to express my sincere appreciation to Mr. Okamoto Tahei for his invaluable efforts in editing and preparing this volume for publication, and to all my colleagues in the Asia Japan Institute, without whose support and advice I could not have completed this work.

Furthermore, this research was made possible through the support of the Japan Society for the Promotion of Science (JSPS) Grant-in-Aid Project, numbers 18K18251, 21H03713, and 21H05380. These grants have been crucial to conducting the related research and to the successful completion of this publication.

Ammar Khashan

Publisher's Note

Inconsistencies in the romanization of Arabic terms due to their various countries of origin have been standardized in this book according to the Hans Wehr Arabic Dictionary, except for terms that have already been widely anglicized and are commonly used in English, such as Sharia, Qur'an, and Hadith.

Contributors

Prof. Monzer Kahf

Chapter 1. The Social Aspects of Islamic Economics

Professor Monzer Kahf is a well-known researcher, scholar, writer, and instructor in many areas of Islamic economics, Islamic banking, and finance. He has published numerous books and articles in English and Arabic on Islamic banking and finance, Islamic economics, and *Awqāf*. Several of his works on *Zakāt*, *Waqf*, Islamic finance, and other areas of Islamic economics have become standard resources for researchers in the field. He has taught at many universities and is currently a professor at Istanbul Sabahattin Zaim University, Faculty of Economics and Management.

Dr. Rahmatina Awaliah Kasri

Chapter 2. The Role of Digital Technology for the Revitalization of *Zakāt* and *Waqf*

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Dr. Rahmatina specializes in Islamic economics and finance as well as development economics. She has been a lecturer at the Faculty of Economics and Business Universitas Indonesia since 2008 where she teaches various courses and executive training related to Islamic economics and finance. She has also conducted various research and involved in several collaborative research projects, policy assessments, and advocacies with national and international institutions. Due to her contributions, in 2020, she was chosen as the top 31 most influential women in Islamic business and finance by Cambridge IFA UK. In 2021, she was awarded Scientific Leadership Inspiration Award from the Indonesian Association of Islamic Economist Students (FOSSEI).

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Chapter 4. Theoretical and Practical Considerations of Inclusive Islamic Social Finance through *Waqf* and *Qarḍ Ḥasan*

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Additionally, he is a Research Fellow at the Institute Islam Hadhari, UKM (2012–present), the Accounting Research Institute (ARI), Universiti Teknologi MARA (2013–2015), and the Center for Islamic Area Studies at Kyoto University (2013–present).

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He has made significant contributions in the fields of Islamic economics, Islamic social finance, Islamic philanthropy (*Waqf*), Islamic agriculture finance, and Islamic microfinance at both national and international levels.

Prof. Dian Masyita

Chapter 5. Expectation vs Reality: Evidence from Indonesian's Cash *Waqf* Implementation

Professor Dian Masyita is the Dean of Faculty of Economics and Business, Indonesian International Islamic University (UIII). She is a Professor of Islamic Finance and Banking. She graduated her Ph.D. in Islamic Finance from Durham University, UK. She finished her Master of Engineering from the School of Industrial Engineering and Management, Bandung Institute of Technology (ITB). She was a STUNED's Awardee for the Executive Program "Financial Management" at the Maastricht School of Management (MSM), Netherlands. She holds a BSc in Finance from the University of Padjadjaran. Her research interest includes Islamic Social Finance, Islamic Microfinance, System Dynamics, Banking and Finance, Cryptocurrency and Behavior Finance. Her research appears in various journal including *The 23rd International Conference of The System Dynamics Society Massachussets Institute of Technology (MIT)*, *Islamic Economics Studies (IES*) Journal by IsDB, *Economies* by MDPI, etc.

Dr. Salman Ahmed Shaik

Chapter 6. Challenges in the Institutionalization of *Zakāt* and *Waqf* in Contemporary Economics

Dr. Salman Ahmed Shaikh holds Ph.D. in Economics from the National University of Malaysia. He has a Masters in Economics from the Institute of Business Administration (IBA) Karachi. Currently, he is working as Assistant Professor in Department of Management Sciences at SZABIST Karachi.

He is a published author with 36 peer-reviewed indexed research papers, most of which have been published in Web of Science, Scopus or ABDC ranked journals. He has also presented research works in 35 international research conferences held in Malaysia, Turkey, Japan, Brunei, Indonesia and Pakistan. He has also contributed 17 book chapters in book publications by Routledge, Springer, Palgrave, Edward Elgar, DeGruyter and Gower Publishing.

In professional corporate career, he has worked for Meezan Bank, BMC Pakistan and Bankers' Academy, USA. He has also worked for ABN AMRO and Citibank for management internships. He has also conducted corporate training at leading multinational companies like Coca Cola. In Malaysia, he led Workshop on Stress Testing in Islamic Banking for Bank Executives.

Dr. Ammar Khashan

Chapter 7. Envisaging the Islamic *Waqf* System: the Qur'an, Sunna, *Ijtihād* and *Nuẓum* Theory

Dr. Ammar Khashan is an Associate Professor at the Asia-Japan Research Institute of Ritsumeikan University. He graduated from the Faculty of Sharia at Damascus University in 2004. He completed his master's program in Hadith studies at the Graduate School of Damascus University in 2011 and earned his Doctorate in Area Studies from the Graduate School of Asian and African Area Studies (ASAFAS) at Kyoto University in 2017.

Among his publications, "Portraying the Islamic Economy in its Primordial Grand Design: From its Birth in the Prophetic Period through its Legal Formulation to the Contemporary Innovations," (in Japanese) was published by Nakanishiya Shuppan in February 2022. His doctoral thesis, "Historical Interpretation and Contemporary Reconstruction of Legal Sources of Islamic Economics: Focusing on Interest-Free Finance and Halal Food."

Dr. Khashan's current research themes include the new trends in Islamic economics and mutual assistance in Islamic countries, focusing on the innovations in the Islamic welfare systems and jurisprudence. His work emphasizes the integration of traditional Islamic welfare institutions like *Zakāt*, *Waqf*, and *Infāq* into a cohesive mutual assistance system, exploring their principles of self-help and altruism across Southeast Asia, South Asia, and West Asia.

Chapter 1
The Social Aspects of Islamic Economics

Monzer Kahf

Introduction

In this introduction to the social aspects of Islamic economics, I would like to emphasize four points. First, the role of Islamic finance in regard to the social aspect of finance or of the economy in general; second, the principle of cooperation and how it is entrenched in Islamic economics and in the Islamic economics system, an outcome of which is the Islamic form of insurance; third, the principle of caring about others, the principle of mercy, which is also entrenched and functionalized in the Islamic economic system; and fourth, *Zakāt*, *Ṣadaqa*, or charitable giving, and *Waqf* which may be translated as endowment or trust.

1. The Role of Islamic Finance

Islamic finance for profit is itself based and founded on the social aspect and social consideration of the Islamic economic system, so it is not alien from that, although it is action for profit. It is definitely founded and based on the principle of realism. We do not deal with anything that is only imaginary, fake, virtual or anything like that. We deal with things that are as they are in their reality on the ground. This also means that we consider all things that do not harm individuals or society or the environment, even harming pieces of things that could be very remote, not only other creatures but even things that are called in our religion part of the nothingness, and nothingness is extremely disliked and is made to be remote from Islamic economics and the Islamic system in general.

The point that I want to make here is that Islamic finance, even when it is for profit, deals with things that benefit or at least do not harm society, individuals, or the environment. So, when we restrict the concept of financing as derived from the concept of property, because Islamic finance is definitely asset based — not asset based in the meaning of Moody or other rating agencies, but asset based in the real sense that to provide any finance you have to count on an asset that is transferred again with the finance — when we talk about profit, or for-profit Islamic finance, we talk about it as a kind of finance that focusses on things that benefit society, benefit human beings, benefit the environment, and benefit creatures in general. We do not accept anything that is outside this kind of basket.

Now to that I want to add another element which is very important, and which is often missed by many writers, which is the implication of realism which is the rejection of any financing of any asset that does not generate benefit, does not generate added utility. This is why recycling of debts is not acceptable in profit making Islamic finance. That includes what we call Islamic banks. For the same reason we reject financing any virtual asset like for instance options and futures. When you talk about this kind of realism in Islamic finance, being asset based, it means that we are focusing, we are rechanneling all resources to be produced and to be used only in the production and exchange of added value. When there is no added value to human beings and their environment then Islamic finance that aims at making profit is not valid. In other words, Islamic finance that makes profit by its nature and by the nature of the concept of the asset that it can use, is an Islamic finance that is not only friendly to society but rather it is extremely friendly. It does not allow using financial resources outside anything that does not generate added value to humanity, meaning that many pure financial transactions are not really acceptable in Islamic finance.

Let me give a brief example before going on to another point. Does the economy increase from transferring the creditor of a debt to be X instead of Y? Or the debtor of a debt to be M instead of N? There is no added value created in this transaction, and this is why we do not include it in the realm of profit-making Islamic finance. We do not include trading debts or transferring debts from one bank to another, or one person to another, and this includes most of the fake transactions that do not produce added value that are done in the world today, and where a lot of finance is being used which we do not allow, and we redirect all this finance to produce goods and services that benefit humanity. In other words, the nature of Islamic finance is definitely making it society friendly and very much important to increasing the welfare of human beings.

Now of course this is based on justice. When we say that you earn by asset you do not earn by fake transactions. Examples of fake transactions are gambling, or pure speculation which is similar to gambling. Islamic for-profit finance always takes care of the ethical values of benefitting society, benefitting others, and creating value. A transaction without added value creation, like the charge that you take for transferring a debt from one person to another, is a fake value added. It is not a value added although our current statistics calculate it as part of the GDP. It is not as a matter of fact, because it is not a true added value.

The point here is that Islamic value for profit finance is itself the main block of Islamic social finance all over the world, and it is a big block in that consideration.

2. Principle of Cooperation

The second point is the principle of cooperation. The principle of cooperation is well established in the Holy Qur'an. There are specific verses in the Qur'an and examples in the sunna that mention it from which we get the concept of Islamic Insurance. The Organization of Islamic Cooperation (OIC) Fiqh academy decided to use the term Islamic Insurance rather than "*Takāful*" for several reasons. One of them is that the term *Takāful* is too broad. Islamic Insurance is founded on cooperation, not on the sale of risk. The elimination of the sale of risk is also a socially friendly principle because risk is something that always relates to an asset or to an action. How can you sell it by separating it from an action or an asset? This is similar to the mentality that separates profit from production. Making profit without producing anything is an alien concept for Islamic finance.

The principle of cooperation is very important in Islamic Insurance because the idea here is that instead of the sale of risk, we create an institution. This is not new as a matter of fact because it does exist in the capitalist society among that small number of wise people who look at the idea from a cooperative basis. The same principle is adopted in Islam, but the difference here is that we do not accept the sale of risk, and we say that the only alternative, the only way to face the increasing risks in the contemporary mechanical society where we use many machines, is through the principle of cooperation, not through the principle of the sale of risk. Cooperation is to put resources together and then face that risk that any one of us may be exposed to and we compensate the person to whom a loss causing peril may occur.

The older form of this kind of insurance was really *Waqf*. That idea was undertaken in the full sense by *Waqf* on one hand and on the personal level by *Zakāt*. Essentially there were *Awqāf* (*Waqf* pl.) that were set up partly with the intention of helping those people who were exposed to any disaster or any peril instead of it destroying their lives. A modern form of this is *Takāful*.

The concept of *Takāful* is to put resources together, especially of those who are exposed to similar perils. We put resources together and compensate those who are actually exposed to any of those personal or economic disasters. *Takāful* is based on this, and recently we see many writings seeking to reform Islamic banking. After some experiences we definitely need reforms in several areas, although there are many areas of excellent performance by Islamic banks, such as not financing anything that is harmful to the society or to human beings. That is one of the proud claims of Islamic banking today, even though they still need some reform, and maybe some revitalizing of their Islamicity. My point here though is that unfortunately, the *Takāful* principle and the *Takāful* idea was hijacked by profit making companies. There were reasons which we will not go into here, but the principle of *Takāful* which must be purely cooperative has been hijacked by those who rush to make a profit, and they have transformed it into an entity within their entity; they have established a company that aims at making profit to manage only a fund that is a cooperative fund. I remember when the first company of that kind was established, it was the Jordan *Takāful* company in Amman, Jordan.

During the process of establishing that company, I happened to meet its founder who later became the CEO and when he explained the idea to me, I looked him in the eye, and I asked him, “Did you learn that from the Devil himself, or from anything else?” And of course, the Sharia advisor of that company who gave them that idea was really a devilish person. But anyway *subḥāna llāh*, (glory be to the God), this is the way life goes. They abused the principle of cooperation, instead of it remaining managed on a cooperative basis as we have now only in very remote areas like the island of Trinidad, where there is a cooperative insurance union based on cooperative principles and it is still managed on a cooperative basis not on a for profit basis like what has happened to almost all the *Takāful* companies in the world today.

We need to go back really, to reform the *Takāful* companies and go back to create them either on the basis of a *Waqf* as one of the scholars suggested or on the basis of pure cooperation both on contribution and in management without having a profit maker among them to control and manage and create problems for Islamic insurance companies, the *Takāful* companies in today's world.

3. Caring about Others

My third point is that in the Islamic economic system we do not believe in the invisible hand. I remember about forty years ago, in a discussion at Lafayette University in Indiana with Dr. Abraham Yudovich, I told him that the invisible hand myth had already been broken. It does not really work for your own interest, does not assure the interest of society nor the interest of the minority that might be neglected in that society and that is represented in the Holy Qur'an, Sūra Yā Sīn 36:47, which says, "Why should you ask us to feed those whom God could have fed?" This is the "invisible hand" which we do not accept in Islamic economics. Yes, we need you to feed those who God could have fed if He so wishes, but God wants their feeding to be through you. You express a concept of caring about others, and you develop the concept of *Raḥma*, of mercy and caring about others in your heart because that benefits you yourself. It not only benefits financially or economically or materially the poor whom you are helping, but in fact it may benefit you equally or maybe more, and this is why Sūra at-Tawba, 9:103, talks about *Zakāt* as purifying and some English translations translate that as "On the Day of Judgement," but it is in this life! It purifies the heart of the giver. It makes him a person who cares about others. It gives him that pleasure, and that elation, as a matter of fact, a pleasure that when you give you know that you really are helping. You are activating the concept of mercy and the concept of caring in your heart and once it is activated that takes care of you first of all before any other thing and that helps you more than anybody else. You are financially helping the other, but here the Islamic concept of mercy and caring is extended to the environment, to all creatures, even to (inanimate) things. Without it the action is rejected, it is worthless like sitting on the bank and throwing stones in the river. Action without mercy and benefit is not acceptable in the Islamic economic system and in our religion in general.

4. *Zakāt*

The principle of mercy, of caring about others is also a civic requirement because the Islamic economic system is the only system in the world that institutionalizes this concept, among religions and among economic systems. It is institutionalized at a minimal level that you cannot avoid. If you do not fulfill that minimum level, you are not a Muslim. If a country does not uphold this minimum level, it is not a Muslim country, it is not Muslim majority, so you are required to do that minimum as a religious requirement, because the Holy Qur'an 9:103 addresses the Prophet Muhammad as a leader, as the head of a state, saying, "Take out of their properties the *Zakāt*." Now this *Zakāt* that is taken out of properties is actually a kind of unique levy. It has strong religious support to the extent that if you do not do it, you are not Muslim, so it defines who is and who is not Muslim. More importantly, it is a civil thing that is collected from the rich and it is about wealth and income, not income alone. There are many researchers today in America who say that a taxation system that focuses on income alone is the main reason for the increasing gap between the poor and the rich. *Zakāt* is not on income only. It is an example of a duty that is actually considered as the right of the poor and needy and that financial duty is not only on income but also on wealth.

There are several obligations, I should say the *Zakāt* obligation in any country would make something between 2½ to 3 % up to 7 to 7½ % of GDP. There are several studies. I made one of them earlier and other studies came after mine in different countries which show that *Zakāt* can actually bridge the gap between the poor and needy and the wealthy. Notice that *Zakāt* is a yearly obligation that continues year after year, and one of its objectives is not to freeze or avoid investment in your properties, because the Prophet also said you should invest in properties in order to avoid their being depleted by the consecutive payment of *Zakāt*.

Zakāt is a minimum obligation throughout the history (of Muslims), but Muslims gave a lot more than the obligatory *Zakāt*. Muslims throughout history were not satisfied to pay their *Zakāt* alone. They were paying their *Zakāt* and historically their *Zakāt* used to be distributed immediately to the poor and needy, but historically Muslims were not sufficed by *Zakāt* alone. Actually, the Qur'an calls for making charity a lot more than it calls on the obligation of *Zakāt*. There are about 167 verses that talk about voluntary charity and encourage it whereas there are about 28–30 verses that talk about the obligation of *Zakāt*, and in the Hadith, the sayings of the Prophet Muhammad, there are also many references to charity. In fact, some of these charities are very marvelous, as the Prophet narrates in a Hadith Qudsi, God says, "I was hungry, and you did not feed Me." How could it be that my Lord would be hungry? God answers that there was a person who was hungry, and you knew about that, and you did not feed him, and if you had fed him, you would have seen Me there as if you had fed Me." So, the idea is so strong in the Hadith that Muslims as a matter of fact did multiples of the *Zakāt* through voluntary donations. They have historically given a lot of voluntary donations and there are a lot of stories about this in history and also in the present day.

5. *Waqf*

Definitely, if we want to talk about voluntary donations there are several multiples of the requirement of *Zakāt*. One of these voluntary donations is a kind of unique form although it was not invented by the Prophet Muhammad or by his companions. But yet the Prophet Muhammad apparently did not know about earlier examples because when he suggested to ʻUmar ibn al-Khattab, he suggested a unique form of endowment. He did not suggest an endowment like it was done in other societies. There are reports that in ancient Egypt and in ancient Rome there were some kinds of endowment, but these endowments were exclusively in the hands of the religious quarters and religious ranks. When Prophet Muhammad advised ʻUmar ibn al-Khattab, his companion to create an endowment, a *Waqf*, he advised him to make it civil. He told him, "Hold on to the property itself so that it cannot be inherited by anybody, like any of your heirs, it cannot be sold, it cannot be disposed of, and assign its fruits to the poor and needy and their right." ʻUmar ibn al-Khattab did that and he kept himself as the manager and the name that came to be used historically is *Mutawallī* or *Nāẓir*, manager of this endowment, of this *Waqf*, and when he was dying, he did not assign the imam of the mosque or the khalifa who would succeed him. He did not assign either of them as the manager of his *Waqf*, but he assigned his daughter and after that he said anybody from our descendants of the Khattab family, so it is a civil institution not a religious institution. This is what Prophet Muhammad established in the form of *Awqāf*, and then it was carried out by Muslims throughout history until the 1800s when the government started controlling it, unfortunately. In the 1800s the first successful attempt was the creation of a Ministry of *Awqāf* in the Ottoman state and that was when they took *Awqāf* from being a civil institution to an addendum with all the bureaucracy and the mismanagement of the public sector. Now the *Awqāf* idea is a civil organization which is run on the basis of efficiency and given to the poor and needy.

Of course, we can distinguish between two kinds of *Awqāf*. There was a house in Damascus that was made for unwanted cats, and I knew it and I visited it. I was born and grew up in Damascus, and I visited that house more than once. In my time it was in the hands of the government, and it was really neglected, and no cats were in it, but it was used or rather abused by the governments for other projects. This house of the cats was part of the endowment of *Waqf*, and it included an orchard from which the fruits were to be sold and to provide money to feed the cats. The cat house still carries the name Cat House even today, but it is used for other projects. So, the *Awqāf* in the Islamic context were expanded to create many kinds, many forms, many objectives.

One of the forms that was created by our ancestors was what we call a family trust. In fact, it was taken in the UK on the example of the Mālikī school in Morocco in the seventeenth century so the *Waqf* that is a trust for the family that is to benefit your descendants one generation after the other and that could be a very helpful and useful thing for creating the assets to be used by different generations in the future.

Muslims throughout history expanded not only by adding other kinds of trust like family *Awqāf*, but they also expanded the objectives of *Awqāf* to areas that are unimaginable. There are many areas of *Awqāf* based on mercy. There is a *Waqf* for mercy to birds in the Umayyad Mosque in Damascus.

Another *Waqf* is a field to produce grain to feed the birds. There are *Awqāf* in Algeria and other countries to give grain to the birds. Also, in the grand mosque in Mecca and also in the Prophet's Mosque in Medina.

There is an interesting *Waqf* that is to boost the spirit of a terminally ill patient in a hospital. You hire two people to stand near the head of his bed and chat as if they are talking to themselves only and saying that this person is going to be well, he is improving, he is responding to medicine, he is going to leave the hospital soon. They do not mention that it is to the graveyard but do it simply to improve his spirit. These people are hired by the *Waqf* for that objective. There is *Waqf* for wild animals in the mountains to give them food so that the wild animals will not come down from the mountains to attack villages.

There were *Awqāf* of all kinds and of course Cash *Waqf* is one of these *Awqāf* which are marvelous, and they were used in Muslim Spain in the period of Andalucía to help businesses, to give loans to small businesses without any increment. They also existed during the Ottoman State. I say "state" here because our Turkish scholars do not like the use of the words "Ottoman Empire." It is the name used by westerners, but the Turkish writers prefer the name Ottoman State. During the Ottoman State, Cash *Waqf* was used to provide financing for small business and also to compensate for losses when disasters happened like the big fire that engulfed over one hundred shops in Istanbul. So, the earlier Muslims invented Family *Waqf*, and the later Muslims invented Cash *Waqf*, and they used it to give interest-free loans to help small businesses when they needed it, or to support relief from disasters for the micro and small businesses in the Muslim lands.

So, the principle of mercy and caring about others is expressed in three pillars. The minimum required obligatory part of the system, the first pillar, is *Zakāt*, which is estimated to be around 2½ % and 7½ % GDP which is not a small amount, and the second pillar is *Ṣadaqa* or general charity which is not less important in its amount than the *Zakāt*, and then the *Awqāf* which is a permanent form of charity where you distribute the fruits of it or the benefits of it while you keep the assets for future generations to benefit from.

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Chapter 2
The Role of Digital Technology for the Revitalization of *Zakāt* and *Waqf*

Rahmatina Awaliah Kasri

Introduction

I would like to discuss the development of *Waqf* and *Zakāt* in Indonesia as well as the latest trends in digital donations globally. I will introduce two case studies regarding digital *Zakāt* and digital *Waqf* in Indonesia based on two papers that I wrote with my colleagues from the University of Indonesia. In the conclusion, I will try to provide some insight regarding the role of digital technology for revitalizing *Zakāt* and *Waqf* in general.

In the first chapter, Professor Monzer Kahf has already explained that the importance of *Zakāt* and *Waqf* in Islam is indisputable. *Zakāt* and *Waqf* institutions have played significant roles throughout Islamic history, from the time of Prophet Muhammad to the present day. The Islamic institution of *Zakāt* decrees that a share of the wealth of the rich should be given to the poor and needy, and therefore it is aimed to create welfare and ensure that income is distributed equally and creates social justice.

Waqf is also considered as an important Islamic welfare institution, as the objectives of *Waqf* are directed towards the benefit of society as a whole which often includes provision of religious services, socio-economic relief for the poor and needy, education and environment activities. Professor Monzer Kahf has also enlightened us regarding the history of *Zakāt* and especially *Waqf*, that it was first derived from the traditions of Egypt and Rome and then developed by Prophet Muhammad. He also explained about the first *Waqf* made by 'Umar ibn al-Khattab, the land of Khaybar and also shared some historical evidence that *Waqf* had been successfully used, especially during the time of the Ottoman states, and he also mentioned that Cash *Waqf* has been given to small and medium enterprises who needed funds for their businesses.

Waqf has also been used for providing health services like hospitals, and there was a hospital in Damascus during the Umayyad period that was fully financed from *Waqf* funds. The doctors, the nurses, the facilities, the medicines were all provided from *Waqf* funds. There was also a time during the Ottman period in several cities in Turkey, like Istanbul, in which almost three-quarters of the buildings were *Waqf* properties. This is evidence that *Zakāt* and *Waqf* are both important Islamic welfare institutions, and they provide benefit to society as a whole.

However, it is also suggested that the role of *Zakāt* and *Waqf* in Islamic civilization has deteriorated in the last few decades, albeit nowadays there are some efforts to revitalize the role of the Islamic welfare institutions in contemporary Muslim societies.

1. Potential and Realization of *Zakāt* and *Waqf* in Indonesia

Indonesia is the world's largest Muslim country, and the potential for *Zakāt* and *Waqf* is considered very high. A study by the National Zakat Board (BAZNAS) has suggested that the potential for *Zakāt* collection in Indonesia reaches IDR 233.8 trillion annually, so this is a very huge amount. In terms of *Waqf*, the Indonesian *Waqf* Board or

BWI, noted that the potential for *Waqf* assets in Indonesia reaches IDR 2,000 trillion per year, with a total of *Waqf* land reaching 420 thousand hectares. Meanwhile, the potential for Cash *Waqf* is estimated to be IDR 77 billion annually.

Recently, the minister of finance of Indonesia, Sri Mulyani Indrawati, mentioned that the national potential for *Waqf* from 74 million Indonesian middle-class people is around IDR 217 trillion or equivalent to 3.4% of Indonesia's gross GDP. Thus, the potential amount of *Waqf* in Indonesia is very high.

According to the World Giving Index published by the Charity Aid Foundation, Indonesia is the most generous country worldwide, so the potential for collecting *Zakāt*, *Waqf*, and *Ṣadaqa* (charity) in general in Indonesia is great.

However, in reality, the actual collection of both *Zakāt* and *Waqf* have been far below this potential. The collection of *Zakāt* in 2020 was only IDR 13.22 trillion, or around 6% of its potential (BAZNAS 2020). Meanwhile the collection of Cash *Waqf* revenue was only around IDR 225 million in 2019. One possible reason for this low figure collected is not using digital technology for collecting *Zakāt* funds and also Cash *Waqf* (KNKS 2020).

2. Issues in Collecting *Zakāt* and *Waqf* Funds in Indonesia

In this respect, research has suggested that although some *Zakāt* organizations operate a digital platform to enhance *Zakāt* collection, most of them have not used the technology optimally. In fact, a recent study from *Philanthropy Indonesia* reported that only 6.74% of *Zakāt* collected was actually raised through the digital platform. Despite that there was an increase in *Zakāt* funds collected through the digital channel, from 1% in 2016 to 12% in 2017. So, there has been a huge increase in the amount of digital *Zakāt* payments.

As for digital Cash *Waqf* collection, few studies have discussed this, especially in terms of empirical studies. One of them is my paper with my college from which I will share some of our research findings.

3. Donations and Digital Technology

If we look globally at nations and digital technology, the growth of technology and social media has transformed the way people give charity, and also the way voluntary sector organizations fundraise and connect with their donors. According to Blackbaud's 2019 Charitable Giving Report, online giving grew 6.8% year over year, with an estimated 26% of online donations being made using mobile devices. The report also suggested that religious-based donations through online platforms also grew 8% in 2019 (Blackbaud 2019). More recently, the COVID-19 pandemic has also significantly influenced the practice of donating through digital channels worldwide and in Indonesia. GoPay Digital Donation Outlook 2020 reported that the average number of digital donations has almost doubled from IDR 64,000 to IDR 110,000 since the COVID-19 pandemic. It is also interesting that in terms of the donation mechanism, more and more people are only making digital donations. Before the COVID-19 the figure was 32% and it has increased to 43% since the pandemic and if we look at the trends in digital donations in Indonesia, there are five trends that might be of concern to us.

First, the pandemic has affected people's habits of donating. As I mentioned earlier, the average increase in donation value was 72%, in which health and social causes were the main choices of donors. Second, social values are also the main reason donors make the donations. Third, the millennials' generation, those who were born after 1980, are the ones who donate the most. Meanwhile, Generation X, those born from 1965 to 1980, also donated at a higher rate. It is reported that millennials donate an average of 1.5 times per month. However, all age groups reported a nominal average increase in digital donations during the pandemic. The fourth trend is that digital donations are growing because of the convenience of technology. Around 47% of respondents choose to donate digitally to initiatives that provide digital payments. The majority of the donors get information through digital channels, through social media. In the fifth trend however, it is also notable that education about digital donation still needs to be improved, especially outside big cities in Indonesia.

While considering, the development of *Zakāt* and *Waqf*, the huge gap between their potential and their actual realization, the problems involved in digital donations, and the trend in global digital donation, the main objective is to discuss empirical case studies regarding the role of digital technology in particular *Zakāt* and *Waqf* institutions in Indonesia, and hopefully this can provide some insight in order to revitalize *Zakāt* and *Waqf* institutions.

4. Empirical Case Studies

Our empirical case studies are built upon the relationship between Islamic social finance, digital technology, and behavioral economics. The role of digital technology in influencing the behavioral intention to make online payments of *Zakāt* and *Waqf* could be investigated using frameworks such as The Theory of Planned Behavior (TPB), and the Unified Theory of Acceptance and Use of Technology (UTAUT).

The TPB is a popular psychology theory proposed by Ajzen and Fishbein (1980), that is commonly used to study the intentions in doing something including making donations. Meanwhile, the UTAUT is one of the latest technology acceptance models, which combines eight preexisting theories of technology acceptance, and it is considered to be a useful theory for assessing the introduction of new technologies and understanding acceptance factors that can contribute to the use of a new system, including digital donations.

In the Theory of Planned Behavior, an individual's intentions are influenced by three factors, namely attitude, subjective norms, and perceived behavioral control. Attitude is related to the perceptions, personality, and motivations of a person, which influence their behavior. An individual's attitude towards a behavior is influenced by the individual's assumptions about the consequences and benefits of that particular behavior. Subjective norms refer to an individual's perception about the particular behavior, which is influenced by the judgment of significant others, including perhaps parents, spouses, teachers, and so on. Perceived behavioral control refers to an individual's perceived ease or difficulty in performing a particular behavior.

Now, the TPB framework code has been extended to include more factors such as knowledge, religiosity, and so on, and has been used in several studies related to the intention to pay *Zakāt*.

The UTAUT model is considered to be the most accurate model associated with predicting intention to adopt and utilize new technology. In the model, four main factors give the greatest significance in influencing the intention and use of technology, Performance expectancy, Effort expectancy, Social influence, and Facilitating conditions. Performance expectancy refers to the degree to which an individual believes that using the system will help him or her get benefits in doing something such as job performance. Effort expectancy refers to the degree of ease associated with the use of the system. Social influence refers to how significant others such as parents, spouses, friends affect an individual's decision to use the system. Facilitating conditions refers to the degree to which an individual believes that an organizational and technical infrastructure exists to support the system's use.

UTAUT has been developed into extended UTAUT, similar to TPB, where additional factors could be included in the model in making the predictions.

(1) First Case Study: Digital *Zakāt*

There are five hypotheses: *Zakāt* literacy, performance expectancy, effort expectancy, social influence and facilitating conditions. These all positively and significantly influence the behavioral intention to use an online platform to pay *Zakāt*. These hypotheses were developed after reviewing several studies, and to test them, we adopted a quantitative research method using the UTAUT framework. We collected primary data through online questionnaires by using purposive sampling. We managed to get 223 respondents who always pay *Zakāt* through online platforms, and subsequently, we analyzed the data by using structural equation modeling.

Our research findings show that performance expectancy, effort expectancy, facilitating conditions, and *Zakāt* literacy have a significant positive effect on the intention to use an online platform to pay *Zakāt*. However, social influence is also found to be insignificant. There are several reasons behind these results, including the benefits of using digital *Zakāt* payment, the fact that the online *Zakāt* payment program is still very new in Indonesia, and also individuals' feelings of responsibility.

From the empirical study, we made several recommendations. First, *Zakāt* management should make sure that its system increases the effectiveness and efficiency of payment and creates the easiest way for people to make a *Zakāt* payment through an online platform. This is because performance expectancy was found to be significant in our empirical study. So, when the system is easy to use, when the payment can be made easily, then people will have a higher intention to pay *Zakāt* online.

Second, *Zakāt* management organizations and the government should prepare the necessary infrastructure and resources to implement online *Zakāt* payment, because facilitating conditions are found to be significant in the study, and at the same time, Digital *Zakāt* is something that is quite new Indonesia.

Third, all *Zakāt* stakeholders should attend and collaborate to increase education and literacy programs related to the concept and implementation of Digital *Zakāt*. This is quite obvious because with a higher literacy rate it can be expected that more people will be able to use online platforms to pay *Zakāt*.

Finally, the *Zakāt* organization is also expected to continue innovations in its operational activities, including continuing the collaboration with various parties such as Ecommerce, FinTech companies, and other digital platforms. These are related to digital *Zakāt* payment.

(2) Second Case Study: Digital Cash *Waqf*

This is also an empirical study, and importantly, this study involves Muslim millennials in Indonesia for several reasons, but in particular because in Asia, millennials make up one third of the population and more than 50% of the productive age group. Also, millennials are very tech savvy, with more than 90% using mobile phones and close to 60% having regular interaction with the Internet.

For our case studies of Muslim millennials in Indonesia we made six hypotheses. After reviewing the existing literature, we hypothesized that knowledge, religiosity, attitude, subjective norms, and perceived behavioral control are all positively related to the intention to engage in Online Cash *Waqf* amongst the Muslim millennials.

We employed a quantitative research method by using the theory of planned behavior framework. We collected our primary data through online survey questionnaires by using purposive sampling. We managed to collect data from 418 respondents aged 18 to 38 who had never made donations of Online Cash *Waqf*.

Basically, we found that all the latent variables which influence attitudes towards Online Cash *Waqf*, that is knowledge, trust, and religiosity, and all the factors of the theory of planned behavior, attitudes, subjective norms, and perceived behavioral control, have a significant and positive influence on the intention to engage in Online Cash *Waqf* donation among Indonesian millennial Muslims.

There are several reasons behind these findings, including the narratives on *Waqf*'s benefits that are promoted by *Waqf* institutions and also by the government, the respondent's perspective toward *Waqf* and the nature of the millennial generation which has a strong tendency towards using digital technology.

Based on these findings, we suggest several recommendations in relation to the role of digital technology, especially that *Waqf* institutions need to make sure that their digital platforms can be used easily and effectively, because perceived behavioral control is found to be significant according to this study. So, the ease or difficulty of using the system positively and significantly influences the behavioral intention to donate through Cash *Waqf* among the millennials.

Now, from these two case studies, on Digital *Zakāt* and Digital Cash *Waqf* we have shown that digital technology has indeed contributed positively and has improved the performance of *Zakāt* and *Waqf* institutions in Indonesia, basically because it was able to enhance the efficiency and effectiveness of the payment of *Zakāt* and *Waqf*. It was also found to be possible to enhance literacy and awareness as well as trust and accountability towards *Zakāt* and especially towards *Waqf* organizations through the empirical study on the use of the trust factor in *Waqf* studies.

Improving the performance of *Zakāt* and *Waqf* institutions would require appropriate investment in the infrastructure of digital technology. At the moment only a few *Zakāt* and *Waqf* organizations have a digital platform, and these digital platforms are not used optimally. Human Resources also need to be trained in how to use the system.

At the same time, it also requires an appropriate ecosystem including education, which could directly increase awareness and also the literacy of people regarding *Zakāt* and *Waqf* in Indonesia. The literacy index of *Zakāt* in Indonesia is only 60%, which means that presently only sixty out of every one-hundred people know about the concept of *Zakāt*, and the figure is even lower for the *Waqf* literacy index.

I predict that digital technology in the future can and will play a more important role in revitalizing *Zakāt* and *Waqf* institutions or Islamic welfare institutions in Muslim societies.

Finally, I would like to close by sharing from the Qur'anic Sūra ar-Raḥmān, 55:33, which is believed by scholars to show the importance of developing technology:

> "O society of jinn and men, if you can pass the bounds of heaven and earth, then pass, but you cannot pass without authorization" (Qur'an 55:33).

I hope we can all reflect on this verse of the Qur'an.

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Chapter 3
Cash *Waqf* Linked *Ṣukūk* (CWLS) in Indonesia: An Innovation

Raditya Sukmana, Nisful Laila, Indah Rahmawati, Puji Sucia Sukmaningrum

Introduction

Indonesia is the largest Muslim country, with a total population of 281 million in 2024 (more than 207 milion or equal to 87.2% are Muslims) and a GDP per capita of USD 4,788. The five biggest islands are Sumatra, our neighborhood, Java, Kalimantan, Sulawesi, and Papua Island. The current exchange rate is IDR 14,700–15,300 to USD 1. Given this fact, the potential and the future of the Islamic economics is very bright in this country.

Islamic banking, Islamic social finance and the Islamic capital market are developing very fast in Indonesia. First, we will focus on *Ṣukūk* as one of the Islamic capital market instruments and later we will mention *Waqf* and discuss collaboration of these two products (*Ṣukūk* and *Waqf*) under the name of Cash *Waqf* Linked *Ṣukūk*.

Among the various types of *Ṣukūk* is Sovereign *Ṣukūk*, which is defined as State Securities that are issued by the government based on Sharia principles, in rupiah as well as in foreign currencies. The goal of issuing State or Sovereign *Ṣukūk* is of course to obtain financing for the national budget to be used for building projects, infrastructure, and so on.

In many cases, the government raises funds through Sovereign Bonds and Sovereign *Ṣukūk*. If the government finances these projects by issuing bonds, then we will not know how the proceeds are being spent. However, with Sovereign *Ṣukūk* we will be able to know what the proceeds of issuing the *Ṣukūk* will be used for, i.e., for developing infrastructure, for making tollways or for building energy infrastructure and so on.

Another goal for *Ṣukūk* issuance is developing the Islamic financing system. When the government issues Sovereign *Ṣukūk* it will introduce a variety of instruments into the Islamic capital market and so more people will engage in the market.

The first advantage of issuing *Ṣukūk* is that it creates financing diversification, and it can be used for financing government projects. Normally for financing, one way is for the government to rely on overseas loans, but sovereign *Ṣukūk* is another alternative for the national budget.

Ṣukūk can be used for financing government projects and for optimizing the utilization of the state-owned assets because in the context of *Ṣukūk*, the underlying asset should exist. So, in the context of *Ṣukūk*, some types of Sovereign *Ṣukūk* utilize state assets, such as buildings and other resources.

Ṣukūk can also contribute to developing the Islamic capital market and provides a *Ṣukūk* benchmark, because the rate of the yield that is offered to the investors, the profit shares, will be the benchmark for other private institutions to issue *Ṣukūk* as well. This will expand the investor base, because previously, when the government issued bonds, Muslims who were very strict did not want to interact with any interest, so they did not want to buy the bonds. So, by offering Sovereign *Ṣukūk* which is Sharia compliant, those Muslims can also contribute to the country's economic development.

There were some significant milestones in the introduction of Sovereign *Ṣukūk* in Indonesia. In 2008 we saw the debut of Islamic fixed rate issuance. Then, in 2009 came the debut of Retail *Ṣukūk*. In 2010 the first auction of Project-Based *Ṣukūk* took place. Then, in 2013 came the debut of Project Financing *Ṣukūk*, followed by Savings *Ṣukūk* in 2016, and finally in 2020 Cash *Waqf* Linked *Ṣukūk* was introduced.

Regarding *Ṣukūk*, there is an innovation in Indonesia called Retail Sovereign *Ṣukūk* (SUKRI). In many cases, Sovereign *Ṣukūk* is directly issued to the institutions (the *Ṣukūk* holders), whether it is pension funds, Islamic banks, or others, and the nominal amount certainly is much larger than an individual can afford. The Government of Indonesia has therefore provided a chance for individuals to contribute to Indonesia's development by issuing Retail Sovereign *Ṣukūk*. There are various types of Sovereign *Ṣukūk* in Indonesia and one of them is Retail, but in the following section, I am going to explain another Sovereign *Ṣukūk* issued by the Indonesian Government which collaborates with *Waqf*.

1. *Waqf* and Cash *Waqf*

The Indonesian Waqf Act No.41 of 2004 states that *Waqf* is a legal act of the *Wāqif* (donor) for separating or giving up part of his property to be used forever or for a certain period of time for the purpose of general welfare based on Sharia principles. The Waqf assets can also be a form of movable object such as a Cash Waqf which is set up by a person, a group, an institution, or a legal entity in the form of cash, money, or securities.

Cash *Waqf* Linked *Ṣukūk* is an innovative financial instrument combining Cash *Waqf* and *Ṣukūk* for social purposes. As I mentioned earlier, if we buy *Ṣukūk* Retail we get the yield, because it is an investment, but if we buy CWLS we are buying for social purposes in the sense that later at maturity, we will get the principal only, since the profit will go for social purposes.

(1) Urgency of Cash *Waqf* Linked *Ṣukūk* (CWLS) Issuance

There is an urgent need to strengthen the capacity of Islamic economics and financial innovations. To the best of our knowledge there is no other country which issues *Ṣukūk* combined with *Waqf* other than Indonesia. This is unique since the utilization of *Waqf* is normally for social purposes, but it needs a source of funds which is coming from business. Hence collaboration in this case is needed to ensure sustainability.

Moreover, another urgency is to strengthen the National *Waqf* management industry. So far *Waqf* is in the form of land but rarely is it connected with other financial instruments.

The SDG's targets are another reason for the existence of CWLS, because one of the SDG's elements is health and this specific CWLS is used for health purposes, as it was during the COVID-19 pandemic. Finally, it is necessary to provide the *Wāqif*, the investors, with a secure and profitable financial instrument which is guaranteed by the state.

(2) Business Process of CWLS

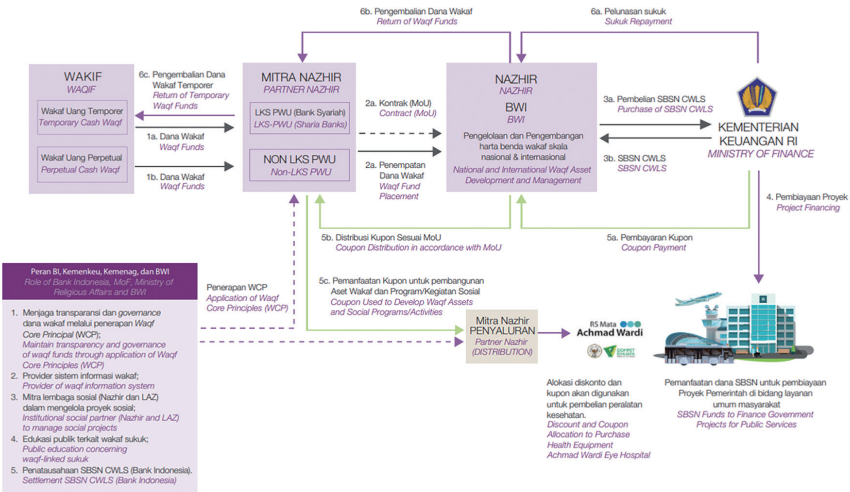

Figure 1 Business model of CWLS
Source: *Annual Report Cash Waqf Linked Sukuk* (Kementrian Keuangan Republik Indonesia 2021, 32–33).

The CWLS scheme integrates the financial sector, both commercial and social, with the real sector. Cash *Waqf* income is placed in Government Islamic Securities (SBSN) to support public development programs, such as health and education infrastructure. In general, the CWLS model consists of four main processes: (i) collecting funds; (ii) placing funds; (iii) distributing and utilizing the return; and (iv) returning the *Waqf* funds.

1) Fund Collection

Islamic Bank as receivers or agent (LKS-PWU) of Cash *Waqf* to receive and collect Cash *Waqf* funds from a waqif, which are subsequently distributed to BWI as the *Nāẓir*.

2) Fund Placement

BWI invests the Cash *Waqf* through private placement in government *Ṣukūk* or Government Islamic Securities (SBSN) issued by the Ministry of Finance. The funds received by the government from CWLS issuances are subsequently used to fund government projects for public services. At this stage, in its capacity as the SBSN administrator, Bank Indonesia records the ownership and engages in SBSN clearing and settlement.

3) Distribution and Utilization of Return

The government pays the return to BWI in the form of coupons, which are distributed to the *Waqf* managers to fund social projects or activities in conjunction with BWI and the *Waqf* managers. The discount received from the first CWLS series was used for medical equipment and building development for an eye hospital in Serang, Banten. The coupons received periodically are used to cover the bank installment and some operational expenses. Investment in CWLS generates competitive returns because BWI is tax-exempt.

4) Repayment/Return of *Waqf* Funds

Upon maturity, the government repays the principal government *Ṣukūk* or SBSN to BWI for return in full by BWI to the *Wāqif* (in the case of a temporary Cash *Waqf*) or further management by BWI (in the case of a perpetual Cash *Waqf*).

In addition to the aforementioned parties, the Ministry of Religious Affairs also participates by issuing supporting policies concerning *Waqf* empowerment/management. This scheme demonstrates the tangible collaboration between authorities in order to optimize the development of *Waqf* assets in the form of cash to increase public prosperity.

(3) How the Scheme works:

1a and 1b) The *Wāqif* (*Waqf* donor) donates Cash *Waqf* for temporary or permanent contracts as agreed to the *Nāẓir* partners (*Waqf* managers) either from Sharia Financial Institutions Receiving Cash *Waqf* (LKS PWU), or other institutions (Non-LKS-PWU).

2a) *Nāẓir* Partners enter into a cooperation contract (MoU) with the *Nāẓir* (the Indonesian Waqf Board (Badan Waqf Indonesia BWI)

3a) The *Nāẓir*s and BWI purchase State Sharia Securities (SBSN) instruments in the form of Cash *Waqf* Linked *Ṣukūk* (CWLS) issued by the Ministry of Finance of the Republic of Indonesia

3b) The Ministry of Finance of the Republic of Indonesia sells and distributes SBSN CWLS asset ownership letters to the *Nāẓir*s and BWI

4) The Ministry of Finance of the Republic of Indonesia manages SBSN to finance state projects which in the long term can produce profitable management results.

5a) The Ministry of Finance of the Republic of Indonesia pays coupons or profit sharing for the management of SBSN CWLS to the *Nāẓir* (BWI) for the SBSN CWLS holder.

5b) The *Nāẓir*s and BWI distribute the return of SBSN CWLS management to *Nāẓir* Partners in accordance with the agreed MoU.

5c) *Nāẓir* Partners utilizes coupons from SBSN CWLS management for *Waqf* asset development programs and social programs/activities. One example is the allocation of discounts and coupons used to purchase health equipment as used to support the Achmad Wardi Eye Hospital which was developed by one of the *Waqf* institutions in Indonesia.

* During this distribution process, there is an important role for Bank Indonesia, the Ministry of Finance of the Republic of Indonesia, the Ministry of Religion, and the Indonesian Waqf Board to:

1) Maintain transparency and governance of *Waqf* funds through the application of *Waqf* Core Principles (WCP)
2) Provide a *Waqf* information system
3) Be an Institutional social partner (*Nāẓir* and LAZ) to manage social projects
4) Provide Public education concerning *Waqf*-linked *Ṣukūk*
5) Pay Settlement of SBSN CWLS (Bank Indonesia)

6a) At the end of the SBSN CWLS contract period according to the contract, the Ministry of Finance of the Republic of Indonesia will pay off the *Ṣukūk* (return of Cash *Waqf* principal) to the *Nāẓir*s and BWI

6b) *Nāẓir* and BWI redistributes the principal value of Cash *Waqf* to the *Nāẓir* partners when it matures

6c) The *Nāẓir* partners refund funds for temporary (temporary) *Waqf* contracts when they are due

(4) The Benefits of CWLS

CWLS has many benefits. Safety is guaranteed by the state and the *Ṣukūk* will be returned 100% to the temporary Cash *Waqf* investors at maturity. It is productive because the benefits will be given directly to the *Waqf* beneficiaries. It is blessed, because the returns of CWLS will be used for social welfare through developing new *Waqf* assets and programs. It is competitive because the returns are quite profitable for the investors, and it is long lasting because *Waqf* assets are eternal.

(5) Features of CWLS

The guarantor is the government of Indonesia, represented by the Ministry of Finance. Issuance is by a special purpose vehicle (SPV), the structure is time-based (*Wakāla*), and the issuing method is a private placement with Badan Waqf Indonesia BWI. The underlying asset is the government state-owned assets, and the market is domestic. The tenure is five years and nominal bullet payment is 100%. The minimum order is IRD 1 million, which is around USD 70, so every individual Indonesian can contribute by this CWLS. There is no maximum order.

CWLS was first issued on March 20, 2010, and for one share, one *Ṣukūk*, the nominal issuance was USD 3.45 million. The contract structure was time-based (*Wakāla*) and non-tradable. The fixed coupon rate is 5%, which for the government is quite high, and the contract reaches maturity in 2025. Also, there is a discount. What does this discount mean? When this amount is received by the government, it will give a discount so that the discounted amount can be used for developing a hospital.

The Eye Hospital can offer free cataract surgery to poor people. Also, because this is a *Ṣukūk*, the government will give a return, but that return will not go to the *Wāqif*, or to the investor, but the return will go regularly for social purposes, in this case an eye hospital.

2. CWLS Schemes

The one who issues *Ṣukūk* is the finance minister and the regulator of the *Waqf* is the Indonesian Waqf Board. This is a private placement. This means that the issue of Cash *Waqf* in *Ṣukūk* by the finance minister can only be bought by the Indonesian Waqf Board, at a cost of USD 34.5 million. The Indonesian Waqf Board gets money from the *Nāẓir*s who are the partners. The *Nāẓir*'s role in Indonesia is a bit different from in other countries. In Indonesia, the *Nāẓir* can be a privatized Cash *Waqf* institution, and this *Nāẓir* can collect from the *Wāqif* either temporary or perpetual *Waqf*. The *Wāqif* is allowed to donate temporary Cash *Waqf* or perpetual Cash *Waqf* to the partner or *Nāẓir* who has to distribute all the collected Cash *Waqf* from the *Wāqif* to the Indonesian Waqf Board. Once the collected amount reaches IDR 50 billion, or USD 34.5 million, only then the government will issue the *Ṣukūk*. Since this is *Ṣukūk* the government will give a return and discount payment. So, from this USD 34.5 million a small portion of it will be discounted then give to the Indonesian Waqf Board for *Waqf* projects for social purposes. The entities who buy this specific Cash *Waqf* Linked *Ṣukūk*, this IDR 50 billion or USD 34.5 million, are institutions, and many of them are Islamic banks. Then from USD 34.5 million, IDR 1.9 billion is discounted. Then, since this is *Ṣukūk*, the government will pay out a regular yield of IDR 181 million per month for social purposes.

The Retina Center Eye Hospital is such a project. This social project will use this as an income stream to get financing from the BNI Shariah, for services, equipment, and ambulances. Then to make a monthly installment to the bank the project uses the profit share, or the coupon issued by the government CWLS. So, every month IDR 181 million is used to make a payment for the installment of the *Murābaḥa* financing.

So, this project gets IDR 8.8 billion and this will be used for construction, medical devices, working capital, ambulances and so on.

(1) Analysis of CWLS Performance

Collecting Cash *Waqf* to build eye hospitals is not easy; it is a process that has many challenges since the literacy level is low, and promotion needs to be continuously done to make people aware of that Cash *Waqf* exists and is available to them. To be competitive, the return of 5% is quite high, and the higher the return, the greater the benefit.

In this context, *Waqf* land was supposed to be used for building a hospital, but since they did not have enough money to build the hospital, the government helped by issuing CWLS. So, this is a collaboration between the Government and the *Nāẓir* and also the Indonesian Waqf Board. This certainly creates a value-added, because initially there was some idle *Waqf* land, but now with this money, the hospital will be built there, and many people will benefit from the health facility.

(2) How the Funds are Used

The CWLS is being used for renovations, purchasing medical devices, equipment, and ambulances, and also for the social services to inform about surgery. As for the performance of the hospital, in 2018 it still experienced losses, but a year later its profits increased significantly because the patients of this hospital were enjoying an excellent facility, and they were mostly supported by National Insurance paid by the Government.

The number of surgeries performed also increased and so its assets increased because the profit goes back to the balance sheet. Thus, the Achmad Ward Eye Hospital recorded a revenue growth of 323% and finally since 2019 it has been able to record a profit.

The important factor in this project is collaboration. This hospital collaborates with the government and the City Office. Most of the employees in the City Office are treated in this hospital and the local government is paying their expenses. Also, patients are shuttled to the facility and there are other collaborations like social service events.

Why pay for an Eye hospital? If a person is visually impaired, they are three times more likely to be unemployed, three times more likely to be involved in motor vehicle collisions, three times more likely to suffer from depression, and two times more likely to have a fall while working. The point is that 84% of visual impairment could be avoided if diagnosed and treated early. 1.4 million children could benefit from vision rehabilitation. So, this is why proper eye care is important in the context of Indonesia.

In the world the majority of blindness is caused by cataracts, Glaucoma, and AMD, and there are many people suffering from such eye problems in Indonesia.

3. Opportunities and Challenges for CWLS Issuance

There has been an opportunity for high economic growth, despite the COVID-19 pandemic. It is expected that after the pandemic there will be high economic growth as there was prior to the pandemic, when normally, in a year, we could reach 5% growth. The contribution from millennials here is very significant.

They are familiar with technology, so we hope that they will contribute to *Waqf* and other Islamic financial institutions. We also benefit from the high commitment of Indonesian government in developing this sector. The issuing of *Ṣukūk* Retail and also *Ṣukūk* Retail combinations with *Waqf* show that government has a high commitment to developing Islamic economics and also to developing and improving health facilities and other infrastructure.

However, the challenge is that we need more society involvement. We have to increase the number of *Nāẓir*s and distribution partners, and we must encourage millennials to invest.

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Chapter 4
Theoretical and Practical Considerations of Inclusive Islamic Social Finance through *Waqf* and *Qarḍ Ḥasan*

Muhammad Hakimi Mohd. Shafiai

Introduction

In our recent research we are combining various aspects of Islamic finance, and I am proposing the inclusion of *Qarḍ Ḥasan* as part of a comprehensive, all-inclusive Islamic finance in order to fulfill the Divine Decree. In this chapter we will examine the practical effects of *Qarḍ Ḥasan*, regarding the profitability of the product and also the business elements including the contribution of Grameen Bank.

I met its founder, Muhammad Yunus in Malaysia many years ago, and now he has moved from Grameen Bank, from micro-finance to social business. Already we can see the elements of entrepreneurship and the elements of sustainability and profitability, but the impacts from the activities of many entrepreneurships must be channeled properly in order for them to have a beneficial social impact. From the aspiration of *Qarḍ Ḥasan*, I believe we can formulate a combination of *Zakāt*, *Infāq*, *Ṣadaqa*. and *Waqf* together, so that we can have what I regard as inclusive Islamic Social Finance.

I want to highlight three things. The first is about social inclusion in terms of shared prosperity as well as human dignity which will directly contribute to wellbeing. If we look at the SDGs from the Muslim world point of view, it has been difficult to achieve the highest degree of human dignity, that is, zero hunger, zero poverty, and clean water. For Muslim nations, achieving this is really a struggle when compared to a nation like Japan. I remember that in December 2018 Professor Kono Yasuyuki from the Center for Southeast Asian Studies, Kyoto University, made a presentation related to SDGs, and he said that a country like Japan is now mainly concentrating on topics like sustainable cities and renewable energy as part of the seventeen pillars of the SDGs.

The second part is about building an inclusive climate and society friendly financial system by combining *Waqf* with *Qarḍ Ḥasan*, and then with this larger reservoir of funds for sustainability, we can propose an incubator program and an entrepreneurship program.

As for the third part, I want to highlight social inclusion[1] versus social exclusion, and as part of this inclusion, the element of an ethical system for competitive markets through the inclusion of social needs.

1. Social Exclusion and Wellbeing

How can we overcome social exclusion? How can we engage with people or give them access to resources and respect in terms of their dignity as human beings? How is it that systematically, despite being in a society, people are unable to get, or are denied access to the rights, opportunities and resources that are generally available to everyone? The implication here is that they are being excluded. If you look at the website of the World Bank for instance, billions of dollars have been spent on the issue of overcoming social exclusion. There are countries like Mexico which have a "need denial society," so some groups are

1 *Social inclusion* is defined as the process of improving the terms of participation in society, particularly for people who are disadvantaged, through enhancing opportunities, access to resources, voice, and respect for rights.

being denied access to their rights or opportunities to participate, particularly in economic activities, in community services, and also politics.

Figure 1. Impact of Social Exclusion
Source: Author

Based on the issue of social exclusion, there are three major consequences, vulnerability, poverty, and reduced inequality which is listed as SDG #10. This is the big issue, the poor are getting poorer, and the rich are getting richer, so there is inequality within society. We can see that social exclusion also increases poverty and vulnerability.

I believe that we can have an impact, directly or indirectly, on the wellbeing of human beings, in terms of their physical and mental wellbeing, social values, lifestyle, and belief system. If we want to connect the impact of social exclusion and the issue of wellbeing, we have to seriously take into consideration how we can tackle this issue.

From here I want to highlight how psychological wellbeing will directly affect the issues of health, happiness and also prosperity. When Malaysia introduced a new economic policy in 1970, it increased tensions between the Malay and Chinese communities, resulting in riots. Inequality in Malaysia has resulted in racial tensions. To address this serious issue our government introduced a 10-year program called the

Shared Prosperity Vision.

Figure 2. Social Wellbeing
Source: Author

I would like to take up the issue of wellbeing and especially to highlight prosperity and also human dignity which are closely related to the social issues shown below.

Figure 3. Wellbeing: Prosperity and Human Dignity
Source: Author

Here we can see that wellbeing is about the issues of clean water, leisure, social participation, family life, housing, work, education, financial security, environment, and security as well as health. Therefore, we must seriously consider economic empowerment in order to tackle the issues of human capital, financial capital, physical capital, and also social capital. Moreover, based on our study and also supported by my article in 2019 (Mohd. Noor, Mohd. Shafiai, and Ismail 2019), even though this type of society has the financial capital, they do not have any strength in terms of the spiritual element, and so the business or the economic activities are really liable to failure.

2. Inclusive Islamic Social Finance *Waqf*: A Unique Islamic Institution

In this second part, I would like to argue that *Waqf*, together with *Qarḍ Ḥasan*, can be regarded as inclusive Islamic Social Finance. I am stressing this because *Waqf* is a unique Islamic institution and is upheld as a unique contribution of Islamic civilization to the forms of endowment that were practiced by civilizations before Islam.

Since then, *Zakāt* in the form of *Waqf* has evolved throughout the centuries. *Waqf*, as a unique Islamic financial instrument is highly regulated as a public policy instrument under the rules of government. Professor Raditiya mentioned in Chapter 3 how the central bank of Indonesia introduced Cash *Waqf* and Cash-Linked *Ṣukūk* and of course, we must bear in mind that *Waqf* is a means to provide charity, as a part of a Muslim's religious duty.

(1) *Waqf* and Civil Society (Civil Economy)

Here I want to discuss *Waqf* in the context of the civil society or the civil economy, the integration of the mosque and the market, piety and business, private and public, spiritual and material, the individual, the community, and society. We can argue that *Waqf* allows a creative space for communities to micromanage their own socioeconomic affairs, according to essential divine ethical norms. If we examine *Waqf* we can see that it is a powerful instrument, but we have to also examine each case, country by country, in terms of the practices that are happening these days.

(2) Corporate *Waqf*

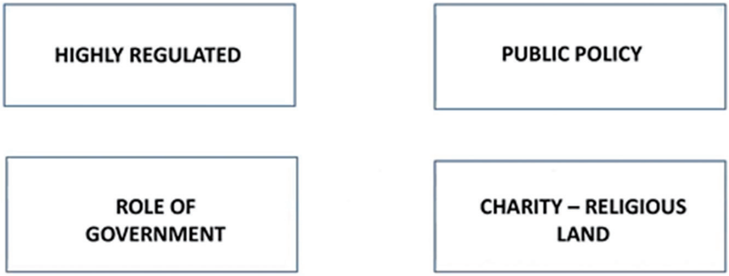

Figure 4. Aspects of Corporate *Waqf*
Source: Author

Corporate *Waqf* is a charitable endowment whose asset base consists of shares in a company. A *Waqf* is an Islamic trust, which places an asset into perpetual endowment with returns allocated to prescribed beneficiaries. By combining the perpetual charitable features of traditional *Waqf* with the organizational ability of the corporate form, we can create a concrete and powerful instrument.

Through the history of Corporate *Waqf* here, I believe that it has proved to be a very professional management system. If we can manage all the *Waqf* properties, especially the *Waqf* land, with the efficiency of corporate leaders, using their technical knowledge of business, their skill in commerce, with trust, then I believe we can see a significant impact on society.

In terms of practice, since 1926 there has been one foundation in Turkey and another in India. These conglomerates evolved and tried to create corporate *Waqf*. More recently, as has been reported in the literature, Waqf an-Nur, established in 2005 by Johor Corporation in Malaysia, is significant in terms of the current practices of Corporate *Waqf*. In Johor Cooperation, Waqf an-Nur is concentrated mainly in the health services.

3. *Qarḍ Ḥasan*

(1) Originality

Qarḍ Ḥasan is a mechanism for welfare and not for the purpose of business transactions. It is somewhere between giving in charity and giving a loan, being a cash loan as a form of social service from the rich to the poor and those needing financial assistance, in other words, Islamic social lending.

I want to discuss how we can regard this as Islamic social lending, and then, in terms of the issue of repayment, I want to focus on this in terms of Islamic loan theory, because from the Islamic point of view it is not lending money to make money, but to bring a reward from God to the owner, because *Qarḍ Ḥasan* is given for the sake of God as mentioned in the Qur'an based on *Iḥsān*, in the path of Allah *subḥānahu wa-taʿālā*. In the case that the borrower cannot repay the loan, the lender may postpone and or cancel the loan.

To explain loan theory from an Islamic perspective, we have to first grasp the ethical and metaphysical philosophies to understand the motivation to earn a reward from God, *fī sabīli llāh*.

I believe we can illustrate the Islamic loan theory of *Qarḍ Ḥasan* in the light of the Theory of Knowledge by al-Ghazali, for instance, the theory of intention.

We can argue *Qarḍ Ḥasan* from ethical and metaphysical philosophies and also from the practical side because a loan is an action, something we give to the people. The lender has to choose whether he is giving the loan as a benevolent loan or for monetary reward. The outcome will be either a reward from God (which is unseen and postponed) or a monetary reward such as interest in conventional finance. The choice will be based on the satisfaction the lender will get.

(2) An Insight into the Theoretical Foundation

We must consider all aspects of a loan. First, both the practical purpose of the loan, e.g., continuity of life, and the purpose or reward in terms of seeking the reward in Paradise, and then in terms of the repayment of the debt and default risk. There is a reward in Paradise, but from the decree of God, debts must also be repaid. And then according to a strong Sunna of the Prophet, we have to repay the loan in a timely and beautiful manner.

(3) Dynamic Mechanism

I want to highlight two prongs of *Qarḍ Ḥasan* as a dynamic mechanism not only from the redistributive issue, but also from the banking operation in terms of liquidity management. I believe the key ideas in terms of implementation can be to support *Zakāt* and *Waqf* for social wellbeing.

This will give a motivation for the relationship between the receiver and the donor and help to find a way to promote Islamic banking institutions as a way of humanizing banking towards the "unbanked group."

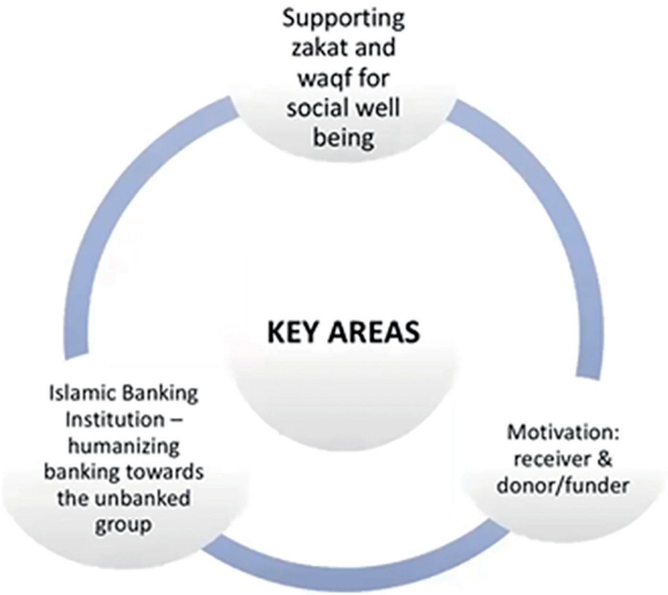

Figure 5. Key Areas for Support
Source: Author

(4) Financing

Moving from the theoretical side of *Qarḍ Ḥasan*, we can look at the various practices of *Qarḍ Ḥasan* financing. For example, people or institutions make loans to serve the needs of the low or no-income society; then there is the issuing of micro finance to small entrepreneurs, and then also providing cash in advance for unique cases not covered by *Takāful*, as well as for education loans which are mainly nonprofit driven. Then, if we look at the global practice of *Qarḍ Ḥasan* we can see two very influential and prominent institutions for micro finance, Akhuwat Foundation a nonprofit organization in Pakistan that provides interest-free loans to individuals who are unable to access formal financial services, and Baitul Mal wat Tamwil (BMT), a financial institution in Indonesia that operates as a cooperative savings and loan organization. We can also see similar institutions in the Gulf, the UAE, Qatar, and Dubai, where they make a salary advance by using *Qarḍ Ḥasan*, and in the case of Egypt, as part of the CSR for Faisal Islamic bank.

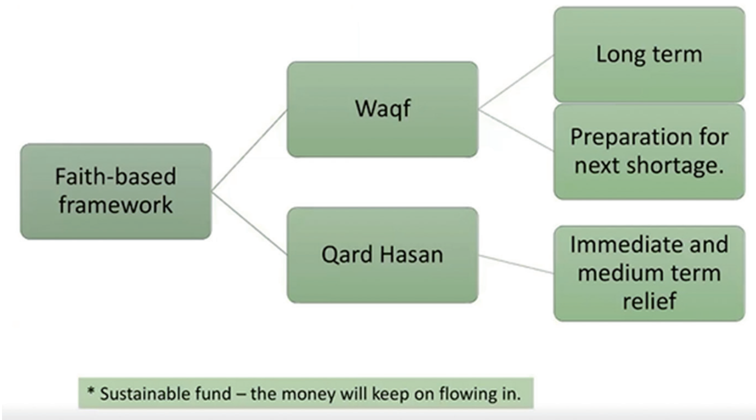

Figure 6. Financing Scheme
Source: Author

In the case of Malaysia, Bank Islam Malaysia Berhad, a fully Islamic commercial bank, operates micro financing through what they call the "*Ṣadaqa* House." They issue a soft loan using *Qarḍ Ḥasan* as part of the micro financing program. In my faculty right now, we have an agreement with the Bank Islam Malaysia Berhad to provide financing to the students for practical research on entrepreneurship. Also, as a cooperative, they provide educational loans, personal financing, and so on.

Today we can see all these things coming from cooperative institutions and also from fully fledged Islamic banks like Bank Islam

Malaysia Berhad and also Bank Rakyat, and well as institutions like the Islamic Religious Council in Johor, as a part of a microcredit scheme.

4. Way Forward: Integrating *Waqf* and *Qarḍ Ḥasan*

(1) Incubation Program 1

If you regard *Waqf* as something that needs proper management in order to gain the benefit, and that this will take time, then we have to have another instrument which can be used immediately, which I argue here is *Qarḍ Ḥasan*. Then we can have sustainable funds where the money will keep on flowing in. From there, through the business incubator, by using the instruments of *Waqf* and *Qarḍ Ḥasan*, we plan to have a proper program as well as see a growth in business and also sustainability, profitability, and finally, a beneficial impact to society.

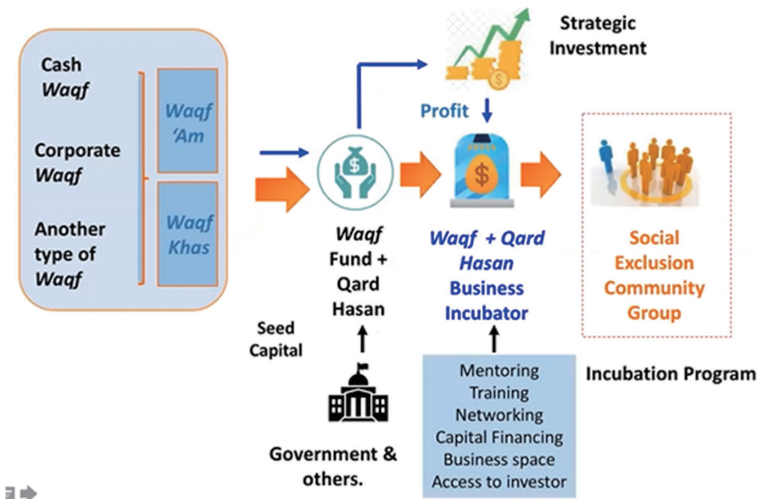

Figure 7. *Waqf* Management Scheme
Source: Author

(2) Incubation Program 2

The figure below is the proposed framework showing how the government and other institutions like foundations use the *Waqf* fund and *Qarḍ Ḥasan*, and then through the incubator program of mentoring, training, networking, capital financing, finding a business space, it can gain access to investors. This will make a community group, with the support of the incubation program, so that we can have a comprehensive program using the *Waqf* fund and also financing using *Qarḍ Ḥasan*.

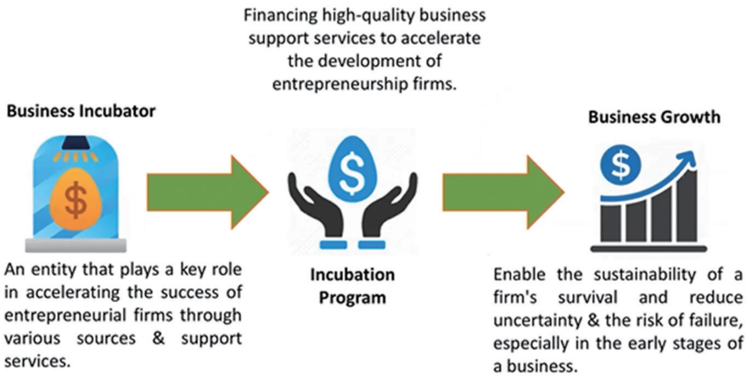

Figure 8. Proposed Framework for Using Funds
Source: Author

Finally, we can integrate *Waqf* and *Qarḍ Ḥasan*. so that we can have a big reservoir for all potential Islamic funds that are flowing through the society. Either we can use it immediately or we can hold it in reserve for future needs. As it is an instrument of *Waqf*, we need to manage the principal, and we can only leverage on the benefit or the return from the principal of *Waqf*, but for the *Qarḍ Ḥasan*, we can utilize that immediately.

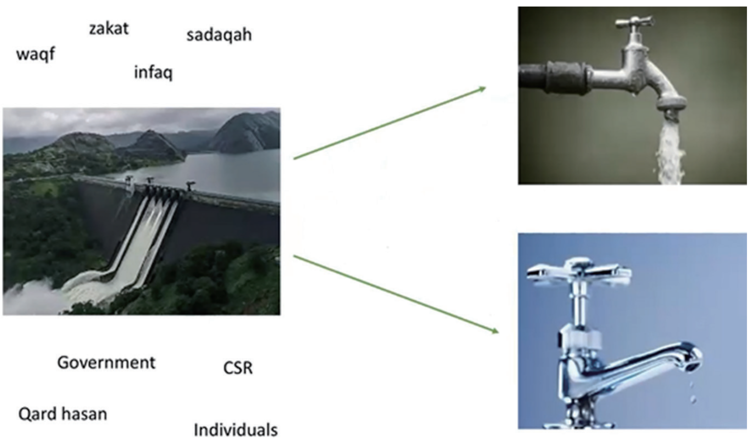

Figure 9: Flow of Islamic Funds
Source: Author

Conclusion

For Islamic approaches to sustainable development, what I would like to propose is that the combination of *Waqf*, together with *Qarḍ Ḥasan* with proper academic programs, and an incubation program for entrepreneurial activities within the regular society and among the students' society, can be quite impactful. With such a creative, proactive, anticipative, and holistic program, I believe that we can show to the world that we have some powerful instruments in Islamic Finance, but of course, the bottom line is that we have to manage them properly.

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Chapter 5
Expectation vs Reality: Evidence from Indonesia's Cash *Waqf* Implementation

Dian Masyita

Introduction

Indonesia is an emerging lower middle-income country. It is still facing problems of poverty, and until September 2019, the number of poor people Indonesia was 24.79 million, that is around 9.2% of the population. Poverty is closely related to income inequality, so a reduction in the level of inequality should coincide with the goal of economic growth and show the effects of fair national development. Even though it has not shown a significant decrease, the level of inequality in Indonesia's population as measured by the Gini index was 0.382 in September 2019. Therefore, in this research, we are trying to see if there is a possibility that *Waqf*, as an Islamic social funding instrument, especially Cash *Waqf*, can play a significant role in reducing inequality as it should do.

In this research, we used a mixture of qualitative and quantitative methods based mostly on primary data. We collected quantitative data from three parties. The first party were *Wāqif*s or potential *Wāqif*s who were selected by asking the Islamic banks to select loyal customers to be a potential *Wāqif*s; for the second party we used Islamic banks licensed to receive Cash *Waqf*; and for the third party we used *Nāẓir*s from *Waqf* institutions in Indonesia.

We also conducted qualitative research using in-depth interviews with fifteen respondents from Islamic banks and also government institutions like Otoritas Jasa Keuangan (OJK)/Financial Service Authority, the Indonesian government agency, which regulates and supervises the financial services sector.

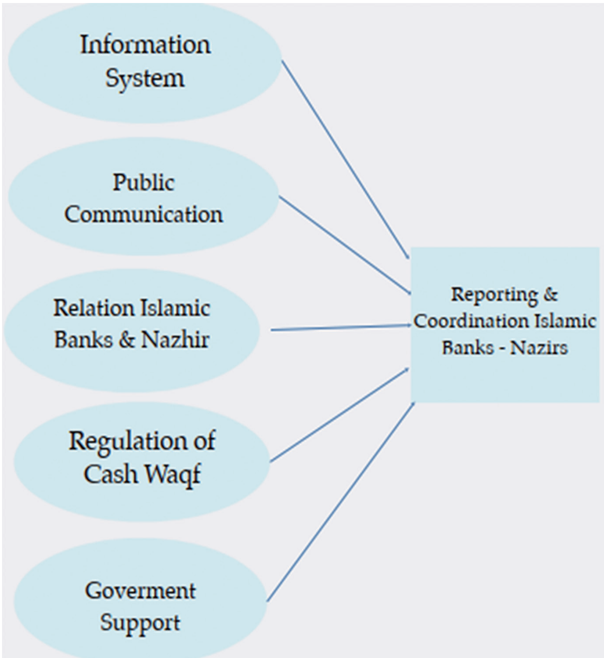

Figure 1. Structural Equation Model (SEM) of Islamic banks from the *Nāẓir*s' perspectives
Source: Author

In this study I will only focus on the issue of governance. Specifically, the information system, public communication, the relationship between the Islamic banks and *Nāẓir*s, the regulation of Cash *Waqf*, and government support, leading to reporting and coordination between the bank and the *Nāẓir*.

Compared to *Zakāt*, *Waqf* is considered more effective and flexible in assisting *Waqf* beneficiaries or *Mawqūf ʿalaih*. This is due to the nature of *Waqf* which is not bound by time (except for temporary *Waqf*), where the benefits of *Zakāt* can be felt by the eight *Aṣnāf* (categories of *Zakāt* recipients) who have a certain designation within a certain period, while the benefits of *Waqf* can be more flexibly used for increasing individual productivity, thereby increasing the feasibility of *Waqf* beneficiaries' lives.

In addition to the direct benefits of *Waqf* assets being felt by *Mawqūf ʿalaih*, *Waqf* funds also have indirect benefits, especially through the development of education and health facilities. This encourages an increase in human resources who are more productive, innovative, ready to work, and highly motivated. In this way, *Waqf* has the potential to reduce poverty in the long term.

(1) Role of Islamic Banking

The role of Islamic Banking is as an Islamic Financial Institution which is licensed to collect Cash *Waqf* / LKSPWU. The public hopes that Islamic banking will play an important role, especially because it prioritizes moral values rather than capitalism, and can bring community banking values by providing services to the community. An Islamic bank does not just make the community a target market, but it provides responsible financial services which do not trap people into excessive debt, and encourages ethical investment and corporate social responsibility initiatives, as well as creating stability by linking financial services to the real economy sector (Asutay 2008).

That is why we focus on Islamic banking to support Cash *Waqf* collection, but there are some issues here and that is why we put emphasis on research, civic banking and *Waqf* collection.

(2) Islamic Banking and Trust Issues in Managing *Waqf*

As part of a financial institution within the framework of the Islamic economy, Islamic banking is not only required to generate profits but also to carry out social functions as mandated by Law No. 21 of 2008 concerning Islamic banking based on *Maqāṣid aš-Šarīʽa*.

Article 4 states that an Islamic bank can carry out social functions in the form of a *Baitu l-māl* institution by receiving funds originating from *Zakāt*, *Infāq*, alms, grants, or other social funds and collecting social funds from *Waqf*. Furthermore, Islamic banks can channel these funds to *Zakāt* organizations and *Nāẓir*s as *Waqf* managers.

To ensure the sustainability of the social funds, the efficiency of the governance of the funds must be supported by trust and supervisory functions. Information flow is then useful for building trust between governance structures and individuals, which has the impact of moderating the effectiveness of trust-based governance.

Trust is the essential element of Islamic teaching that should be regarded as social capital, and its sustainability must be guaranteed as a mechanism to ensure that a *Waqf* continues to operate efficiently.

If a *Waqf* is not managed in a trustworthy and professional way, the community will lose trust in the *Waqf* institution, which will cause *Waqf* to be inefficient and ineffective.

(3) The Potential (Expectation) vs Actual of Cash *Waqf* Collection

Now, we come back to the main issue, how the potential for *Waqf*, or what we call the "expectation" compares to the actual Cash *Waqf* collection. In Indonesia there are some serious issues regarding the Cash *Waqf* movement launched by President Jokowi, and here we need to focus on why there is such a big gap between the potential and actual amount of *Waqf* collected.

There has been a lot of research regarding the potential or the expectation for gathering participation.

BWI/ The Indonesian Waqf Board (2021) believes that potential Cash *Waqf* in Indonesia reaches IDR 180 trillion per year.

• Noor (2015) confirmed the amount of Cash *Waqf* potential was IDR 120 trillion per annum.

• Nizar (2017) estimated Cash *Waqf* potential reached IDR 985 billion per month or IDR 11.82 trillion per annum.

• Nasution and Hasanah (2006) estimated IDR 3 trillion per annum.

However, based on the data from the Ministry of Religious Affairs the annual collection of Cash *Waqf* in 2018 was IDR 31.9 billion. On January 24, 2021, the Indonesian Waqf Board announced that the total collection of Cash *Waqf* until January 2021 was IDR 819.36 billion (BWI's website) from 70 *Nāẓir*s out of 264 *Nāẓir*s of Cash *Waqf* through 23 Islamic banks licensed to receive Cash *Waqf*.

So, here we have the potential and the actuality of Cash *Waqf*. The main issue here is why the expectation versus the reality is so different.

(4) Implementation and Problems

We tried to understand the implementation of the Cash *Waqf* on a daily basis and identify the problems. First of all, in its implementation, Cash *Waqf* is carried out in stages. The first stage of fundraising involves the participation of the *Wāqif*s to donate to their *Waqf* funds. In the second stage, the Islamic banks manage the Cash *Waqf* funds under their investment decisions or send the Cash *Waqf* to the *Nāẓir*s directly and let them manage the funds productively. The final stage is the distribution of the benefits of the Cash *Waqf* funds to *Mawqūf ʽalaih* (beneficiaries) through collaboration with the *Nāẓir*s.

In Indonesia, the Ministry of Religious Affairs has the authority to grant a Cash *Waqf* license to Islamic banks to receive and manage Cash *Waqf*. Ideally, the Cash *Waqf* fund should not be managed directly by a *Nāẓir* but in reality, the Cash *Waqf*s collected by Islamic Banks are managed by the *Nāẓir*s of *Waqf* Institutions. The Cash *Waqf* also goes to the Islamic banks' *Waqf* deposit funds using a *Wadīʿa* contract in the *Nāẓir*'s account designated by the *Wāqif*. In some practices, Cash *Waqf* collected by Islamic Banks is sent directly to the *Nāẓir*'s Specific *Waqf* Projects such as education, health, and sanitation, etc.

This research focuses on the governance of Cash *Waqf* which is proxied by reporting and coordination behavior from Islamic banks licensed to receive Cash *Waqf* and from *Nāẓir*s.

The study of this topic is essential because "reporting and coordination behavior" from Cash *Waqf* institutions encourages and increases the trust of the public, which will further encourage their participation in the development of Cash *Waqf*.

1. Methodology

This study used an online survey to investigate the determinant factors of reporting and coordination behavior of Islamic banks and *Nāẓir*s in Indonesia. The questionnaire was divided into two components, first general statements related to respondents' institutional information; second, six variables, namely report and coordination (three indicators), system information (seven indicators), relation (three indicators), government support (five indicators), regulation (five indicators), and public communications (five indicators). In total, 35 questions were used to investigate Cash *Waqf* governance in Indonesia.

In the primary data collection design, this study used two approaches. The first method was a quantitative approach to test the hypothesis by conducting a survey using a questionnaire with respondents representing Islamic banks and *Nāẓir*s. The second method was a qualitative approach to validate the model by conducting focus group discussions with related stakeholders.

We employed 17 Islamic banks as respondents. The online survey questionnaire was distributed to 21 Islamic banks and 264 *Nāẓir*s registered at the Indonesian Waqf Board as of December, 2020.

However, only 17 questionnaires from Islamic banks were submitted because four other Islamic banks did not have Cash *Waqf* products. Meanwhile, only 11 *Nāẓir*s who actively participated fulfilled the questionnaire. This condition was anticipated because, from a focus group discussion with the Indonesian Waqf Board (BWI), BWI recommended 14 *Nāẓir*s as respondents because of the BWI's experiences concerning the annual reports from *Nāẓir*s. Even though there are 264 registered *Nāẓir*s, only 14 *Nāẓir*s regularly send the annual report to BWI until the end of 2020.

As a result, it was fairly difficult to fulfill our requirements because our questions about the financial reporting were quite detailed. Unfortunately, by the end of the research, we had only received completed questionnaires from 11 *Nāẓir*s. This is quite shocking because this means 11 out of 264 *Nāẓir*s in Indonesia.

The analytical method we used to test the hypothesis was structural equation modeling (SEM). This is due to a positive relationship between fundraising activities with performance and impact including *Waqf*. The research hypotheses are as follows:

1. The relationship between Islamic Banks and *Nāẓir*s has a positive effect on the reporting behavior and coordination of Islamic Banks with *Nāẓir*s for Cash *Waqf*. Here Islamic banks and *Nāẓir*s are coordinating so we have two parties in this research,

2. Government support has a positive effect on the reporting behavior and coordination of Islamic Banks with *Nāẓir*s of Cash *Waqf*.
3. Cash *Waqf* regulation has a positive effect on the reporting behavior and coordination of Islamic Banks with *Nāẓir*s of Cash *Waqf*.

(1) Results of SEM

The results revealed that there are three final variables, which are significant to the report and coordination between Islamic banks and *Nāẓir*s, namely relationship, government support, and regulation.

The R square value is quite promising at around 75.8%, which means that the remaining 24.2% is explained by variables outside the model.

(2) The Conceptual Framework of the Study

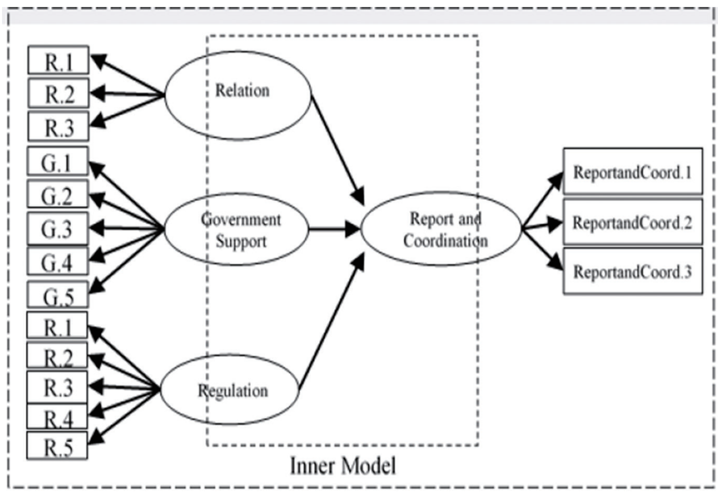

Figure 2. Outer Model of the Exogenous Latent Variables
Source: Author

Finally, we have three sub-variables. Four for relationships, five for government support, and five for regulation. We used in-depth interviews, and there were relatively few. We found that the Regulation of the Minister of Religious Affairs (MoRA) No. 4/2009 Article 11 regulates how the MoRA guides Islamic banks during the supervisory process. However, the regulation does not specifically explain how the Indonesian Waqf Board has the authority to grant *Nāẓir*s a Cash *Waqf* management license and provide guidance to the *Nāẓir*s.

Then we found that Waqf Core Principle No.8 (WCP-8) states that the *Waqf* supervisory board can take over and restrict the licenses of Cash *Waqf* institutions. However, Cash *Waqf* regulations in Indonesia do not specifically define the consequences for Cash *Waqf* institutions that provide non-compliance reports. Hence, the *Waqf* supervisory board cannot implement this guidance in Indonesia.

In WCP-8 states that the *Waqf* supervisory board has to regularly assess *Waqf* institutions regarding financial reports, *Waqf* collection methods, investment - distribution models, and the implementation of good *Waqf* governance. However, the reality is not like this at all. The *Waqf* supervisor needs to evaluate the audit results of the *Waqf* institution. In Indonesia, MoRA No. 4/2009 Article 8 states that each Islamic bank is obliged to submit Cash *Waqf* financial reports at the end of each financial year to the Minister of Religious Affairs and the Indonesian Waqf Board. However, in reality, there were only 14 *Nāẓir*s who regularly submitted the report, and in our research only 11 of these *Nāẓir*s fulfilled the requirements of our questionnaire. The Financial Services Authority regulation dictates that Islamic banks are required to report their sources of *Zākat* and *Waqf* funds, the distribution, and their financial performance. However, in reality, the supervision of *Nāẓir*s was unsatisfactory mainly because from the 264 *Nāẓir*s registered with the Indonesian Waqf Board (BWI) as of December 2020, only 14 of them regularly provided financial reports to BWI.

(3) Findings

We summarized the institutional factors of Islamic banks and *Nāẓir*s that play an important role in encouraging the development of Cash *Waqf*. In the case of having a special unit for managing Cash *Waqf*, 54.5% of *Nāẓir*s and 23.5% of Islamic banks form a special unit for Cash *Waqf*. The rest of them are mostly in Islamic banking, but they do not have a special unit for managing Cash *Waqf*.

In terms of human resources, 45.5% of *Nāẓir*s separated the human resources of the admissions division, the management division, and the distribution division with other divisions and 72.7% of human resources in the reporting division were also separated from other divisions.

Meanwhile, around 23.5% to 35.3% of Islamic banks separated the human resources of the receiving, management, distribution, and reporting division of Cash *Waqf* from the human resources of other divisions. This shows that around a third of Islamic banks really care and make a separate division for Cash *Waqf*.

36.4% of *Nāẓir*s' financial reports were not audited by a public accounting firm and 45.5% of *Nāẓir*s were predicated as unqualified. Meanwhile, the remaining 18.2% of *Nāẓir*s' financial statements were predicated as "disclaimer of opinion," the most serious level of unacceptability. So, from 264 only 14 regularly report and 11 complied with our research, and from that 11 there were 20% of *Nāẓir*s' financial statements that were predicated as "disclaimer of opinion" and 36.4% of *Nāẓir*s' financial reports had not been audited by a public accounting firm. This is a very shocking finding indeed.

Based on our research, we found that managing Cash *Waqf* as a productive business is challenging. If the company fails, the corpus funds from Cash *Waqf* will erode the principal. This makes it difficult for *Nāẓir*s to submit their annual reports to BWI. Cash *Waqf* investments take a long time to yield results, usually from 5 to 20 years, depending on the scope of the project. As a result, only a small percentage of *Nāẓir*s regularly submit their reports. This is a concerning finding that requires further attention.

(5) Implication of Governance Issues (Reporting & Coordination) of the Cash *Waqf* Collections

The collection of Cash *Waqf* is very low compared to its potential because:

- The Cash *Waqf* governance dept. of Islamic banks has not fully cooperated in the collection of Cash *Waqf*.
- Islamic banks still have not given proper attention to support Cash *Waqf* by designating a specific budget for Cash *Waqf* socialization and promotion.
- There are not many Islamic banks with human resources specialized in managing Cash *Waqf*.
- *Nāẓir*s have little awareness of the importance of Cash *Waqf* transparency, therefore only a small number of *Nāẓir* provide annual and financial reports to the Indonesian Waqf Board, the Ministry of Religious Affairs, as well as reports to the public.
- Mostly selected *Wāqif*s who are loyal customers of Islamic Banking stated that they did not have enough information concerning the Cash *Waqf* program from the Islamic Bank officers. They knew and had heard about Cash *Waqf* programs from other sources.

What were the reasons why we asked the loyal consumers of Islamic Banking to be the selected respondents for this research?

We thought that for *Waqf*, as with other Islamic Social Finance, we needed to select consumers who were trustworthy regarding the concept of Islam as their way of life, and as they were loyal customers of an Islamic Bank it meant they already understood the concept of Islamic Finance. That is why we asked for the loyal customers of Islamic banking, and we asked the Islamic Banking officers to tell them that they would be potential *Wāqif*s in the future. We asked them how much they would donate to Cash *Waqf* per month. Of more than 400 respondents, 38.7% would pay a Cash *Waqf* donation of from IDR 1 million to 2 million. 7.4% would pay from IDR 2 million to 4 million. Only 3.4% would pay from IDR 4 million to 6 million. 0.2% would pay from IDR 6 to 8 million. As a result, 5.3% *Wāqif*s or potential *Wāqif*s would donate around IDR 8 million for Cash *Waqf*.

We also asked them about the frequency of donations to Cash *Waqf*. Some said once a year, some once per semester, some of them mentioned they will donate Cash *Waqf* every month. There are 22,120,609 customers of Islamic banking in Indonesia. So, we multiplied by the percentage and found the potential of Cash *Waqf* from the samples to be around 11.675 trillion per year.

In our research, we aimed to measure the potential of Cash *Waqf*. Our estimate of around eleven trillion per year is in line with the estimates of Nasution and other researchers. However, it is significantly lower than the Indonesian Waqf Board's claim of a total of 180 trillion per year. The reason for measuring the potential was to gain an accurate understanding of the marketing potential of Cash *Waqf* in the future. Without a precise estimate of the potential, it is difficult to address marketing challenges effectively. Therefore, our findings can help in developing an effective marketing strategy for Cash *Waqf*.

2. Conclusion and Recommendations

As a result of the findings of this research, we know the regulation and governance standards are not adequate to support the collection, management, and development of Cash *Waqf*.

Current laws and regulations are not rigorous enough and thus do not provide sufficient motivation for the relevant authorities and institutions in the supervisory process to develop the transparent implementation of Cash *Waqf*.

The guidance from *Waqf* Core Principles cannot be fully implemented to guarantee Cash *Waqf* governance in Indonesia, mainly because the present Cash *Waqf* regulations lack justification in certain aspects, namely Cash *Waqf* supervision and governance.

It is necessary to improve the Cash *Waqf* regulations including the Indonesian Waqf Board's authority to evaluate *Nāẓir* certification, the guidelines and standards for Cash *Waqf* reporting, the submission of a detailed database of *Mawqūf ʿalaih* from *Nāẓir*s to the BWI, the detailed requirements for staff of the *Nāẓir* offices in terms of risk management and reporting skills, as well as the requirement for Islamic Banks to receive Cash *Waqf* and *Nāẓir* offices to submit an audited financial report and publish their accounts.

Moreover, the Ministry of Religious Affairs and the Indonesian Waqf Board, as the *Waqf* supervisors, should coordinate with the Indonesian Financial Services Authority (OJK) and other relevant authorities in implementing Cash *Waqf* regulation as well as monitoring and enforcing the regulations.

Lack of transparency and lack of good governance practices in managing Cash *Waqf* reduces the trust of *Wāqif*s to donate their money for developing *Waqf* in Indonesia.

This situation can cause inefficient and ineffective Cash *Waqf* management in which the absence of transparency will cause the public to make direct donations rather than giving them to *Waqf* institutions. Being in line with the principle of trust will also lead to producing a good reputation and this will be achieved by consistent behavior, which requires the elimination of any inconsistent behavior from the *Waqf* institutions. It should also be recognized that insufficient supervision can pose a risk of long-term losses for an institution.

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Chapter 6
Challenges in the Institutionalization of *Zakāt* and *Waqf* in Contemporary Economics

Salman Ahmed Shaikh

Introduction

In institutionalizing *Zakāt* in contemporary economies, there are certain problems which need to be resolved in order to streamline its institutionalization within a modern economic framework (Barizah and Abdul Rahim 2007). This is because major forms of storable wealth as well as modes of production have changed in the last fourteen hundred years.

In olden times, primary forms of storable wealth were property, livestock, such as goats, sheep, cows, camels, and commodities, such as gold, silver, diamond and precious stones. In modern economies, new forms of storable wealth have appeared, such as financial investments, foreign exchange and intangible assets, such as trademarks, patents, and licenses etc.

Furthermore, changes have also taken place in the modes of production. In olden times, primitive agriculture and the trade of labor-intensive manufactured goods was common. Nowadays, even developing countries have a much greater proportion of services value added as compared to agriculture value added in GDP. The industrial manufacturing and services sectors production have eclipsed agricultural production in almost every economy, regardless of their state of development.

When the Islamic jurisprudence of *Zakāt* was developed in the period soon after Prophet Muhammad, the contemporary investments, modes of production and organizational forms, such as limited liability corporations were not present. Hence, naturally, Islamic jurisprudence could not take the current context into account. Today, if we want to institutionalize *Zakāt* at the government level more formally, it is important to extend the rules to new forms of wealth and production in order to avoid anomalies and discrepancies (Mahmud and Haneef, 2011; Shirazi et al. 2009).

This chapter outlines challenges in institutionalizing *Zakāt* and also discusses how to resolve them. It also presents a workable program in which *Zakāt* along with other Islamic social finance institutions can be integrated into an institutional setup for efficient, extended and sustainable delivery of micro financial services including microcredit as well as non-financial capacity-building support.

1. Practical Challenges in the Institutionalization of *Zakāt*

(1) Multiple *Niṣāb* on Different Forms of Wealth

The first challenge is multiple *Niṣāb* (exempted value of wealth) on different forms of wealth. For example, if a person has a diversified wealth base, but wealth in each form is less than the value of *Niṣāb*, then this might result in *Zakāt* exemption, despite having a sizable aggregate value of wealth. So, if someone has 500 grams of silver, 4 camels, 29 cows, 39 sheep and goats, then that person is still going to be exempt from *Zakāt*, because he has wealth below *Niṣāb* in each category even though, the aggregate value of the wealth held by that person can be quite significant.

Even in liquid wealth, we have multiple *Niṣāb* — one amount is in silver, and the other is in gold. In silver, the value of *Niṣāb* is around

612.36 grams, while in gold, it is around 85 grams. In some countries, such as in Malaysia, the gold *Niṣāb* is used, and in other countries, such as Pakistan the silver *Niṣāb* is used (Senawi et al. 2018).

The conversion rate between silver and gold has changed drastically over the last 1400 years. Today, they are completely different values, and the *Niṣāb* in gold is almost 10 times as much in value as the *Niṣāb* in silver. If we use a silver exemption limit, then the people who are supposed to pay *Zakāt* are relatively less rich. But, if we use a gold exemption limit, then the people who are supposed to pay *Zakāt* are relatively richer. From both of these exemption limits, we get different numbers of *Zakāt* payers and *Zakāt*-deserving people.

(2) Exemptions May Result in Avoidance and Inconsistent Impact

Some exemptions in wealth that is subject to *Zakāt* may result in deliberate avoidance or inconsistent impact. There is *Zakāt* on wealth at 2.5% on gold and silver, even if not held for trade, but on other minerals like diamonds, there is no *Zakāt* if not held for trade. So, if just before the *Zakāt* due date, a person converts cash or gold into diamonds, then the *Zakāt* amount will go down as there is no *Zakāt* on diamonds and on other precious stones if they are not held for trade, no matter what their value is. So, some exemptions may result in avoidance or inconsistent impact.

(3) High Value-Added Production Exempted from Production Levy

The structure of economies and modes of production have gone through a lot of changes over the last 1400 years. From agrarian economies, we entered the era of the industrial revolution in the 18th century. In the 20th century, we entered the era of knowledge economies.

Now, we are on the brink of embracing Industrial Revolution 4.0. So, the modes of production have significantly changed over the last 14 centuries. Even in developing countries, the services sector constitutes as much as 50% of the total GDP or more while the share of agriculture has diminished considerably, to no more than 10% to 20% in many of the developing countries, and in the developed countries, the share of agriculture is now even less than 10% of GDP.

In Islamic jurisprudence, production from agriculture was subject to *Zakāt* at a 5% and 10% rate depending on the nature of the production process. Nonetheless, agriculture is no longer the dominant mode of production in terms of value-added production. In comparison, there is much greater value-added production in the manufacturing sector and also in the services sector. The list of top corporations and top billionaires shows that they are engaged in the ICT sector or sophisticated state-of-the-art industrial manufacturing.

The contribution margin (difference between sale price per unit of output and cost price per unit of output) in an agricultural enterprise is very low, because of the competitive nature of the market. Agricultural markets are the closest to purely competitive markets with a large number of buyers and sellers trading in undifferentiated goods. Hence, the difference between the selling price and variable cost is not that high because of the competitive nature of the market structure in most agrarian markets.

There is *'Ušr* (10% fixed rate levy) or half *'Ušr* (5% fixed rate levy) on the value of produce that comes from agriculture. But, what about value-creating activities in the industrial sector? What about value-creating activities in the services sector? In the manufacturing and services sector, there is more value addition and greater contribution margins. A major portion of invested capital in the economy lies in the manufacturing and services sector. A major portion of business profits also arises from these two sectors.

If we do not have the same production value levy on the services and industrial sector value creating activities, then it would result in inconsistencies and inequities. The agriculture sector is the mainstay of employment for poor farmers in developing countries. Now, if that sector is subject to a 10% and 5% flat production levy on output, then why not treat industrial and services sector output and value-creating activities in the same way?

As per current understanding in mainstream Islamic jurisprudence, industrial output would be subject to only wealth *Zakāt* of 2.5% if the industrial output is held for trade on a certain date in a year. Now, on that certain date, the stock of inventory could be very high, or it could be very low, and it depends on a lot of circumstances. If one knows the date in advance, one can also create an arbitrage opportunity if one wants to avoid *Zakāt* by liquidating the asset and buying an asset which is exempted from *Zakāt*.

Furthermore, as per traditional understanding, held for trade asset including real estate is subject to *Zakāt* if following two conditions are met:

i) The definite intention to sell the asset is there at the time of buying the asset without any semblance of confusion.
ii) The intention remains from the time of buying the asset till the time *Zakāt* due date arises without any confusion.

This opinion leaves it to the *Zakāt* payer to decide the matter and his intention — which is invisible to others — becomes the deciding factor as to whether the asset is subject to *Zakāt* or not. If he changes his intention to sell anytime from the time of buying till the *Zakāt* due date or even says that he is unsure whether to use the asset or to sell it, then the asset in his ownership would not be considered subject to *Zakāt*.

(4) Inconsistency in Incidence based on the Different Natures of Businesses

There is also inconsistency in the incidence of the *Zakāt* levy based on the different nature of businesses. In typical production processes 1400 years ago, there were simple supply chains. Now, we have global value chains. A single finished good is produced with different processes in production completed in different regions. Finally, when the product is ready in the retail market, then we have the finished goods inventory. Now if only that retailer is going to pay the wealth *Zakāt* on his inventory, then what about those at the back end of the supply chain? Their profit margins are usually higher than the retailers who compete in a more competitive retail segment.

Expensive consumer durables and specialized capital goods for firms would have lower inventory turnover ratios. Some manufacturers with streamlined efficient and short production processes might opt for just-in-time inventory and they will have high turnover ratios. Other businesses in the services sector may not have inventory as they do not sell any tangible goods. So, different businesses would have different levels of tradable inventory and their intensity of *Zakāt* payment would depend more on the nature of business rather than their size of business (invested capital in production infrastructure) or net profits. Capital intensive businesses will have greater incidence of *Zakāt* on tradable inventory if they cannot adopt just-in-time inventory due to the high cost of production and customization needs and if their production process goes beyond a year.

Businesses which are more profitable will have higher sales and higher inventory turnover ratios. Businesses which are struggling will have less sales and low inventory turnover ratios. The former class of businesses might have earned more profits and have higher capacity to pay *Zakāt* while the latter class of businesses might have earned lower profits and have lower capacity to pay *Zakāt*. Nonetheless, the latter businesses with unsold inventory will have to pay higher *Zakāt* comparatively on inventory piled up. They are required to pay *Zakāt* on the whole value of inventory regardless of whether the ex-post net income is positive or negative.

(5) A Business Cycle Downturn May Put More Pressure on Traders

A business cycle downturn can occur in many economies after certain periods of time, and in recessions, the ability to pay tax or any kind of a levy to the government is much less compared to in an expansionary business cycle period. However, if we have *Zakāt* on tradable inventory, then what happens is that there is going to be more *Zakāt* collection in recessionary and deflationary periods compared to when the economy is doing very well. If inventories are taxed rather than income, then traders and producers who are struggling to make sales are burdened even more through paying wealth *Zakāt*, irrespective of whether they can make enough sales, let alone earn any profits. It may instigate a deflationary pressure just before the *Zakāt* due date in the economy when unsold inventory is sold at significantly deflated prices causing recession and unemployment.

There is also a positive side to this story. This will discourage hoarding in the economy. Consequently, sellers are not going to be holding on to their inventories long enough because if they do, they will be subject to *Zakāt*. Therefore, they would like to have a higher inventory turnover ratio as compared to hoarding. However, again there is the problem that not all businesses have very high inventory turnover ratios. Not all businesses have the same value of inventories as well.

There are fast moving consumer goods and there are capital intensive goods as well like railway parts or airplane parts and capital equipment and so on. Thus, there will be greater incidence of *Zakāt* on businesses with low inventory turnover ratios either due to nature of business and/or due to lower sales in recessionary periods.

(6) Different Treatment of Liquid Capital and Physical Capital

There is also a difference in the treatment of liquid capital and physical capital. Yousuf al-Qaradawi (1999) and Prof. Monzer Kahf (1999) are of the view that the physical capital stock should also be subject to *Zakāt*, but the problem is that if we go by the *Nuṣūṣ*, i.e., Qur'an, Sunna and Hadith, we find that means of production should be exempted from *Zakāt*. There are many corporations which have a huge amount of wealth invested for productive purposes in physical capital goods. If investment in factories, plant, machinery and equipment is going to be treated as a means of production, then such investments would be exempted from *Zakāt*. In that case, only the liquid capital is going to be subject to *Zakāt*.

There is also a positive side to this treatment. Islamic economics encourages the conversion of liquid capital into physical capital, so that there should not be any idle capital. This can boost investment, production, employment and incomes. But the problem still remains that in a lot of businesses, especially in the manufacturing industry, the liquid capital would not be as much in value as compared to the physical capital goods.

The value of land, machinery, plant and buildings is going to be much higher compared to the cash, account receivables, liquid investments and the value of tradable inventory. Thus, if working capital management is conducted in a way that the cash flow received near the

Zakāt due date is used to purchase fixed assets in businesses, then *Zakāt* collection would go down since the means of production in a producing concern are exempted from *Zakāt*.

(7) Proposals on *Zakāt* on Shares Yield Different Outcomes

If we study the scholarly views on *Zakāt* on shares, we find that there are many opinions which are quite different from each other. These opinions have different implications, effects and outcomes. For example, if we talk about investment in shares, it is subject to wealth *Zakāt* at 2.5% which is a consensus-based view.

If an investment is made with the intention to obtain capital gain, then the entire value of the shares constitutes the *Zakāt* base. If the investment is made with a long-term holding view to obtain dividends, then only assets subject to *Zakāt* constitute the *Zakāt* base, which means that cash in hand, cash at the bank, account receivables, investments and tradable inventory, are going to be the Zakatable assets and *Zakāt* is going to be paid on them.

This kind of ruling puts the onus on the *Zakāt* payer as to whether they have the intention to hold the stock for a long term or has the intention to hold the stock for a short term to obtain capital gain in the market. The problem is that intentions are invisible, and it is quite difficult to institutionalize this kind of a ruling, because if there is going to be an external agency who is going to be administering the calculation as well as mobilization of *Zakāt*, then it is very difficult to have a system where we could come up with a uniform law and way of administering *Zakāt*, if we are going to base our decisions primarily on people's intentions.

Hanafi Jurists allow all debts to be deductible against the Zakatable value of assets. If we talk about the balance sheet of any manufacturing concern, on the asset side, there are current assets and fixed assets. Usually, the value of fixed assets is more than the value of current assets. Now, what happens is that if from the Zakatable current assets, we allow all the debts to be deductible, then most corporations are going to have a negative net Zakatable base since current assets minus total liabilities will most probably be a negative number for most corporations. Then in that case, there is going to be no *Zakāt* chargeable on shares. Almost 75% of all the invested wealth is in the corporations. Most bank financing also goes to corporations. Therefore, if we allow all debts to be deductible from the Zakatable value of assets in corporations, then 75% of the invested wealth would not be effectively in the *Zakāt* basket anymore.

On the other hand, Shafi'i jurists have a different view. They do not allow debt to be deductible against Zakatable value of assets and this results in a different outcome. Hence, these juristic differences create problems about how to institutionalize the system of *Zakāt* in a standardized way. This also affects the potential amount of *Zakāt* collection and hence its socioeconomic effects.

Some Hanafi Jurists like Maulana Mufti Muhammad Taqi 'Usmani have also suggested that we should not allow all debts to be deductible against value of Zakatable assets. Only the value of those debts can be deducted which have been taken to buy Zakatable assets.

(8) Condition of Strict *Tamlīk* (ownership) Limits Usage Beyond Asset Transfer

The condition of *Tamlīk* (ownership) implies that the receiver of *Zakāt* shall become the owner of the value of the *Zakāt* so that he can use it the way he desires by having financial autonomy. Even though, this condition has a positive aspect which is to ensure financial autonomy and prohibit misuse or exploitation; nonetheless, the condition of ownership transfer to the individual human being in *Zakāt* limits the usage of *Zakāt* funds in providing indirect benefits. Such indirect benefits are provided through building schools, hospitals and producing public goods that benefit not only a particular individual, but a group of individuals or society at large. When we talk about public goods, these are non-rival and non-excludable goods. When public goods are provided by the state outside of the market, non-payers cannot be excluded from the usage of these public goods. For instance, when the state provides water filtration service, it benefits society, but no one single person owns that public good. If we take the position that *Zakāt* funds cannot be used to provide public goods and build the infrastructure of institutions which provide indirect benefits to the poor, then it may introduce inflexibility in the way *Zakāt* funds could be used for the broader welfare of people and society.

2. Reassessing *Zakāt* Administration in Modern Economies

The challenges discussed so far require revisiting *Zakāt* administration in modern economies. First of all, if we have guidance from the *Nuṣūṣ*, i.e., Qur'an and Sunna including Hadith, then they shall be our primary sources to think over redesigning the system of the administration of *Zakāt* in contemporary economies.

Some scholars have gone beyond *Nuṣūṣ* to favor *Ijtihād* which goes against the *Nuṣūṣ* even in matters where we have explicit guidance from the *Nuṣūṣ*. If we have guidance from the *Nuṣūṣ*, then we should stick to it. For instance, the *Niṣāb* and the rates of *Zakāt* have been identified in the *Nuṣūṣ*, so we cannot change them. However, there are things which can still be changed with the advancement of technology and changes in economic structure.

In some cases, *Ijtihād bi l-Qiqās* from the *Nuṣūṣ* is possible and it has been used in Islamic jurisprudence and we have examples of that in the Islamic tradition. For instance, horses were exempted from *Zakāt* in earlier period, but then they were brought into the *Zakāt* net later on. Likewise, production in a forest was not part of the initial administration of *Zakāt*, and then it was brought into the *Zakāt* net (Nadvi 1996). Initially, the state was responsible for complete *Zakāt* collection, but then due to administration difficulties, it was decided that only *Amwāl Ẓāhira* — only those forms of wealth which are quite easily discoverable, and which can be monitored very easily and can be collected very easily — would be subject to the collection of *Zakāt* by an external agency, meaning the state. Meanwhile, for *Amwāl Bāṭina* — those forms of wealth which are not quite as easily discoverable — it would be allowed to pay *Zakāt* on them privately. These matters were decided for administrative convenience in that period. Now, with the changes in technology and in the way we document the economy, there might be situations where we do not have to make certain exclusions or exemptions.

For instance, blockchain technology provides an easy and robust way of documenting the different economic activities, and also the ownership of different kinds of assets, digital as well as real and financial. Therefore, it is quite possible that those administrative steps that we were taking initially are no longer needed for applying *Zakāt* on perishable goods like vegetables since it was hard to document, collect and distribute such forms of production. Without fast transportation and refrigeration facilities, it used to be difficult to keep them fresh and usable while transporting them to different areas. So, under those difficult circumstances, the *Zakāt* administration was treating them differently. However, this does not mean that we have to just take only those forms of wealth and production in *Zakāt* net which were there 1400 years ago. If we went by that route, then there would be lots of inconsistencies as well as cases of injustice.

3. Alternative Proposals on *Zakāt*: The Way Out

Some of the issues that we have talked about have already been dealt with and some issues are still outstanding. From the economic standpoint, there is a need to revisit contemporary forms of wealth, business organizations, modes of finance and operations of institutions to come up with consistent rulings of *Zakāt* on new forms of wealth, production and income earning pursuits. Prof. Monzer Kahf, Yusuf al-Qaradawi, and many other renown jurists and Muslim economists, are at least favoring this point of view in a broad sense. They have different ideas on the specifics of how to bring changes and reforms, but they do agree on the need for reforms.

Zakāt is meant to purify wealth, as is stated in the *Nuṣūṣ* (Qur'an 9:103). In his magnum opus, *Fiqh az-Zakāt*, Yusuf al-Qaradawi has given a lot of references from the *Nuṣūṣ* as well as from the opinions of the jurists to emphasize the need for a consistent extension of the *Zakāt* net on new forms of wealth. If *Zakāt* is meant to purify wealth, then considering only some forms of wealth as subject to *Zakāt* opens loopholes and room for *Zakāt* arbitrage. So, from an economic perspective, any asset (real or financial) that can perform the function of a store of value beyond regular personal use can be classified as one of the forms of wealth subject to *Zakāt*. Divisibility of investments, securitization and financialization of assets allow people to have growth in all forms of wealth directly or through convenient exchange.

That is one way to go forward in institutionalizing wealth *Zakāt*. Now what about *Zakāt* on value creating activities where there was

'Ušr (10% levy) and half-*'Ušr* (5%) on agricultural produce. Such value-creating activities are not limited to agriculture anymore in contemporary economies. In the composition of GDP, the manufacturing and services sector together constitute almost 80% of the GDP. In the manufacturing sector, value creating activities resulting in tangible goods production come within the *Zakāt* net with 2.5% *Zakāt* on tradable inventory. Nonetheless, since this rate is charged once a year with allowance of adjustment of debt, it is quite possible that tradable inventory minus debt turns out to be a negative figure whereby there is no *Zakāt* due on business assets. On a single day, the value of variable inventory in someone's hand could be any number depending on lots of circumstances one cannot know in advance. One cannot really rely on it for a sustainable source of *Zakāt* mobilization.

In the services sector, such value-creating activities do not result in tradable inventory. So, all of these value-creating activities which constitute 50% or more of the GDP are going to be excluded from *Zakāt*, because there is no storable inventory in the services sector. If the essence of *'Ušr* is to apply *Zakāt* on value creating activity resulting in production or income, then this principle can be extended to contemporary value-creating activities in the manufacturing and services industries.

Lastly, let us consider *Zakāt* on shares. When we buy a stock, we are making a divisible investment through financial securities in a value creating economic enterprise. In economic enterprise, means of production are exempted from *Zakāt* and only the value of production is subject to *Zakāt* at 5% (*Niṣf-'Ušr*) and 10% (*'Ušr*). From the perspective of investor, income on stock investment comes with employment of investment capital, but not labor. In this regard, income on stock investment can be subject to *'Ušr* rules rather than *Zakāt* on wealth. *'Ušr* is due on agricultural production where water is not provided by the producer. Hence, when factors of production are less intensely used in the production process, then there is a greater charge, i.e., 10% instead of 5%. This view of applying *'Ušr* rules on stock investment, which is an indirect way of engaging in economic enterprise, is favored by Professor Akram Khan (2005) in his comments on the paper by Professor Abdul Azim Islahi and Professor Obaidullah (Islahi and Obaidullah 2004).

If we look at the merit of this view, it is quite logical, and it effectively resolves the inconsistency that we have discussed. Likewise, those who are salaried professionals, those who are earning royalty income and those who are earning consultancy income, they all can be brought into the *Zakāt* net. It is important to look at whether they are putting in labor only in economic enterprise or capital as well. Consultants, self-employed professionals like doctors and salaried professionals earn through labor only. Hence, their income can be treated under *'Ušr* rules and *'Ušr* can be deducted at source.

When someone invests only capital in the stock market in buying shares, he or she is providing capital in the economic enterprise, and hence the income arising from that can be subject to *'Ušr*. This is based on the premise that on agricultural production, if we have production coming from the intensive use of both labor and capital, then the value of the produce is subject to 5% or half *'Ušr*, and if the value of production is coming from a production process in which there is intensive use of only the capital or labor; then in that case, the value of produce is subject to charge of complete *'Ušr* meaning 10% (Siddiqui 1982).

Hence, it is important that *Zakāt* administration should not have loopholes, should not allow *Zakāt* arbitrage and does not exempt huge amounts of wealth invested in some activities while only taxing the poor farmers in agriculture at market value of production without allowing debt adjustment and exemption.

4. Institutionalization of *Waqf* in Contemporary Economies

If we talk about *Waqf*, it is less complicated. It is more flexible to use *Waqf* assets and funds for a variety of beneficial uses. One issue comes in dealing with concept of perpetuity when the *Waqf* asset is in cash form. It is because cash is useful when it is spent. Once it is spent, it is no longer intact. However, the solution proposed by scholars is that instead of using cash in *Waqf* for beneficial uses, the cash shall be invested in less risky investment options to generate regular income stream. The income earned on less risky investments can be used for beneficial uses. In this way, the principal value of cash remains intact.

Another issue comes in the strategic repositioning of the *Waqf* if required with the passage of time. *Waqf* rules state that the instructions by *Waqf* are just as binding as *Nuṣūṣ*. Nonetheless, with the passage of time, it is possible that the *Waqf* asset requires strategic repositioning to make it more useful and valuable. For instance, if a well or mosque was built and if somehow, there is less population in the area, then the *Waqf* asset or property over there can be exchanged with another asset or property somewhere else where there is need for such asset or property. Likewise, if an agricultural farm was endowed as *Waqf* and it becomes less productive due to shortage of water or deterioration in soil quality, then the farm can be exchanged with another one in a different locality where there can be more effective use of the *Waqf* property.

Contemporary jurists had devised rules under which exchange and substitution of *Waqf* assets is allowed under strict governance. A balance is kept between giving due importance to the instructions of the *Wāqif* while also ensuring that, if necessary, the *Waqf* assets can be changed or substituted to protect against a loss of usefulness of *Waqf* assets or property.

If the *Waqf* deed is worded in such a way that a provision is kept for exchange and substitution is permitted by the *Wāqif* himself, then this can further simplify the issue and avoid the situation of conflict between *Wāqif*'s instructions and the demands of realities on the ground. Hence, there is much less complication in institutionalizing *Waqf*. The issues which arise are resolvable through contemporary juristic opinions. If we combine both *Zakāt* and *Waqf* together in an integrated institutional setup, then the synergistic benefits of both institutions can help in building sustainable institutions for social protection. The next section provides one proposal in this regard.

5. Integrating *Zakāt* and *Waqf* Islamic Microfinance Model

The problems in conventional microfinance include small scale, lack of sustainability, and limited outreach. So, an alternate structure or program has to ensure three goals, i.e., achieving adequate scale, sustainability, and outreach. This can happen if we have a stable source of funding. With a stable source of funding, both financial as well as non-financial support can be provided to the clients.

Hence, there is a need and strong case for introducing an integrated Islamic microfinance model (Hassan 2010; Nadzri et al. 2012; Shirazi 2014). It will not only take care of the financial needs of the clients, but also the non-financial needs of the clients. Through this, we can provide not just financial services, but a complete lifestyle in which a beneficiary would get not only financial support, but also non-financial support. Moreover, this would also increase the commitment of clients to the program since they are getting not only financial services, but also non-financial services for their survival.

If clients do not pay their financing commitments on time, they will not only suffer in terms of not getting access to finance in the future, but also from being excluded from all the other non-financial support they were getting from the integrated microfinance model.

To encourage more commitment and engagement, it is important that we should have a microfinance model which not only provides financial services in the form of credit, but also provides non-financial services. The way to do that is to institutionalize different services under one institutional setup to economize on cost. Rather than doing it on a small scale with a limited financial base, we should have a strong and sustainable financial base for the funds. With the inclusion of other players in the whole ecosystem, different services can be provided without duplication of infrastructure investment and incurring additional search and outreach costs.

In scaling operations, there is a need for more financial resources as well as human resources. Such can be mobilized through synergistic partnerships and collaborations. A prospective Cash *Waqf*-Based Islamic Microfinance Model (CWBMF) is illustrated in Figure 1. It mobilizes financial resources through i) cash donations with a purely altruistic motive and ii) impact investments. Impact investors look for dual investment objectives, i.e., doing well by doing good.

On the financing side, clients are segregated into poor and non-poor. Poor clients are served with *Qarḍ Ḥasan* without any extra financial burden. Non-poor clients are eligible for financing through Islamic trade and lease-based modes of finance, such as *Murābaḥa* (deferred payment sale), *Ijāra* (asset lease leading to acquisition) and Diminishing *Mušāraka* (asset financing on declining equity basis). Non-poor clients will also be encouraged to engage in micro-savings and such impact investments will provide an indigenous source of funds as well.

The model in Figure 1 can be further strengthened by extending the service network and engaging i) volunteer trainers and educational institutions for capacity enhancement, ii) *Takāful* institutions and hospitals for health risk management and iii) retail stores for subsidized purchases. This engagement in such a microfinance program will provide not only financial support but also non-financial support in the form of capacity building, health risk management and subsidized purchase of essential goods to manage affordability. This will require joint ventures between the microfinance institution with retail stores, *Takāful* institutions, hospitals and educational institutions. Such institutions in civil society will be forthcoming to play their part as most of these institutions are not profit-based institutions. Figure 2 illustrates the Integrated Cash *Waqf* Based Islamic Microfinance Model (ICWBMF).

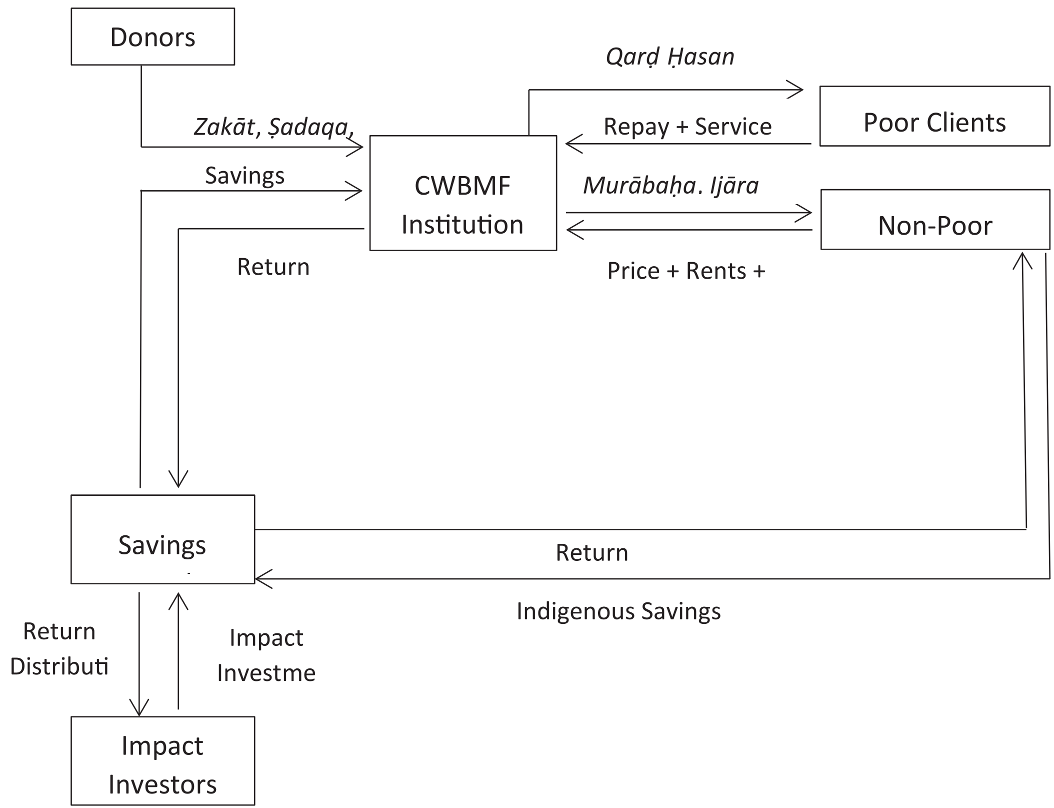

Figure 1: Cash *Waqf* Based Micro Finance (CWBMF) Model
Source: Author

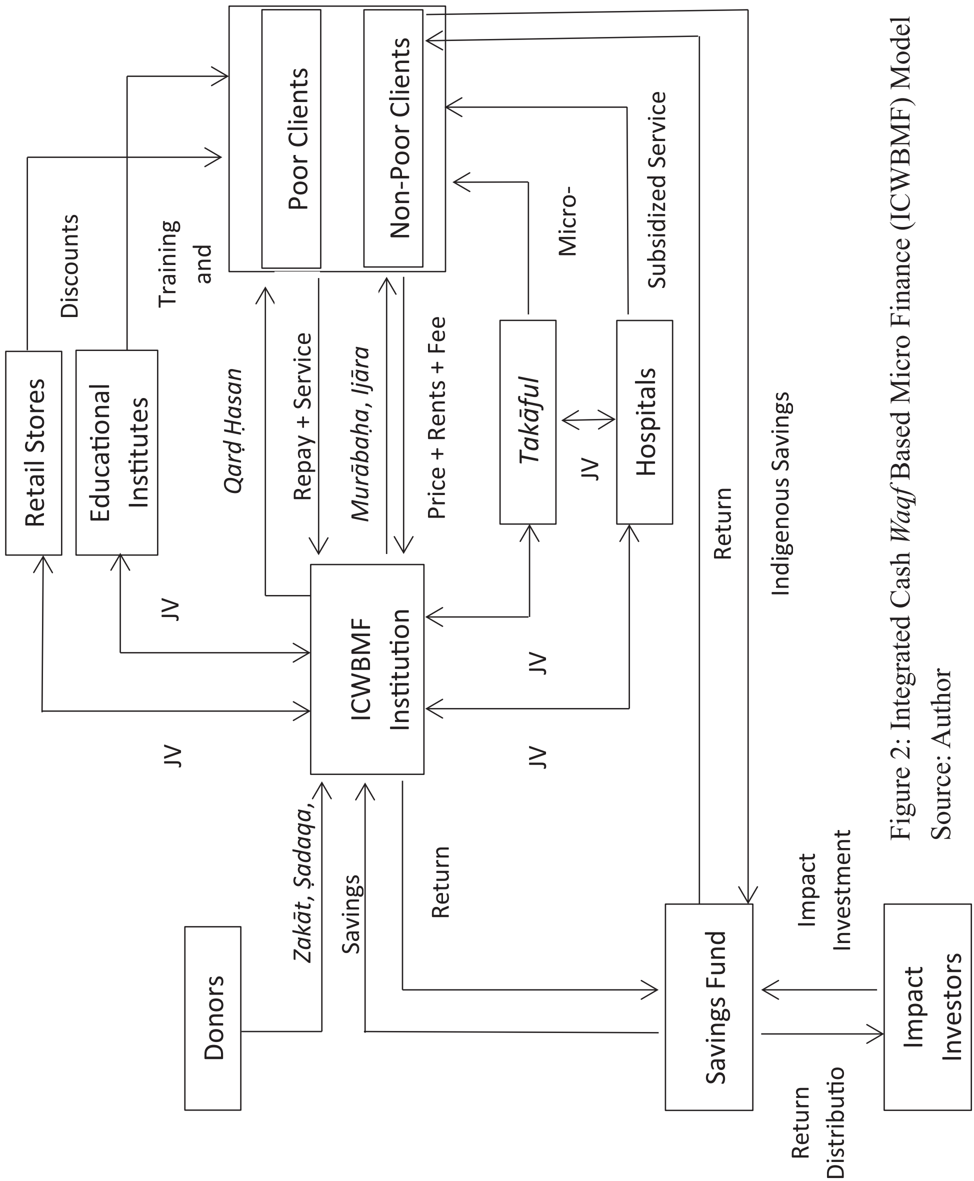

Figure 2: Integrated Cash *Waqf* Based Micro Finance (ICWBMF) Model
Source: Author

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Chapter 7
Envisaging the Islamic *Waqf* System: The Qur’an, Sunna, *Ijtihād* and *Nuẓum* Theory

Ammar Khashan

Introduction

This chapter explores the historical and theoretical aspects of the *Waqf* institution within the Islamic societies, focusing on its origins, legal interpretations, and the role of *Ijtihād* in its development. The term “*Waqf*,” derived from the Arabic root “w-q-f,” signifies the suspension of ownership rights over tangible assets like land or buildings, allowing for their usufruct without transfer of ownership. This study traces the evolution of *Waqf* from its early mention in Islamic texts, through various legal interpretations. Despite the absence of explicit references in the Qur’an and Hadith, this chapter demonstrates how *Waqf* emerged as a critical component of Islamic social, political, and legal frameworks, responding to the needs of Muslim societies. By examining the contributions of historical figures and the integration of *Ijtihād*, this research underscores the dynamic nature of Islamic law and the importance of institutional adaptation in shaping the practices and regulations surrounding *Waqf*.

The term “*Wāqif*” originally referred to “one who stops and stands still,” but it gained a new meaning related to the *Waqf* system as someone who donates *Waqf* property. The term “*Mawqūf*” refers to what is made a *Waqf* property, while “*Mawqūf ʿalaih*” refers to the beneficiary of the *Waqf*.

This chapter will examine the theoretical aspects of *Waqf* through a historical observation of the development of *Waqf* in Islamic societies. It begins by looking at its roots in Qur'an and Hadith, and then provides a brief review of the opinions developed in the Islamic law in that concern by outlining the main legal interpretations within the field of *Ijtihād* (the act or deriving or making Law in the light of the available texts from Qur'an and Hadith) over time, based on these varying opinions. Finally, the chapter will introduce a unique approach to articulate the development of the *Waqf* system in the Islamic society through *Nuẓum* theory.

1. Background

The concept of *Waqf*, a unique form of charitable endowment in Islamic law, is believed by some scholars to predate Islam, tracing its origins back to the era of Prophet Ibrahim. Notably, Al-Burhan Al-Tarabulsi (1449–1516 CE) mentions that Ibrahim established several endowments that persist to this day. However, Islamic jurists such as Imam Shafi'i and Ibn Hazm argue that *Waqf*, as known today, is distinctly Islamic, suggesting that pre-Islamic Arab societies did not practice *Waqf* in any form.

In any case, since its establishment in the early Islamic period (1st Hijri century / 622 CE), one of the most known types of *Waqf* is the contribution of land or assets to build places for worship and religious studies. Besides this, the *Waqf* institution has been crucial in developing public infrastructure. *Waqf* has supported a wide range of social and public works, including building mosques, marketplaces, and hospitals, alongside the provision of roads, inns, and public utilities such as water supply, which cater to travelers and the general populace.

It has also contributed to environmental and other altruistic endeavors, including planting trees and caring for stray animals and birds. However, during the last century, the role of *Waqf* has shifted due to nation building by various Muslim governments, often under the guise of aligning with Western concepts of modernization.

Still, in recent years, there has been a resurgence in the importance of the *Waqf* system within the context of Islamic finance and the broader revival of Islamic values. Countries like Malaysia and Indonesia have introduced new policies to promote and manage *Waqf* assets effectively, reflecting a broader trend of re-institutionalizing *Waqf* to address modern social and economic challenges.

The *Nuẓum* theory, or the Theory of Islamic Institutions, as this chapter suggests, offers a framework for understanding how the *Waqf* system has developed and evolved through *Ijtihād* (independent juristic reasoning), responding to historical and contemporary societal needs. This theory suggests that the development and sustainability of Islamic institutions like *Waqf* are influenced by legal, social, and historical factors. Thus, it provides a comprehensive lens through which the historical significance and contemporary potential of the *Waqf* system can be analyzed and appreciated.

This chapter presents three hypotheses to provide a framework for understanding the *Waqf* system beyond historical/contemporary or legal/economic divides. Firstly, I argue that there are relatively scarce source materials for the *Waqf* system in the Qur'an and the Hadith. The chapter compares this finding to the case of *Zakāt* and concludes that the historical developments of the *Waqf* system stem more from *Ijtihād*-based institutionalization by jurists than immediate applications of clear teachings from the Qur'an and the Hadith.

Secondly, the chapter proposes a framework to understand the nature of *Ijtihād*-based institution-building in the *Waqf* system, which the jurists and policy makers elaborate in response to the social needs of the day. This framework is based on the *Nuẓum* theory or the theory of

Islamic institutions.

Lastly, the chapter suggests that attempts to revive the *Waqf* system in contemporary contexts in Muslim countries in Southeast Asia and elsewhere should be analyzed from the perspective of re-institutionalization of the traditional *Waqf* system. This highlights the importance of understanding the historical development of the *Waqf* system and utilizing the *Nuẓum* theory to analyze its contemporary manifestations.

2. *Waqf* System through Qur'an and Hadith

This section compares the treatment of *Waqf* and *Zakāt* in the foundational textual sources of Islam, namely the Qur'an and the Sunna. While both institutions aim to contribute to social welfare in Muslim societies, the scope of *Waqf* is considerably wider than that of *Zakāt*.

The Sharia, often translated as Islamic Law, is not a law in the conventional sense of the term. Its origin comes from a tri-root verb meaning "taking water in by the mouth" or leading animals towards water. The term originally referred to a path to a water place, which is essential for human survival in the arid environment of the Arabian Peninsula. Thus, the Sharia contains all aspects of human life, including moral codes, legal rules, religious creed, and ethical guidance.

The Sharia is not enacted by a legislative body, but rather interpreted by jurists from the Qur'an and the Sunna, which are considered foundational sources in Islam. The Qur'an, the sacred book of Islam, is divided into 114 chapters and contains verses that provide the foundations for Islamic societies and Muslim life.

Although the Qur'an does not directly mention *Waqf*, scholars have discussed its legitimacy by referring to verses that address *Ṣadaqa* and *Infāq*, which are forms of charity. Additionally, some Hadiths have been interpreted as implicitly or explicitly referencing the practice of *Waqf*. For example, in the context of the verse from Sūra Āl ʿImrān, which states "By no means shall you attain righteousness unless you give (freely) of that which you love," a Hadith by Anas tells of Abu Talha, the richest among the *Anṣār* of Medina, who gave his garden known as Bayruḥā' as *Ṣadaqa* after the verse was revealed.

Table 1 shows the number of verses related to *Waqf* and *Zakāt* directly and indirectly, with direct references containing the terms *Waqf* or *Zakāt*, and indirect references where expressions in the verses are interpreted to refer to these institutions.

Table 1: References to *Waqf* and *Zakāt* in the Qur'an

Qur'anic verses / Subject	Number of verses		
	Direct reference	Indirect reference	Total
Waqf	0	9	9
Zakāt	30	40	70

However, when it comes to the Sunna, we can find directly related Hadiths which establish the legitimacy of *Waqf* in Islam. The Sunna, as related in the Hadith literature, is the second of the foundational sources for Islamic legal reasoning, and it refers to precedents, customs, and traditions established during the lifetime of the Prophet Muhammad. These examples serve as models for Muslims to follow, but the normative nature of an act and which acts are exemplary are not always clear. This led to the development of abundant Hadith literature, which consists of sayings and narratives attributed to Muhammad. The term Hadith means a talk or a narrative, and these narrations became an essential source for legal interpretation in Islamic jurisprudence. In the Hadith by Anas b. Malik on the authentication of al-Bukhari (al-Buḵārī 1997: vol. 2, 313–314).

Abu Talha had the largest number of date palm groves from amongst the *Anṣār* of Medina. The property he loved the most was the Bayruḥā’ garden which faced the (Prophet’s) Mosque. Allah’s Messenger used to enter it and drink of its good fresh water. When the Qur’anic Verse: “By no means shall you attain righteousness unless you spend (in charity) of that which you love.” (3.92) was revealed, Abu Talha got up and said, “O Allah’s Messenger! Allah says: ‘By no means shall you attain righteousness unless you spend of that which you love,’ and the property I love the most is the Bayruḥā’ garden, so I want to give it in charity in Allah’s Cause, seeking to be rewarded by Allah for that. So, you can make use of it, O Allah’s Messenger, however Allah instructs you.” Allah’s Messenger said, “How excellent! That is a perishable (or profitable) property” (Abdullah is in doubt as to which word was used.) He said, “I have heard what you have said, but in my opinion, you should give it to your kith and kin.” On that Abu Talha said, “I will do so, O Allah’s Messenger!” Abu Talha distributed that garden among his blood relatives and cousins. (translation slightly modified by the present author)

One of the most known Hadith as a foundational text of the institution of *Waqf*, is the following one:

Narrated Ibn ‘Umar: ‘Umar ibn al-Khattab got some land in Khaibar, and he went to the Prophet [Muhammad] to consult him about it, saying, “O Allah’s Messenger I got some land in Khaibar better than which I have never had, what do you suggest that I do with it?” The Prophet said, “If you like you can give the land as endowment and give its fruits in charity.” So ‘Umar gave it in charity as an endowment on the condition that it would neither be sold nor given to anybody as a present and not be inherited, but its yield would be given in charity to the poor people, to relatives, for freeing slaves, for Allah's Cause, to the travelers and guests; and that there would be no harm if the guardian of the endowment ate from it with *Maʿrūf* (according to his labor with good intention), and fed others without storing it for the future…" (al-Bukārī 1997: vol. 3, 540) (translation slightly modified by the present author)

From the other Hadiths that establish directly and indirectly the institution of *Waqf*, one of the Hadiths that address *Waqf* indirectly defines it as "ongoing charity" as follows:

It was narrated from Abu Hurairah that the Messenger of Allah said: "When a man dies, all his good deeds come to an end except three: Ongoing charity, beneficial knowledge, or a righteous son who will pray for him." (Muslim ibn al-Ḥajjāj 2007: vol. 5, 625)

Nawawi stated in his commentary on Muslim's collection that the (ongoing charity) the "*Ṣadaqa Jāriya*" which is mentioned here refers to *Waqf* (an-Nawawī 1980: vol. 11, 85). This interpretation had become authoritative.

Counting the number of Hadiths related to *Waqf* and *Zakāt* is not straightforward due to the abundance of Hadith literature, the issue of repetitions, and the variations in the chains of reporters. The number of Hadiths in collections such as al-Bukhari's range from 7,397 to 2,602 depending on how repetitions and variations are accounted for. For legal purposes, the differences in one or two words in similar Hadiths are usually not significant. Table 2 shows the number of Hadiths related to *Waqf* and *Zakāt* in the main canonical collections, although discerning their contents and indirect references requires scholarly judgment.

These collections below include the "Six Canonical Collections," which are considered the most authentic, and one important "supplement" to these collections. The author found that there are 845 Hadiths related to *Zakāt*, while there are only 60 references to *Waqf*, making references to *Zakāt* fourteen times more numerous than to *Waqf*. The author also consulted three earlier compilations that contain more of the sayings of Muhammad's companions than later collections.

Table 2: References to *Waqf* and *Zakāt* in the Hadith (Canonical Collections)

Hadith collection / Subject	Number of Hadiths							
	B2	M	N	AD	T	IM	H	Total
Waqf	22	15	16	2	2	2	1	60
Zakāt	110	179	183	144	64	61	104	845

B: *Ṣaḥīḥ al-Buḵārī* by Muḥammad ibn Ismāʿīl al-Buḵārī (d. 256/870)
M: *Ṣaḥīḥ Muslim* by Muslim ibn al-Ḥajjāj an-Naysābūrī (d. 261/875)
N: *Sunan an-Nasā'ī* (*as-Sunan aṣ-Ṣuḡrā*) by Aḥmad ibn Šuʿayb an-Nasā'ī (d. 303/915)
AD: *Sunan Abī Dāwūd* by Abū Dāwūd, Sulaymān ibn al-Ašuʿaṯ ibn Isḥāq as-Sijistānī (d. 275/888)
T: *Sunan at-Tirmiḏī* by Muḥammad ibn ʿĪsā at-Tirmiḏī (d. 279/892)
IM: *Sunan Ibn Mājah* by Muḥammad ibn Yazīd ibn Mājah ar-Rabʿī al-Qazwīnī (d. 273/887)
H: *al-Mustadrak ʿalā aṣ-Ṣaḥīḥayn* by al-Ḥākim an-Naysābūrī (d. 405/1014)

Even when searching for Hadith resources beyond the later collections, the results reveal a similar scarcity of materials for *Waqf*. In fact, there are even more references to *Zakāt* in earlier collections, making the difference between the two even more striking. Overall, in these three collections, there are one hundred times more references to *Zakāt* than to *Waqf* (Khashan 2020).

The investigations of the original Qur'an and Hadith recourses show that contextual analysis is crucial for understanding the role of *Waqf* in Islamic societies. Although the Qur'an does not directly address *Waqf*, scholars have used their knowledge of other verses and Hadiths to develop an understanding of the practice. This interpretation has influenced the development of legal rules related to *Waqf*, highlighting the dynamic nature of Islamic law and the importance of *Ijtihād*-based institutionalization in the development of Islamic institutions.

This preliminary examination of the foundational texts reveals a scarcity of direct references to *Waqf* in general, highlighting the role of jurists in later elaborating the system. The contrast with *Zakāt*, which has more extensive references, further emphasizes this point. The lack of direct sources for legal judgment places a heavier burden on jurists, who have to use their knowledge of other texts to develop a nuanced understanding of *Waqf*.

3. *Waqf* System and *Ijtihād*

The notion of *Ijtihād* has significantly influenced the development of the *Waqf* system within Islamic jurisprudence. Although 'Umar ibn al-Khattab, the second orthodox caliph, initiated several institutional reforms during his decade-long reign, such as the *Dīwān* system and the adoption of the Islamic calendar, he did not establish the *Waqf* system. The sparse references to *Waqf* in the Qur'an and Hadith, combined with the already established *Zakāt* system, imply that there was initially no perceived need for an additional welfare mechanism. Early instances of *Waqf* were more akin to sporadic acts of voluntary almsgiving rather than a formalized system.

The structured development of *Waqf* as a system is traceable through historical and Islamic legal records, with the earliest sign of political intervention occurring during the Umayyad period. This intervention included the creation of a *Dīwān* specifically for *Waqf* management, initiated by Tawba ibn Namir, the *Qāḍī* of Egypt, to ensure proper administration and prevent corruption within *Waqf* properties.

Among the early works dedicated to the specific legal intricacies of *Waqf* were those by the Hanafi jurists Hilal al-Ra'y (Hilal ibn Yahya ibn Muslim al-Basri, died 245 AH/859 CE) and al-Khassaf (Abu Bakr Ahmad ibn 'Amr al-Khassaf, died 261 AH/874 CE), whose seminal texts were titled "*Aḥkām al-Awqāf*" (Rulings on Endowments). Recognizing the significance of their contributions, Imam Abu Muhammad 'Abd Allah ibn al-Husayn al-Nasihi al-Naysaburi, a Hanafi scholar who died in 447 AH/1055 CE, amalgamated the works of al-Ra'y and al-Khassaf into a single volume titled "*al-Jamʿ baina Waqfay Hilāl wa al-Ḵaṣṣāf*," which was critically edited and published in 2021 by the General Secretariat for *Awqāf*, Kuwait.

The institutionalization and study of *Waqf* underwent several centuries of evolution, with each era bringing its own scholarly contributions that addressed the contemporary needs and challenges of the *Waqf* system through *Ijtihād*. This ongoing scholarly attention underscores the adaptability and significance of *Waqf* in responding to the legal and social exigencies of Muslim societies over the centuries.

4. *Nuẓum* Theory and *Waqf*

This section explores how the lack of textual guidance for *Waqf* legislation in the Qur'an and Hadith led to the development of *Waqf* regulations in Islamic history. It highlights the importance of institutions in realizing Islamic objectives and how these objectives are achieved through the efforts of jurists, scholars, state power, and the populace. To analyze this institutionalization in the Muslim society, this chapter proposes the *Nuẓum* theory, which refers to Islamic institutions and how they developed in response to political, economic, and societal needs during the historical development of the Islamic state. The term *an-Nuẓum al-Islāmīya*, or Islamic Institutions, was first introduced by ‘Abd al-‘Aziz al-Duri in 1945. The term *Nuẓum* is the plural of the Arabic word *Niẓām*, meaning “putting things into a system.” This concept refers to the development of institutions in Islamic societies, both original and borrowed, to meet the political, economic, and societal needs of the time. Al-Duri’s work provided insight into how these institutions were formed and evolved throughout the historical development of the Islamic state.

Tracing the origins of the discussed *Nuẓum* theory, the pre-modern scholars, al-Mawardi and Abu Ya‘la ibn al-Farra’, who pioneered the genre of *Aḥkām Sulṭānīya*, or Sharia rules of governance. Both scholars discussed various topics related to governance, including financial issues such as the administration of alms and land tax, but did not specifically mention *Waqf* despite its importance as an institution in the religious and philanthropic fields.

Al-Duri’s work on Islamic institutions introduced the concept of *Nuẓum* and aimed to understand the hidden elements and trends that influenced Islamic society. He studied various systems such as governmental, economic, social, political, and cultural, which helped him gain a deeper historical perspective on the political system and its manifestations during political events, crises, and famines. Al-Duri’s study of trade and craft guilds, as well as social movements, helped him understand the influence of the masses on the history of Muslims and the development of Islamic sects and factions.

While al-Duri's *Nuẓum* theory is useful in understanding governance and administration in Islamic societies, it does not address the institutions of daily prayers, almsgiving, and *Waqf*. The scope of the theory needs to be expanded to include these important institutions. Additionally, al-Duri acknowledges the pre-Islamic origins and foreign influences on institutional developments in Islamic societies, particularly the Sassanian and Byzantine influences during the Arab conquests. However, the Sharia allows for the adoption of useful elements from other societies as long as they do not conflict with building an Islamic society.

Hallaq, a famous Islamic law researcher, stated that the customary law of pre-Islamic Arabia was insufficient to deal with the complex problems that arose in the new provinces after the Arab conquests, and Muslim judges often invoked laws that had prevailed prior to the Islamic conquest. There is a difference of opinion among Muslim scholars regarding the origin of the *Waqf* system. Al-Nawawi, a well-known Shafi'i jurist and Hadith scholar, believed that the *Waqf* system is one of the exclusive features of Islam, while al-Shafi'i, the founder of the Shafi'i school, stated that people in the pre-Islamic period did not keep houses or land as *Waqf* seeking pious goodness. However, al-Tarabulusi, who authored one of the important classical works on *Waqf*, claimed that *Waqf*'s origin is pre-Islamic and can be traced back to the prophet Ibrahim al-Khalil. This author subscribes to the conclusion of Dr. Monzer Kahf, who limited pre-Islamic *Waqf* to a very narrow scale (Khashan 2022).

In general, the *Nuẓum* theory is a framework that can be used to analyze Islamic institutions. These institutions can be divided into four categories based on their origins and historical formation. The first category includes institutions that existed during the pre-Islamic era or pre-Islamic religions. The second category includes institutions established by the Qur'an and Sunna, such as prayers, fasting, and *Zakāt*. The third category includes institutions that were borrowed or imported from preceding civilizations and developed according to Islamic principles and needs. The fourth category includes new institutions created by exercising *Ijtihād* (independent reasoning) to meet societal needs, such as the *Waqf* system. This framework is useful in situations where there is limited historical information available about the formation of institutions.

The *Waqf* system was developed through *Ijtihād*, where scholars exercised independent reasoning to respond to specific social needs. The *Nuẓum* theory provides a framework for analyzing Islamic institutions, and the *Waqf* system can be categorized into five needs: public/general, social services for specific groups of people, relief for special circumstances, protection of animals, and special needs initiated by donors. The *Waqf* system was diverse and included various endowments for charitable purposes, such as helping people perform *Ḥajj*, providing wedding costumes, freeing prisoners, and paving streets. Ibn Battuta was amazed by the *Waqf* system's diversity and even witnessed a *Waqf* that provided a replacement for a broken porcelain dish.

The legal rules of the *Waqf* system developed along with the system itself, and later, books on the subject became extensive and specialized. *Aḥkām al-Awqāf* by al-Khassaf is a leading classical work on the subject, while modern works such as Qadri Pasha's book and Mustafa Ahmad al-Zarqa's *Aḥkām al-Awqāf* combine classical and modern approaches to organizing the subject matter.

The legal rules of the *Waqf* system have developed as the system itself developed to provide public works and social facilities. The classical works by jurists and modern classics both focus on the technicalities of the *Waqf* rules, such as which properties can be turned into *Waqf* properties and what to include in *Waqf* deeds. The rules do not concern the aims of the *Waqf*s or resultant charitable purposes, unlike the *Zakāt* system. The *Waqf* rules are borrowed from Sharia rules in the domain of property, possessions, contracts, and wills. The main concern of the jurists was the perpetuity and inviolability of *Waqf* property to ensure the fund for public goods could be perpetual.

The *Nuẓum* perspective helps us understand the *Waqf* system, which started in the Prophetic period but was expanded through *Ijtihād* to correspond to the society's needs. The donors had discretion over the purpose of their *Waqf*, while jurists built institutional rules to ensure the perpetuity of the fund and its social good. This understanding is essential for the contemporary revitalization of the *Waqf* system, which needs to be re-institutionalized in a suitable form based on historical legal interpretation and current societal needs.

Conclusion

The lack of direct mention of *Waqf* in the Qur'an and Hadith indicates that the formation of the *Waqf* system was not part of the early Islamic period's social and political priorities. The scarcity of textual evidence on *Waqf* has made it challenging to understand how Muslims regulated their *Waqf* transactions. This chapter suggests that the social, political, and legal components of Islamic society played a crucial role in developing regulations for *Waqf* throughout Islamic history. The *Nuẓum* theory, or the theory of Islamic institutions, proposed by 'Abd al-'Aziz al-Duri, provides a framework for analyzing institutionalization in Muslim society. It explains how Islamic institutions developed in response to political, economic, and societal needs during the historical development of the Islamic state. This chapter concludes that despite the lack of textual guidance, the development of Islamic institutions demonstrates the dynamic nature of Islamic law and the importance of *Ijtihād*-based institutionalization in the development of Islamic institutions.

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