



**STATUS OF WAQF MANAGEMENT IN MUSLIM
MINORITY COUNTRY: A CASE STUDY OF
COLOMBO DISTRICT (SRI LANKA)**

By

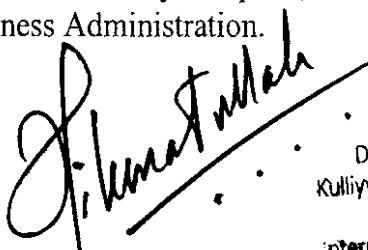
FATHIMA NAZEEFA NAMIZ FAWZER

Project Paper Submitted in Partial Fulfilment of the Requirement for the Degree of
Master of Business Administration
Graduate School of Management
International Islamic University Malaysia

2011

APPROVAL PAGE

I certify that I have supervised and read this Project Paper and that in my opinion it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a Project Paper for the degree of Master of Business Administration.



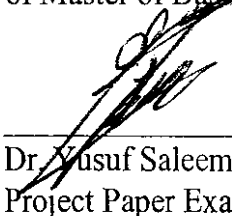
Dr. Hikmatullah Babu Sahib
Department of General Studies
Kulliyah of Islamic Revealed Knowledge
And Human Sciences
International Islamic University Malaysia

Dr. Hikmatullah Babu Sahib
Supervisor



Prof. Dr. Ahamed Kameel B.
Mydin Meera
Supervisor

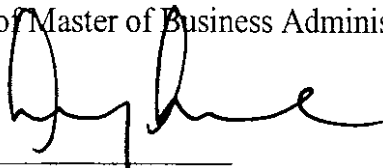
This Project Paper was submitted to the Management Centre, IIUM and is accepted as partial fulfilment of the requirements for the degree of Master of Business Administration.



DR. MUHAMMAD YUSUF SALEEM
Assistant Professor
Department of Economics
Kulliyah of Economics and Management Sciences
International Islamic University Malaysia

Dr. Yusuf Saleem
Project Paper Examiner

This Project Paper was submitted to the Management Centre, IIUM, and is accepted as partial fulfilment of the requirements for the degree of Master of Business Administration.



Prof. Dr. Arif Hassan
Chairperson, Project Paper Committee
Graduate School of Management
IIUM

DECLARATION AND COPYRIGHT

Name : Fathima Nazeefa Namiz Fawzer
Matric Number : G0916830

I hereby declare that this research is the result of my own investigations, except where otherwise stated. Other sources are acknowledged by footnotes giving explicit references and a bibliography is appended.

Signature Fathima Nazeefa Date 1 | 08 | 2011

© Copyright by Fathima Nazeefa Namiz Fawzer and
International Islamic University Malaysia

DEDICATION

To my husband

Mohammed Farook Mohammed Fawzer

*For being a loving husband, a friend, a guide, a tutor and most of all being there
for me in place of my parents.*

ACKNOWLEDGEMENT

In the name of Allah, the Most Gracious and the Most Merciful

First and foremost all praise and thanks goes to my Creator Almighty Allah for giving me the knowledge, wisdom and courage to complete this research.

My sincere gratitude goes to my main supervisor, Dr. Hikmatullah and my co-supervisor Prof. Dr. Ahamed Kameel for the guidance and support they rendered to complete this project.

This work would have not been completed without the support and encouragement from my family, specially my father in-law, Dr. B. M. Farook and my mother in-law, my two brothers, M. M. K. Namiz and M. S. K. Namiz, a special thanks to my younger brother Fahim, who had been always there to help me, my sister in-laws, Rihana and Azeema, my loving cousins, Roze and Fareeza and all my niece and nephews for their patience and unconditional love.

I wish to take this opportunity to thank all those who furnished valuable information, namely, Y.L.M. Navavi, director and the staff of the Department of Muslim Religious and Cultural Affairs, Mr. Saleem Marsoof, Mr. S. H. M. Jameel, Dr. M. S. Jaldeen, and Mr. Raufdeen.

I will be failing in my duty if I don't thank all my lectures in MBA program as well as in my BBA, for their help and encouragement. I would not be in this level if not for your help. My thanks also goes to all those working in Graduate School of Management for your smiling faces and helping nature.

A special note of thanks goes to my two dearly friends, Rusidha and Sundus, who had been always there for me.

This MBA would have not be possible without my husband, Fawzer's encouragement, love, and morale support. Jazakallahu Khair for your kind tolerance.

Lastly, I am very gratified to my parents Mr. and Mrs. Namiz, for giving me everything to be what I am today. They have been my inspiration in life and always will be. May Allah grant them Jannathul Firdouse! Aameen.

TABLE OF CONTENT

APPROVAL PAGE	ii
DECLARATION AND COPYRIGHT	iii
DEDICATION	iv
ACKNOWLEDGEMENT	v
List of Tables	ix
List of Maps	x
List of Figures	xi
ABSTRACT	xii
1. INTRODUCTION	1
1.1 Background of Study.....	1
1.2 Research Objectives	5
1.3 Research Problems	6
1.4 Significance of study	6
1.5 Organization of the study.....	7
2. LITERATURE REVIEW	9
2.1 Definition of Waqf	9
2.2 Difference between Waqf and Trust.....	12
2.3 Classification of Waqf.....	13
2.4 Ownership of Waqf property	13
2.5 Benefit of Waqf.....	14
2.6 Administration of Waqf properties.....	16
2.7 Summary.....	20
3. HISTORY OF MUSLIMS AND WAQF IN SRI LANKA	21
3.1 History of Muslims in Sri Lanka.....	21

3.1.1	Dutch Period 1658-1796.....	24
3.1.2	British Period 1796-1948.....	25
3.1.3	Muslims after Independence	25
3.2	Muslim Law of Waqf in Sri Lanka	27
3.2.1	Muslim Mosques and Charitable Trusts or <i>Wakfs</i> Act 1956	28
3.3	Department of Muslim Religious and Cultural Affairs (MRCA).....	33
3.3.1	Mission and Objectives of MRCA	33
3.3.2	Wakf Board.....	36
3.3.3	Form of waqf properties	37
3.4	Summary.....	37
4.	RESEARCH DESIGN AND METHODOLOGY.....	41
4.1	The Research Type	41
4.2	Data Collection Methods	41
4.3	The Measurement Methods.....	43
4.3.1	Questionnaires.....	43
4.3.2	Interviews.....	44
4.3.3	Sample Selection	44
4.4	Data Collection.....	45
4.5	Data Analysis	45
4.6	Limitation of Research	46
4.7	Summary.....	46
5.	DATA ANALYSIS AND FINDINGS	47
5.1	Findings from the Interview.....	47
5.2	Findings from the Questionnaire.....	52
5.2.1	Demographic Information.....	52
5.2.2	Mosque Management	55

5.2.3	Mosque Details.....	57
5.3	Summary.....	63
6.	CONCLUSIONS AND RECOMMENDATIONS	64
6.1	Discussions	64
6.1.2	<i>Waqf</i> Administrative Law.....	65
6.1.3	Inaction of <i>Waqf</i> department.....	65
6.1.4	Lack of professional staff	66
6.1.5	Appointment of Waqf Board members	66
6.1.6	Government regulation	66
6.1.7	Permanent Ministry	67
6.1.8	Lack of motivation on the side of staff, common people and Muslim Politicians.....	67
6.1.9	Status of charitable trust	68
6.1.10	Disputes	68
6.1.11	Criteria for selection of trustees.....	68
6.2	Recommendations	69
6.3	Future Research.....	71
6.4	Summary.....	72
	BIBLIOGRAPHY.....	73
	APPENDIX A	78
	APPENDIX B	80
	APPENDIX C	81
	APPENDIX D	83
	APPENDIX E	88

List of Tables

Table 3.1 - Objectives and functions of religious and cultural division.....	35
Table 3.2 - Objectives and Functions of Waqf Division	36
Table 4.1 - Interview Summary.....	42
Table 5.1 - Listed Charitable Trusts in the District of Colombo, Sri Lanka.....	49
Table 5.2 - Interview Findings	51
Table 5.3 – Age	53
Table 5.4 - Academic background.....	53
Table 5.5 - Marital Status.....	54
Table 5.6 - Work Experience	54
Table 5.7 – Salary.....	55
Table 5.8 - Terms of a trustee	56
Table 5.9 - Active participation.....	56
Table 5.10 - Assets owned by mosque	57
Table 5.11 - Forms of the income – rent.....	58
Table 5.12 - Forms of the income - Madrasah/ education	58
Table 5.13 - Forms of the income - Subscription and till money	58
Table 5.14 - Expenditures - Salary and maintenance	59
Table 5.15 - Expenditures - Public expenditure.....	59
Table 5.16 - Expenditures - Scholarships/ other	59
Table 5.17 - Income sufficient to cover the expenses	60
Table 5.18 - Allocation of surplus income.....	60
Table 5.19 - Financial Support.....	61
Table 5.20 - Submission of annual accounts to MRCA	61
Table 5.21 - Assistance from MRCA	62
Table 5.22 - Role of MRCA.....	62

List of Maps

Map 3.1 - Muslim Population and number of mosques in Sri Lanka district wise...38
Map 3.2 - Mosques in District of Colombo.....39

List of Figures

Figure 3.1 - Organizational Chart of MRCA	40
---	----

ABSTRACT

The institution of *waqf* has historically played a very crucial role in the socio-religious and economic developments of the Muslims, the world over. Unfortunately, the effect of colonization has diminished its paramount role as a tool for development. Many scholars and Nation States are reviving this institution to bring back its prominence so that the Muslim *ummah* can once again enjoy its full benefits and successes. This research, therefore, aims to examine the current status of *waqf* in Sri Lanka, a Muslim minority country with only 7.5 % Muslims. A thorough study is undertaken of the *waqf* Laws as well as the administration of *waqf* properties. Personal interviews were conducted with relevant officers and trustees of *waqf* properties. Survey questionnaires were distributed to mosque trustees, as well as making an overall observation on the effectiveness of the Department of Muslim Religious and Cultural Affairs. This study proposes a review of the methods of documentation and a revision in the legal framework to increase the accountability and transparency of *waqf* properties and their managements, with the objective to give *waqf* management in Sri Lanka its true status to enhance the traditional role played by this institution for the socio-religious and economic developments of Sri Lankan Muslims.

CHAPTER ONE

INTRODUCTION

1.1 Background of Study

Islam accepts unequal distribution of wealth as part of Divine creation, yet it does not allow concentration of wealth in the hands of a few. The reason for inequalities in wealth and property is mentioned in Surah Al-An`am verse 165, "*He may try you in that which he has bestowed on you.*" Allah favours some over others in terms of wealth, property and rank as a trial and test in this world. As mentioned in Surah An-Nahl verse 71, "*Allah has preferred some of you above the others in wealth and properties*", in Surah Az-Zukhruf verse 32, "*It is We Who portion out between them their livelihood in this world, and We raised some of them above in ranks, so that some may employ others in their work.*"

Further, in Surah Al-Ma`arij verse 24-25, Allah says "*And those in whose wealth there is a recognised right for the needy who asks, and the one who is prevented from asking.*" Having wealth in Islam does not give the authority to spend as one wants, rather he is been given wealth as a way of spending for the betterment of his brothers and sisters.

Islam supersedes other religions in its care for poor, establishment of social justice, and social solidarity (Qaradawi, 1997). Often, Islamic societies are described

as a welfare society, thus every Muslim should care for others in terms of their spiritual well-being, material welfare, individual needs, and their collective or social good (Siddiqi, 1991). Being conscious about other fellow human being is a basic rule of conduct in Qur'an and Sunnah of the Prophet Muhammad (PBUH).

To bridge the gap between the rich and poor and to ensure a just and equitable society, Islam employs two measures; (a) positive measures like *zakat*, *sadaqah*, *fara'hid*, *wasiyyha*, and voluntary charities like *waqf* and compulsory contributions in the form of taxes and levies, and (b) preventive measures like abolition of interest, prohibition of acquisition of wealth through illegal and unfair means.(Chaudhry, 1999).

In the positive measures some are compulsory like *zakat* and *fara'hid* and some are voluntary like *sadaqah* and *waqf*. Abul Hasan Sadeq (2002) describes *waqf* as a perpetual charity, a mechanism of re-distribution that will help enhance the capabilities of the poor to take care of themselves. In other words the institution of *waqf* has a long term implication in the socio-economic development of Muslims.

History has proven that the institution of *waqf* played a significant role in the redistribution of wealth, which helped in creating a stable and successful Islamic system. As pointed out by Siddiqi (1991), the voluntary sector plays a major role in the transfer of resources from the rich to the poor more efficiently than the State, as

the cost of transferring will be less and the identification of the needy may be more accurate, since charity starts from family, village, district than the State.

However, this institution of *waqf* which played a prominent role in the redistribution of income and wealth had been abandoned completely after the decline of the Ottoman Empire with the onslaught of colonization that led to the separation between religion and daily life. (Mohsin, 2009).

However, the growth and development of Islamic Economics and Islamic Finance in the 20th century has led to the revival and research in many areas. One of these areas is the study of *waqf*. Many countries like Malaysia, Turkey, Kuwait etc and many organizations like Awqaf Foundation, Islamic Development Bank are taking rigorous steps to stimulate this institution. This is more apparent in the Muslim majority countries where with the support of Muslim Governments many research and scholarly works are carried out. Nevertheless, the revival of *waqf* and Islamic voluntary sector is necessary and imperative to boost the socio-economic developments of Muslims living as minorities in non-Muslim countries, where the needs, both religious and societal, of Muslims are grossly or at times deliberately neglected and ignored, specifically their religious needs.

The same was echoed by M. N. Siddiqi in his article “The Role of the Voluntary Sector in Islam” wherein he observes that *waqf* Institutions should be more relevant to

countries where Muslims are a minority as their needs are not fulfilled by their governments, especially religious and social needs.

This research looks into the status of *waqf* in Sri Lanka, a Muslim minority country with only 7.5% Muslims. Sri Lankan Muslims are known for their philanthropic actions specifically in the areas of education, religion and economic developments. Many prominent personalities like Arabi Pasha¹, A. M. Wapchi Marikar², Carimjee Jafferjee³, S. L. Naina Marikar⁴, P. B. Umbichy⁵, N.D.H. Abdul Gaffor,⁶ Justice M. T. Akbar⁷, Sir Mohamed Macan Markar Effendi⁸, and Dr. T. B. Jaya⁹ have contributed significantly for the development of Muslims in Sri Lanka (Effendi, 1982).

¹ Came on exile from Egypt in 1882 to Sri Lanka. He mixed freely with local Muslims and encouraged them in education, religious and social activities. He vigorously supported the educational upsurge of Muslims.

² By profession he was a building contractor. He built General post Office, Colombo Museum, Colombo Customs, Colombo Town Hall and many other prominent buildings. He was a wealthy man who was very generous in contributing towards his community's welfare, religious economical, social and educational needs.

³ Leading merchant from the Borah Community, a Shi'a sect in Sri Lanka, He supported the educational movement of Wapchi Marikar.

⁴ A successful businessman by profession, he took an active role in the educational movement and donated considerably to uplift the educational level.

⁵ He was of Malabar origin and spent lavishly for the good of Sri Lankan Muslims.

⁶ He was a gem and jewellery businessman. He contributed immensely to many Muslim institutions like Zahira College, Colombo, Ghafooriya Maharagama and many more.

⁷ Played a prominent role in the educational and judicial life of the country.

⁸ Took keen interest in the promotion of Muslim education. He was the founder member of Ceylon Moslem Educational Society which established and managed many Muslim schools.

⁹ Member of Malay Muslim community. He was the principal of Zahira Collage. He was an educationalist and an ideal Muslim fit to train the rising generation of Muslim Youth.

It is sad to note that the status of Muslims presently, in terms of education, religion and economy has seen a downward shift. This can be due to number of reasons such as lack of finance, lack of government assistance and support, backwardness of Muslim community as well as the inability of Muslim politicians to bring socio-economic developments to Muslim community. This clearly shows that the need for *waqf* and voluntary sector is vital to uplift the Muslim community in Sri Lanka. Many of the properties and lands donated and endowed for the benefit of Muslims are encroached either by the Government or individuals, plaguing the institution of *waqf* in Sri Lanka.

1.2 Research Objectives

The main aim of this research is:

- a. To examine the current system of administering *waqf* properties by posing the following two questions: Is the *waqf* managed effectively and efficiently? What are the ways of improving the function of *waqf* in the socio- economic developments of Muslims in Sri Lanka?
- b. To provide an up-to-date statistics on the forms of *waqf* in the District of Colombo that can be used as a framework for other districts in the Country.

1.3 Research Problems

This paper aims to study the current *waqf* system in Sri Lanka, specifically focusing on the District of Colombo. The following research questions will help towards a thorough analysis of the overall *waqf* properties and how they are being managed:

- (i) What are the different forms of properties categorized under the *waqf* properties and lands in Sri Lanka;
- (ii) What is the role played by the Department of Muslim Religion and Cultural Affairs(MRCA) in managing and protecting the *waqf* properties;
- (iii) How does the department conduct its functions as an authority in charge of *waqf*, and, more importantly,
- (iv) How are the *waqf* properties managed?

Answer to these questions can help achieve the objectives of this research.

1.4 Significance of study

This study will contribute towards the understanding of the present management of *waqf* properties and the role played by the MRCA in managing *waqf* properties. As hitherto no constructive research has been carried out in this area in Sri Lanka, this research will definitely be a useful resource for future studies in this field.

This study will give a platform for relevant authorities to look into the background of issues and challenges faced by Muslims with regard to *waqf* properties, Mosques and Arabic colleges in Sri Lanka.

1.5 Organization of the study

The outline of this paper is divided into six chapters. Each chapter has a distinctive objective.

Chapter one: Introduction

This chapter gives a brief background on the research ideas and problems, the rationale for this study and how the study can help in the management of *waqf* efficiently and effectively.

Chapter two: Literature Review

The theoretical bases for the research are established by studying previous works and researches related to *waqf*, its law and management aspects. The main aim of this chapter is to find areas that are not addressed by previous studies.

Chapter three: History of Muslims and *Waqf* in Sri Lanka

This chapter will explain the history of the Muslims before and after the colonization. A detailed examination will be made on the law and management of

waqf properties. This chapter gives an insight into the origin of Muslims and how they conduct their affairs especially in relation to *waqf* aspects, prior to the coming of colonization and thereafter.

Chapter four: Research Design and Methodology

This chapter explains the research type, approach, sampling and data collection methods used for this study, and the basis of selecting a particular approach.

Chapter five: Data Analysis and Finding

This Chapter synthesises all the data collection methods and presents a summary of the data in tabular forms.

Chapter six: Conclusions and Recommendations

The researcher provides a summary where the limitations of the research are stated at the end and the future direction for the relevant research is proposed as a supplement to this paper, and the final conclusion on the whole paper is provided.

CHAPTER TWO

LITERATURE REVIEW

This chapter introduces the concept of *waqf* and its application in current and historical aspects. Reviews of previous research in this field are presented to have a deep understanding of the theory and practice of *waqf* properties as well as their management.

2.1 Definition of Waqf

Waqf has been a concept as older as the civilization has existed (Khaf, n.d), however, the real concept of *waqf* was applied during the time of Prophet Muhammad (PBUH). The word is not derived from the Qur'an like other Arabic terminologies; but through the practices of the Prophet and his companions, this word developed several meanings.

The common translation of the word *waqf* refers to the following meanings: to be bound up, detained, confinement, prohibition, prevent or restrained. Many different books and websites give different wordings but with almost the same meaning. Oxford Dictionary defines it as an endowment made by a Muslim to a religious, educational, or charitable cause. In Islamic Law (Marsoof, 2002), it means “to protect a thing or prevent it from becoming the property of a third person”.

According to Muslim Jurists *waqf* is a permanent dedication by a Muslim of the corpus of a valuable property to the ownership of Allah (SWT) with a declaration of dedicating its usufruct perpetually for religious, charitable, or pious purposes as recognized by *shari'ah*.

Khaf (2003) defines it as holding a certain property and preserving it for a confined benefit of certain philanthropies and prohibiting any use or disposition of it outside those specific objectives. Cizacka (1998) states "the word *waqf* and its plural *awqaf* are derived from the root word *waqafa*, which means to cause a thing to stop and stand still". Verma as cited in Jaldeen (1993) gives a comprehensive definition based on the main *fiqh* schools, namely Hanafi, Maliki, Shafi' and of the definition of Abu Yusuf as:-

" an unconditional and permanent dedication of property with implied detention in the ownership of God in such manner that the property of the owner may be extinguished and its profits may revert to or be applied for the benefit of mankind except for the purposes prohibited by Islam"

The word *waqf* has been given other names like endowment, bequest, charity or trust. Raissouni (1990) includes the word endowment with *waqf*, stating it as *waqf* endowment. He says that the meaning of "*waqf* endowment" is very close to that of "*habs*" (literally "locking up") linguistically and conventionally. According to him

both words are synonyms in the conventional use; so much so that they are used interchangeably. Further, he points out the difference between endowment and *waqf* as:-

“Endowment is a canonical Islamic concept, which refers to a special kind of charity given for the purposes of benevolence. The word is used for charities and gifts that have permanence and continuity, so that people can benefit from them for years, generations or even centuries”

During the time of the Prophet (PBUH) the concept of *waqf* was similar to the concept of endowment, for e.g. the *waqf* made by Mukhairiq and the second Khalifah ‘Umar who endowed Khaibar. Prophet (PBUH) said “if you like, you may hold the property as *waqf* and give its fruits as charity”. This justifies the claim by Raissouni (1990) that *waqf* endowment is made of entities from whose usefulness, yield and fruit people can benefit, while the capital asset of the entity lasts and stays for a short or long period of time, such as a lot, a construction, a well and a tree. He further gives the distinction between bequest and *waqf* endowment as:-

“Bequest (Habs) or Waqf endowment can express the same meaning; for both Waqf endowment and ‘Habs’ are synonyms in the canonical meaning. In fact, some Islamic canonists consider both words as synonymous linguistically and conventionally. But endowment for them is stronger than bequest, while linguistically they are synonymous”

2.2 Difference between Waqf and Trust

Many countries which are colonized by the British use the word “Trust” instead of endowment or *waqf*. As such, Sri Lanka also uses the word trust to indicate *waqf*. Jaldeen (1993) points out that the doctrine of *waqf* is exclusive to Muslim law although there are similarities with the principle of trusts as understood in the Common Law, and provides the following differences:

1. A *waqf* is directed usually for religious and pious purposes; on the other hand a trust is generally created for charitable purpose;
2. The creator of a trust may be a beneficiary under it but in the case of a *waqf* the dedicator cannot benefit from it;
3. A trust could be created for any lawful objective including charitable purposes, a *waqf* on the other hand will be for a religious as well as charitable objectives recognized in Muslim law;
4. Any person, including a Muslim could create a trust but a *waqf* could only be created by a Muslim;
5. The subject of a trust could be any property which is transferable but in case of *waqf* there are specific properties subjected to it;
6. The trustee’s power is extensive but the *muttawalis*’ power under a *waqf* is restrictive;
7. A *waqf* is perpetual but a trust is limited to a specific period;
8. A trust reverts to its author when it is incapable of execution or does not exhaust but a *waqf* being irrevocable and inalienable, does not revert to the dedicator, since it is immobilized and transferred to God;