

THE CHALLENGES OF MANAGING, INVESTING AND
FINANCING WAQF ASSETS IN YEMEN: THE NEED
FOR ALTERNATIVE MODEL

BY

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ABSTRACT

Waqf has played a significant role throughout Islamic history. This has been possible through proper management, investment and financing of various *Waqf* assets to enhance the socioeconomic development of Muslim societies. In particular, it has contributed significantly to the encouragement of religious practices, improvement of education, health and helping the poor and the needy, creating employment and supporting other socio-economic activities. However, nowadays most of *Waqf* assets have become idle and no longer serves the needs of the Ummah due to problems, such as poor governance structure and human resource. Few studies have tried to address challenges facing *Waqf* but unfortunately these studies have been conducted in countries where the governance structure is robust and the quality of human resource is very good. Such models may not be suitable in contexts such as Yemen where *Waqf* assets are mostly in the form of physical assets such as lands and buildings and the quality of human resource and governance structure are poor. Therefore, the current study has proposed a model to address these challenges in terms of management, investment and finance in Yemen. The study has used semi-structured interviews with experts to explore the acceptability of the model in Yemen. The experts interviewed are mainly policy makers, *Waqf* directors and academicians specialized in the areas of *Waqf* and Islamic banking. The findings of the study indicate that Islamic banking model could play a significant role for development of *Waqf* assets. Further, according to the findings of the current study, the applicability of the proposed model to the Yemeni context is supported.

خلاصة البحث

لعب الوقف دورا هاما عبر مراحل التاريخ الإسلامي، وذلك من خلال الإدارة السليمة - في الجملة - لمختلف الأصول الوقفية وتمويلها واستثمارها؛ لتعزيز التنمية الاقتصادية والاجتماعية للمجتمعات الإسلامية. وبالأخص فقد ساهم الوقف بشكل أساسي في تشجيع الممارسات التعبدية، ومساعدة الفقراء والمحتاجين، وتطوير التعليم والصحة، وخلق فرص عمل، ودعم مختلف الأنشطة الاقتصادية والاجتماعية الأخرى. إلا أن كثيرا من الأصول الوقفية صارت غير فاعلة حاليا، ولم تعد تخدم احتياجات المجتمعات المسلمة؛ وذلك لعدة أسباب منها: ضعف الإدارة والموارد البشرية. وقد حاولت بعض الدراسات المعاصرة اقتراح حلول لمواجهة التحديات التي تواجه الوقف، لكن ولسوء الحظ كانت معظم تلك الدراسات قد تم إجراؤها في بلدان كان هيكل الحوكمة ونوعية الموارد البشرية فيها قويا، وبالتالي فقد لا تكون تلك النماذج مناسبة في بلدان وسياقات أخرى مثل: اليمن التي يكون فيها أصول الوقف في الغالب على شكل أصول عينية مثل: الأراضي والمباني، كما أن هيكل الحوكمة ونوعية الموارد البشرية فيها ضعيف. لذلك اقترحت الدراسة الحالية نمودجا تراه ملائما لمواجهة التحديات الوقفية التي تواجه الوقف في اليمن، حيث إن الهدف الرئيس من هذا النموذج المقترح هو تخطي التحديات التي تواجه الوقف في اليمن ومنها: تحديات الإدارة والتمويل والاستثمار. وقد استخدمت هذه الدراسة المقابلات شبه المقننة (المقيدة) كأداة لجمع البيانات مع خبراء في هذا المجال؛ لدراسة مدى قبول هذا النموذج المقترح في اليمن. وقد حرصت الدراسة على تنوع خلفيات الخبراء الذين شاركوا وتمت مقابلتهم مثل: مديري الأوقاف وصناع القرار وأكاديمين متخصصين في الأوقاف والصيرفة الإسلامية. وتشير نتائج الدراسة إلى إمكانية تطبيق النموذج المقترح في اليمن.

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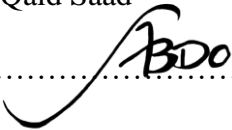
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DECLARATION

I hereby declare that this thesis is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

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*This thesis is dedicated to my beloved parents, wife, son, daughter, brothers and
friends*

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LIST OF ABBREVIATIONS

PBUH	Pace Be Upon Him
KAPF	Kuwait Awqaf Public Foundation
BMT	Baitul Mal wat Tamwil
SMEs	Small and Medium Enterprises
MUIS	Majlis Ulama Islam Singapore
JAWHAR	Jabatan Wakaf, Zakat dan Haji
APIF	Awqaf Properties Investment Fund
WIPY	Waqf Investment Projects in Yemen
WSS	Waqf Shares Scheme
DCWS	Deposit Cash Waqf Scheme
BMA	the Bahrain Monetary Agency
BIBF	Bahrain Institute of Banking & Finance
CCWS	Compulsory Cash Waqf Scheme
CWS	Corporate Waqf Scheme
CPF	Central Provident Fund
DWPS	Deposit Waqf product Scheme
IBBL	Islamic Bank Bangladesh Limited
SIBL	Social Investment Bank Limited
BMMB	Bank Muamalat Malaysia Berhad
CWS	Co-operate Waqf Scheme
MIFWAM	Managing, Investing and Financing Waqf Assets Model
JPB	Jawatankuasa Pengurusan Bersama
IIUM	International Islamic University Malaysia
ISRA	International Shari'ah Research Academ
INCEIF	International Centre for Education in Islamic Finance
USIM	University Science Islam Malaysia
ICWR	International Centre for Waqf Research
IIW	International Institute of Islamic Waqf

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF STUDY

Waqf – an endowment of physical or financial asset with earning potential – has played a significant role throughout Islamic history Çizakça, (2000). The core strength of *Waqf* was in its effective management, investment and financing of *Waqf* associated assets that generated earnings for the purposes of socioeconomic development of Muslim societies.

The first *Waqf* in Islam was the mosque in al-Madinah. The land for the mosque was financed by money provided by the Prophet peace be upon him (PBUH). This *Waqf* also marked the beginning of rapid increase in the number of *Waqf* assets right from the time of the Prophet (PBUH). For example, a Jewish man called Mukhairiq made a will that after his death, his seven orchards in Madinah be managed by the Prophet (PBUH) for the welfare of the Muslims. In the fourth year of the Hijrah, the man died and the Prophet took hold of the orchards and made them a charitable *Waqf* (Kahf). In another instance, Umar ibn al-Khattab, on the advice of the Prophet (PBUH), donated piece of his land in Khaybar as charity to be managed for the welfare of the poor, wayfarers, slaves and guests. Furthermore, Othman Bin Affan financed the well of Bi'r Ruma for drinking water. Othman reported that upon their arrival in Madinah and realising that the city had no source of drinking water except the water of Bi'r Ruma, the Prophet (PBUH), asked: “Who will purchase Bi'r Ruma to equally share the water drawn therefrom with his fellow Muslims and shall be rewarded with a better well in the Paradise?” Then, Othman said, “I bought it with my own money” [al-Tirmizhi].

The expansion of Islamic state during the era of the Khulafa Al-Rashidin [the rightly guided Caliphs] opened opportunities for affluence and new sources for several *Waqf* assets. This period and the subsequent generations experienced a dramatic expansion in the financing, investment and management of *Waqf* assets by Muslim individuals, communities and states through and through.

Waqf institutions became more prominent during the Ottoman state rule. The ottoman financed, invested and managed huge *Waqf* resources to the extent that there was the famous saying, “ Thanks to the *Waqfs* that flourished during the Ottoman caliphate, a person would have been born in a *Waqf* house, slept in a *Waqf* cradle, eaten and drunk from *Waqf* properties, read *Waqf* books, taught in a *Waqf* school, received his salary from a *Waqf* administration, and when he died, placed in a *Waqf* coffin and buried in a *Waqf* cemetery” (Baskan, 2002). Furthermore, it is reported that one-third of the total land governed by the Ottoman constituted *Waqf* land (Sait & Lim, 2005). The financing, investment and management of *Waqf* assets during this period covered various sectors such as education, health, infrastructure and shelter, among others. The mode of investments included Al-Ijaratain (Lease with Dual Payment), Al-Hukr (Long Lease with Large Advance Lump Sum) and Al-Mursad (Loan).

The colonisation of the Muslim countries which was unprecedented in Muslim history, significantly affected the civilisation, cultural, economic, and political spheres of the colonised countries (Çizakça, 2000). The colonial powers introduced new policies in several parts of the Muslim world that greatly undermined the progress of *Waqf* management, financing and investments (R. Karim, 2013). During the colonisation period, most of *Waqf* assets were managed through centralized administration without having any proper governance structure and human resources (Siraj, 2012). The best *Waqf* lands and lot of real estate assets were sold by the colonial administration.

For instance, 10,000 hectares of *Waqf* lands and inheritance buildings were occupied by the colonial management in Morocco, Algeria, Lebanon, Syria and Tunisia (R. Karim, 2013). Meanwhile, most of *Waqf* assets were not invested and financed efficiently and productively, where the *Waqf* funds had used to suppress people who fought against their occupation. Consequently, in most of the Islamic countries, *Waqf* assets were in a dilapidated state with no proper management, investment and financing.

In recent years, there are attempts in several Muslim countries to revive *Waqf* institutions in terms of their efficient management, financing and investments. With regard to management in some countries, new governance structures in the form of Ministries and religious councils are proposed, for example in Saudi Arabia, Yemen, and Kuwait, to enhance the management of *Waqf* assets (Nor & Mohammed, 2009; Siraj, 2012). In other countries, *Waqf* is being managed by local communities and state councils. For example, in South East Asian countries like Indonesia and Malaysia *Waqf* assets are under the management of religious affairs councils (Obaidullah, 2013; A. H. Ramli & Sulaiman, 2006).

On the other hand, traditional mode of financing such as long lease is still used to develop *Waqf* assets for example in Jordan, Morocco and Yemen (Alyan, 2013). Meanwhile, the financing of *Waqf* assets is slowly shifting from the traditional modes to modern once. cash *and* corporate *Waqf* have become the most proper modes of financing the *Waqf* assets for instance in Malaysia, Singapore, among other Muslim countries (Mustafa & Ogunbado, 2015). According to Aminah and Tahir Sabit (2011), they opine that cash *Waqf* is the best source that can be used for both the development of *Waqf* assets and social activities such as helping the needy and the poor. Whereas in Sudan *Waqf* is financing by *Waqf*-shares. According to Zulkifli and Mohammed (2008), they stated that using *Waqf* share scheme is easy method to raise fund.

Further, *Waqf* Funds are largely utilised as a suitable mode for financing *Waqf* assets in some Muslim countries including Kuwait. The following table shows *Waqf* assets allocated for each fund in Kuwait.

Table 1.1 Summary of *Waqf* Funds operating in Kuwait.

No.	<i>Waqf</i> Fund	Cost (KWD Million) / Kuwaiti Dinar
1	Thought and culture Fund	1 Million
2	Family Care Fund	1 Million
3	Environmental conservation Fund	1 Million
4	Health Development Fund	5 Million
5	Quran and its Sciences Fund	2 Million
6	Cultural Development Fund	5 Million
7	Mosques Maintenance Fund	10 Million
8	Disabled Care Fund	5 Million
9	Fund for spread the practice of Islam	2 Million
Total		32 KWD Million

Source: Kuwait Awqaf Public Foundation (KAPF)

With regard to investment, *Waqf* assets were invested by using several Islamic contracts such as *Ijarah* (Lease), *Musharakah* (Equity Partnership), *Murabahah* (Cost-Plus Sale Contract), *Mudarabah* (Silent Partnership) and *Istisna* (Partnership in Manufacturing) that can generate high profits for social and economic development. In Indonesia, *Waqf* assets are invested in the banking institution, *Baitul Mal wat Tamwil* (BMT), and Small and Medium Enterprises (SMEs) based on *Musharakah* and *Mudarabah* contracts (Candra & Ab Rahman, 2010). In Malaysia and Singapore, *Waqf* is being invested through debt-based instrument, equity-based instruments, self-finance instrument and Islamic securities instruments to fund projects (Z. Hasan & Abdullah, 2008a). Despite these attempts by modern Muslim states, *Waqf* institutions continue to face numerous challenges. For instance, legal challenges (M. F. Karim, 2010; Mahamood, 2006), management (Abdul Karim, 2007; Dafterdar & Bank, 2009), and

finance (M. T. T. H. Mohammad, 2009). These studies mainly focus on management, investment and financing challenges. In Malaysia for example, most of the State Islamic Religious Councils basically face *Waqf* management problems, lack of liquidity to finance the development of the existing *Waqf* properties and inadequate Shari'ah compliant investment avenues for generating income from *Waqf* assets (Ismail, Salim, & Hanafiah, 2015). In most cases, the operating costs for the maintenance, repair, etc of *Waqf* assets exceed *Waqf* revenue (Ismail et al., 2015). In Bangladesh, *Waqf* management has turned into corrupts den. *Waqf* assets were leased at very low cost to the vested people in connection with the appointed personnel of the *Waqf* administration. These assets are also manipulated for non-charitable a purposes, which ultimately lead to the failure to achieve the aims of *Waqf* (A. A. M. Ibrahim & Khan). According to Abubakar (n.d), *Waqf* institution has no proper management in Nigeria. This is because of many challenges militating against *Waqf* institutions including poor governance structure and inefficiency in *Waqf* investment (Abubakar). Meanwhile, in Indonesia, most of *Waqf* assets have not been productively, where the Mutawallis have no ability to use and manage the *Waqf* land properly. They use only *Waqf* land for the religious purposes such as build mosques, cemeteries, etc. (Djunaedi, 2013).

1.1.1 An Overview of *Waqf* in Yemen

Historically, as an extension of the Muslim Caliphate, *Waqf* contributed significantly in Yemen from the advent of Islam until ten decades ago. For example, the big mosque in Sanaa was the first *Waqf* in Yemen that was built by Farwa, the companion of the Prophet (PBUH). Another companion, Muadh bin Jabal, built the Junaid Mosque when the Prophet (PBUH) sent him to Yemen to teach people Islam. The subsequent period that marked the Rasulillah state witnessed the peak of *Waqf* expansion.

In fact, it is considered the golden period of *Waqf* development in Yemen. For example, *Waqf* was used to finance education in the form school buildings and other educational facilities. These schools provided free education to people from elementary until the university level. There were about 115 schools built during Al-Rasulillah state in Yemen, fully financed by the *Waqf* institutions. These schools contributed to Islamic knowledge as well as other sciences. It provided free education for international students (Al-Akwa, 1986). *Waqf* activities in Yemen continued to spread during the rule of the Ottoman caliphate, where several mosques and schools had been established. For example, Ash'aris mosque in Zabeed and Mustafa Basha' school as well as Al-Alexandria school in Sana'a, among others (Al-Akwa, 1986).

Today in Yemen *Waqf* is still a significant institution with huge potentials in terms of the existing asset size and the country's resources which can be used as new sources for *Waqf*. According to Abdul Rahman Al-Qulam, Deputy of awqaf ministry and Saleh Ali Khamis, General Manager of awqaf in the city of Sana'a; (2008), they asserted that around 240,000 Square kilometres. This constitutes 48 percent, almost a half of the entire land area of Yemen. Additionally, a huge size of moveable and immoveable assets owned by *Waqf* institutions in Yemen (Awqaf, 1991b). In fact, people hardly can find land which is not owned under the *Waqf* assets. Many *Waqf* farming lands that are widely spread in Yemen today are the results of past efforts in financing the sector. Most of these farming lands produce large amount of fruits, grains and vegetables (mujahid, 1978).

Recently, there have been discernible efforts from the Ministry of Awqaf in Yemen towards developing *Waqf* assets. For example, the Ministry established many commercial centres and rented them to people to gain profits and promote investment. There are more than 4000 shops in the city of Sana'a alone (Al Shehari, 1993).

Despite *Waqf* potential and its contribution towards the socio economic development in Yemen, the institution continues to face numerous challenges, mainly three: management, investment and financing. The management challenge is further classified into two major ones: the absence of good governance structure and poor quality of human resource. In practice, *Waqf* Institutions in Yemen have poor governance structure. They lack transparency and accountability. For example, a *Waqf* land manager in Sana'a reports that around 80% of *Waqf* lands in the city of Sana'a have already been sold by corrupt political leaders (Awqaf, 1991b). The absence of effective institution with clear vision of managing *Waqf* assets has led to failure in the existing system and the inability to overcome corruption. The governance problem is further aggravated by the poor quality of human resource. There is lack of professional and technical expertise for developing *Waqf* assets where the majority of workers in *Waqf* institutions are not qualified. Therefore, there is a dire need for qualified people with sufficient skills to develop strategies and enhance the administrative and organisational effectiveness (Abdulaziz Alwan Said Abdo, 1997).

With regard to investment, Yemeni *Waqf* assets are not given adequate attention and most *Waqf* lands are still undeveloped and unproductive (Al-Farran, 2013). All of *Waqf* assets in Yemen at the moment are physical assets, where much of these physical assets are in the form of lands or buildings. Meanwhile, more than 90 percent of these assets are endowed for religious purposes. Only 10 percent of these assets are used for non-religious purposes. With the present governance structure in Yemen, not much can be done to develop these assets. Therefore, there has to be an external source of financing for these *Waqf* assets.

Financial challenges are perhaps the most pressing, where there is no sufficient resource to finance *Waqf* assets in Yemen. This is because the revenue generated from the *Waqf* land fully used to cover a wide range of expenses including the maintenance and administration of *Waqf* assets, which often exceed the *Waqf* returns (Awqaf, 1991b). Besides, most of *Waqf* assets in Yemen are mainly into the form of immovable assets including lands and buildings, among others. Which is considered as less productive compared with moveable *Waqf* such as cash (Abdulaziz Alwan Said Abdo, 1997). Other factors which contribute to financial challenges are *Waqf* institution's failure to lease out the land at a competitive rate and the failure to systematically collect rent arrears from the tenants (Al-Farran, 2013). Apparently, in order to address above challenges, there is an urgent need for an effective institution to manage, invest and finance *Waqf* assets efficiently and productively. This institution should have sufficient experiences that can be used to increase the returns on *Waqf* assets to fund *Waqf* projects. Therefore, can Islamic banking be a better choice from the existing institutions in Yemen?

Several studies have shown that Islamic banking has sound management, ability to finance big projects and invest efficiently. For example, the study by M. Iqbal, Ahmad, & Khan (1998) reported that Islamic banking has achieved significant success in mobilising large funds. In addition, two other studies also testify that Islamic banks are highly successful in deposit mobilisation (Nienhaus, 1988; Wilson, 1990). Therefore, it shows that Islamic banking has ability to manage funds as well as it is more efficient to deal with risk management. Besides, Islamic banking has sufficient liquidity to provide finance for a considerable projects (Zaher & Kabir Hassan, 2001). M. M. Hasan & Dridi (2010) assert that Islamic banking fared better in terms of liquidity reserves and profitability.

This illustrates how important Islamic banking growth is in terms of total financing. Given these advantages, there are sufficient evidences that IB could be one good alternative to finance *Waqf* assets in Yemen.

1.1.2 The role of Islamic banking in the management, investment and financing of *Waqf* assets

A few studies have examined the role of Islamic banking towards management, investment and financing of *Waqf* assets. Some of these studies have proposed theoretical models, while others have discussed some models that are already in practice. For example, the study by Ramli & Jalil, (2013a) discussed the banking model of corporate *Waqf* that is being practiced in Malaysia. The study finds that Bank Muamalat Malaysia Berhad (BMMB) is the first Malaysian Islamic banking institution that has mobilised and managed *Waqf* fund for investment with the State Religious Council. BMMB has been able to mobilise funds with the consent of its depositors. The minimum contribution is RM10 by individuals and RM100 by institutions. The *Waqf* fund aims to accumulate RM50 million within three years and Bank Muamalat itself has donated RM1 million into the fund as well as its staff has contributed RM74,040 at the launching ceremony of *Waqf* Muamalat Selangor (A. M. Ramli & Jalil, 2013a). These funds are then invested through the State Religious Council to finance *Waqf* projects. On the other hand, there are studies that have proposed theoretical models. For example, the study by Chowdhury, bin Ghazali & Ibrahim (2011) proposed theoretical model in which Islamic banks serve as a trustee. Banks would be responsible for collection, investment and distribution of profit for charitable activities. The bank will act to monitor all *Waqf* activities, but actual investment, financing and surplus distribution will be managed separately.

Most of these models being practiced or proposed for the countries where the capital market is highly developed and the human resource quality is very high due to high literacy rate. The governance structure in these countries is also well developed and these models are based on cash *Waqf* which is a moveable *asset*. In contrast, the case in Yemen is a little bit different. There is the absence of capital market, the human resource quality and the governance structure are very poor. Moreover, most of the assets are in the form of real estate such as lands or buildings. Therefore, there is a need to investigate the possibility of Islamic banking role in managing, investing and financing *Waqf* assets such a unique *Waqf* environment in Yemen.

1.2 STATEMENT OF THE PROBLEM

Historically, *Waqf* played a key role in the development of Muslim societies. *Waqf* served the Muslim society in almost all fields, such as education, religion, medicine and other socioeconomic aspects. However, currently *Waqf* has become dormant in most of Muslim countries. *Waqf* no longer serves the needs of the Muslim communities due to challenges in management, investment and finance. The status of *Waqf* has deteriorated to such an extent that in some countries *Waqf* assets have been neglected and undeveloped. In Yemen, nowadays *Waqf* face numerous challenges especially in management, investment and finance. Management challenges are mainly due to poor governance structure and absence of viable institution. While, Investment challenge is because of the absence of well-developed capital market from which *Waqf* could generate sufficient revenue for supporting many *Waqf* projects. Additionally, the absence of liquidity has become a key challenge for financing *Waqf* assets in Yemen. Therefore, to rejuvenate the *Waqf* assets in Yemen, there is an urgent need for