Waqf Revival: A Policy Perspective

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Abstract

Waqf was expressed as charitable instruments, where its profit used to improve the welfare of the society. Indeed, it has been the main source for various public services provided to people and historically it has been a successful mechanism in producing sustainable income to Muslim countries. However, the Muslim world exhibited clear signs of decline; after decades of advancement and prosperity, the causes of decline and the need for reform is an attempt at answering the objectives. This review propagates a historical narrative of waqf, highlighting the details for the decline and the necessity for revival from policy perspective. The purpose is to shed light on some of the key policy reasons as European colonization, weaken Muslims leaders, poor management, insufficient of some workers, lack of trust, lost of some waqf properties as time passes, ambiguity about the size of waqf and location, government intervention, and spreads of moral, financial, and social corruption in some waqf authorities. The paper concludes that waqf revival requires governments who can be transparent in managing the waqf funds, transparency system, reformulation of waqf management policies, amending several other policies related to the establishment, management, and investment of waqf, integrated network of sciences to monitor issues and problems related, establishment of several research centers and academic programs on waqf studies, activate the culture of waqf, extent awareness on the importance of waqf among the nation, giving the freedom to the waqif to manage their respective waqf, and having leaders who are role models in waqf creation.

Keywords: Waqf Policy, Waqf Challenges, Waqf Revival

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1.0 INTRODUCTION

Waqf is most comparable to the English word ‘endowment’ or literally in Arabic language means “stop”. Waqf is a very old institution known to people since ancient times “before Islam”, recognized under the Islamic law as one of the voluntary charitable act which is recommended by Prophet Muhammad (peace be upon him—hereinafter pbuh) in the early age of Islam. The Holy Quran records that the first place dedicated to the worship of God is the Sacred House in Makkah (the first house for the people to be blessed and guided to the worlds) (Al-Imran: 96), so the Makkah is the first waqf known to mankind. Later the Greece, the Chinese, and other peoples get to know about waqf spaces to be used for worshiping (Munther Qahf, nd). The sunnah of our prophet verified a number of waqf like the Prophet’s Mosque in Medina, the walls built around the garden (orchards) of Mukherjeeq, the well of “Rumah”, which was stopped by Osman bin Affan for the Muslims to drink its water, and finally, the land of Omar ibn al-Khattab in Khyber.

Waqf is an everlasting charity in which the capital of certain property will be locked from any uses and its profits are used to for the welfare of the society (Azniza Hartini Azrai Azaimi Ambrosea, Mohamed Aslama, &
Hanira Hanafia, 2015). Waqf in many Islamic countries suffers from problems related to uncertainty about the size of it’s assets, details of their location, management methods, returns, investment policies, and distribution policies, it’s income, development, maintenance, and investor size. Many questions are raised about beneficiaries of waqf, their activities, and the amount of return on the investments of waqf entities, and the nature of accounting procedures and transparency. In addition to the mismanagement over periods and procedures registration and documentation, the lack of complete investment, development, and maintenance of waqf; it is which results in a significantly lower return on investment compared to what corresponding to non-waqf investments (Md. Shahed Urrahaman Chowdhury, et al, 2012). Another Issue is corruption, making money out of these waqf, transferring waqf properties to personal practice, and to lease the assets directly to individual usage (Safiullah Mokhter Ahmad, 2012). These led to massive corruption in the current waqf governance, and many people have stopped creating new ones. Therefore, waqf needs profound changes in the intellectual structure by introducing new methods of management and innovative institutional structures that help to revive the role of waqf in order to achieve the comprehensive development for Muslim community.

2.0 A QUICK OVERVIEW OF WAQF

Waqf, in Arabic language, means to stop, to withhold the object, confinement, or prohibition. It is used in Islam in a meaning of holding certain property and preserving it for the confined benefit of certain philanthropy and prohibiting any use or disposition it away from that specific objective (Allahswaqf, 2008). Waqf is a continuous charitable act for the sake of God (Heidemann, 2009). It is also an ongoing charity in which the capital will be locked up from consumption, for repeated use of its benefits in the face of righteousness (Munther Qahf, nd); the waqf will be belong to Allah and it will always remain intact (Baqutayan et al, 2018). Waqf is a financial charitable endowment established by withholding immovable and movable properties to perpetually spend its revenue in fulfilling public needs, once the property is created as waqf, it could never be given as gift, inherited, or sold. Traditionally, waqf was inculcated in Muslims‘ culture, and has included in all walks of life (Baqutayan et al, 2018). According to Ibrahim Al-Bayoumi Ghanem (nd), waqf is a system that is closely linked to various aspects of economic, social, cultural and political life; it also has its deep connection to the spiritual, moral and creative as well as innovative aspects.

There are two types of waqf according to its prominent: movable and immovable. The movable waqf includes money/cash, cattle, books, crops and weapons, shares of Joint-Stock Company, etc. And the immovable includes land, fields, farms, or buildings such as mosques, schools, hospitals, or basic infrastructures such as bridges, roads, water supply etc (Baqutayan et al, 2018). And there are three types of waqf according to purpose: the purely religious waqf, the philanthropic waqf, and the private waqf. According to Munther Qahf, (nd), the purely religious waqf is the one that fund is allocated for the purposes of worship only “on its narrow sense”, towards places of prayer, pilgrimage, and other forms of worshipping. All peoples in histories have known this type of waqf that aimed at building mosques, churches, and temples. The second purpose is the philanthropic waqf; fund is assigned for the purposes of societal wellbeing; emanates in forms of health, cultural, educational, social, security and other cares. This was even known before Islam, but it is the Muslims who have expanded the diversification of this type of waqf (Munther Qahf, nd). Finally, the private waqf, sometimes named Ahli, Family or Posterity waqf; it is a purely Islamic innovation idea created by the companions of the Prophet. Hence many of them placed an endowment of their property for their first offspring and then for the generosity of the public after that.

There are also three types of waqf according to the assets (mawqoof): the physical assets such as mosques, plots of land, houses, hospitals, offices, buildings, and other properties that can benefit the community. The donor cannot reclaim back such waqf assets. The second is in the form of corporate shares of company that are issued and managed by a corporate body such as banks, companies, etc. Lastly, cash waqf, a type of waqf in which its original capital consisted purely or partially, of cash (Shabana Binte Mahmoodul Hasan, 2018).

The creation of waqf, as Khan and Jareen (2015) clarified, can be either for the services of general public or for a specific group of people, everywhere or in a particular place. It can also be set for the combined purposes as Mahamood and Ab Rahman (2016) clarified, whereby part of the endowed property is kept for public utility and the rest is meant for fulfilling a specific purpose or serving specific people. This brings about the three categories of waqf respectively; the public endowment, exclusive endowment and dual-utility endowment.
3.0 WAQF CHALLENGES IN THE ISLAMIC WORLD

The waqf contributed to the overall development of the Islamic community, and preserved the original needs of man whether Muslim or non-Muslim, and the reader of Islamic history will easily discover that waqf represented important elements in building Muslim society as well as individual; this is what it should be. Brockelman (1996) in his talk about waqf “endowments” and the effects of its applications on the nation said, “Syrians and Egyptians produced very fertile production during the Mamluk era, in which the Europeans had ripe and lenders fruits of these products.” However, the role of waqf has declined, and wealthy Muslims begin not favoring charitable projects. It is stated in the Third Sector Center for Consultancy and Social Studies (2018) that the intensity of waqf has weakened; the creativity of Muslims has faded, and the role of waqf has eroded. This is because of many reasons; one of them is the secular or/bureaucratic government that changed the role of waqf under the name of organization, development, civilization, institutionalization, and demarcation. And this as a result increases the dependency on government in managing waqf assets rather than the waqif (donor).

The decline of waqf creation in the lives of Muslims is due to external and internal factors (Mahdiya Amenouh, 1426). The foremost is the negative influences that colonization left on Muslim countries that decrease people contribution to waqf. For instance, the French, who transferred the waqf offices from the Muslim governments to higher commissions, and hired non-Muslim advisers to work on their administrative and financial affair. As a result, the power of authority was transferred from a colonial power to an occupying power, and then the administration as well as management of Waqf affairs went into decline (Mahdiya Amenouh, 1426).

In addition to that, one of the obstacles to waqf enlargement is that the government extended their involvement by imposing taxes in (1224 AH / 1809 CE) when it was exempted earlier. Then it took what was called as review of waqf documents by giving its counterparts a period of forty days only to present the original documents, otherwise, the waqf would be canceled and subject to state ownership. In fact, many of these documents were lost long time ago, and waqf have been changed by unregistered judicial rulings while their witness testimonies have died for decades. Therefore, the state grabbed over many of these waqf (Third Sector Center for Consultancy and Social Studie, 2018).

According to Imam Aamar Jawdah (2016) there are three reasons for waqf’s decline: insufficient of some workers in waqf institution, lack of trust, and loss of some waqf properties as time passes due to the greediness of some governors and sultans. Moreover, the decline is due to internal challenges; the government or/and leaders who misused the waqf properties in a manner contrary to Shariah; they manipulated waqf incomes, in a way that the individual lost the confidence and trust of these institutions (Amenouh, 1426). Similarly Hisham bin Azzah (2015), pointed out that waqf creation in many Muslim countries decline due to reasons as ambiguity about the size of waqf and location, as well as government intervention in the acts of cessation and administration of waqf. Therefore, there are no establishments of new waqf, and the majority of existing awqaf are from family inheritance.

It is stated in Waqafana (1427) by Ahmed al-Sharbsi; that “waqf began to shrink due to several reasons; one of which is the control on people’s action. Earlier, the life of a Muslim was generous; they were preparing for this life and hereafter. They were satisfying the demands of the legitimate self in life equally working hard to be near to God Almighty”. Furthermore, Samia Al-Saati, (2010) stated that “the scarcity of souls to become stingy, and the poor management of waqf institution have led the people to leave practicing it”. In conclusion, the reasons for waqf decline can be summaries as follow: confiscation of waqf funds and transfers them to the treasury of the state without any justification, the spread of moral, financial, and social corruption in some waqf authorities, the intervention of some foreign parties, and lastly, weak religious awareness. Thus, these challenges might require us to call upon waqf revival.
4.0 WAQF POLICY IN MALAYSIA

In Malaysia, little is known about the way in which waqf were administered during the pre-colonial period (1596), although, there were few laws and policies in the reign of Sultan Abdul Ghaffar, for instance, Melaka (Malacca Digest 1523), the 99 Laws of Perak (Undang-Undang 99 Perak (1765)), laws of Johor (Johor Digest 1789), and laws of Kedah (Kedah Digest 1650). It is in the history that the British government of the East India Company, created few lands waqf at the beginning of the nineteenth century; land for the mosques and others for graves of Muslims in Penning. The British formed the Council of waqf for those lands, subsequently the endowment income they use it for other purposes. Not surprisingly, all members of the Council were of the English. Then the Islamic Religious Councils were formed in the United States (IRCs); that was one of the important developments during the post-independence phase. It was entrusted with; inter alia, the supervision, and management of the endowments were based on Islamic law that was initiated in the various states. The managers in this context of discussion were mostly focusing on the issue of honesty and trust, where it is difficult to find these features in these days. To maintain the supervision of these waqf assets, we need the presence of private trustees, which mean less exposure to corruption, mismanagement, and administrative corruption (Siti Mashitah Mahamood, 2000).

According to Syed Khalid Rashid (2008), with exception of Selangor, there is no a separate legislation associated with waqf in Malaysia, where the Islamic law that enacted by the federal states or territories governs their administration. In fact, this legislation has a rule that Muslims waqf, which is created through a will, should not apply to more than one-third of the property. And in regards to the “Legal Status of Family Waqf in Malaysia”, there is a problem of conflict of jurisdiction between the civil court and the Islamic Shari’a Court in issues of issuing orders, rulings, and cases separated, and the difference of religion between the plaintiff and the defendant.
"If the subject of the case is identified under state legislation, such as the case of the waqf, the judges of the Shari’a court must be adjudicated, not the civil court. Therefore, waqf system was developed as a subsystem within the general Islamic social system.

It’s stated by Siti Mashitah Mahamood (2000), that one issue related to waqf assets is that there are legal provisions for some states in Malaysia that allow Islamic religious councils with approval from state governor to close or demolish any mosque. Although demolish should not be done to any waqf building, especially mosques, unless replaced with another building. Indeed, the biggest issue faced by Islamic religious councils when starting to improve and develop waqf properties is the financial constraint; governments and other agencies have been reluctant to finance the growth and development of waqf property, because they believe that they will not receive an adequate profit from it. Another issue related to this matter is that Islamic religious councils in the states of Malaysia did not appoint specific personnel to supervise the waqf assets except the states of Johor, Malacca, and Salangur. However, those appointed supervisors lack the training and competence in investment analysis, project management, and property management. With all these, one can recognize that there are few positive contributions of these Islamic religious councils in managing of waqf assets.

Indeed, Siti Mashitah Mahamood (2000), also indicated that, although the Malaysia 13 states had been enabled to create waqf in accordance with their plans, no state had attempted to amend or codify more complete and comprehensive policies on the management of these awqaf. Therefore, waqf lands, for example, yield little income, and most of the waqf lands, houses, and shops have been leased for (99) years. So far, the government has done nothing to get rid of this condition. As a matter of fact, the policies issued to regulate the waqf were only used to restrict it, thus, any efforts are sought to revive the waqf requires the reformulation of these policies. In addition to amending several other policies related, such as tax policy, civil society policy, education and health policies.

5.0 THE NEED FOR WAQF REVIVAL

The waqf has declined significantly in the present era. There is no longer a place for refuge in Muslim countries and work for the unemployed. In order for the waqf to return to its past glow, the decision maker or/and leaders need to take some actions. According to Samia Al-Saati, (2010), waqf should be organized in a way that the governments themselves be transparent in mange the funds. A key issue in waqf is the need for transparency and assurance that the way assets and resources are managed, With transparency, stability, long-term planning and guidance, the prospects for waqf are great and the more we delay this, the more waqf become vulnerable to progress (Hisham, 2013). It is therefore necessary to look into waqf management policies, as well as investment of its assets. Efforts to renew the mechanisms of waqf investment help to flourish, develop, return, and increase financing of the banks. The establishment of transparency of waqf money is also very important. It will guarantee contributions and the success of waqf to civilize the nation and develop the country. According to Fouad bin Abdullah Al-Omar & Basima bint Abdulaziz Al Maoud (2014), the application of inclusiveness governance rules via adoption of appropriate system, transparency, and disclosure of waqf money to the main axes of waqf foundation is; regarded as the best practices.

According to Reham Khafaji (2012), any effort to revive waqf requires reformulation of its policies. In addition to amending several other policies related to the establishment, management, investment, and the role of endowments, such as tax laws, civil society law, education, as well as health laws, the role of government in waqf is essential. Additionally, waqf revival requires an integrated network of sciences to monitor issues and problems, as well as propose development mechanisms linked to the establishment of several research centers and academic programs on waqf studies. These centers must look into how to activate the culture of waqf within the framework of an integrated civilizational vision based on its waqf mission and interaction with economic, information, social and political transformations (Reham Khafaji, 2012).

It is indicated by Imam Aamar Jawdah (2016) that the most important ways to revive the waqf are: extent awareness on the importance of waqf among the nation, awaken the religious feeling of solidarity, revival of jurisprudential councils, broadcasting the path of being good people, applying Shari’a in waqf management, give the freedom to the waqif to manage their respective waqf, pay more attention to the existing waqf and develop it
The development for Waqf-based health care institutions is needed in fulfilling the society need, especially in health. Health is one of the crucial indicators in measuring the performance of countries development and very related to the wellbeing (Farhat Nazirul Mubin, 2015). A healthy society can be achieved through good health care facilities and the ability of each member of the society in getting the health care needs provided. Based on the history and current practices, Waqf has been proven to provide an efficient alternative source of funding to the development of health care institutions. Therefore, in order for Waqf-based health care institutions in Malaysia to be well implemented, success and sustain, it requires not only the cooperation from various parties including the government, private sector and civil society, but also a transparency system that directs the administration of these funds.

![Diagram: Waqf Revival]

**Figure 2: Waqf Revival**

### 5.0 CONCLUSION

Waqf is a unique act introduced by Islam; it has played significant socioeconomic, cultural, and religious development roles throughout the history of Islamic civilization. In the past, the collection of large number of awqaf created great wealth for the Muslim community; however, due to a different historical reasons the role of waqf as a useful tool for socioeconomic development has generally been neglected or/and often been forgotten.
This paper describes the factor behind the decline of the waqf, and our need to revive it. European colonization significantly influence the waqf role in supporting people, Muslims leaders who misused the waqf properties, and the poor management of waqf, insufficient of some workers in waqf institution, lack of trust, loss of some waqf properties as time passes, ambiguity about the size of waqf and location, government intervention in the acts of cessation and administration of waqf, poor management of waqf institution, and spread of moral, financial, and social corruption in some waqf authorities led to the decline of waqf. Thus, waqf revival requires governments who can be transparent in managing the waqf funds, transparency system, reformulation of waqf management policies, amending several other policies related to the establishment, management, and investment of waqf, integrated network of sciences to monitor issues and problems related, establishment of several research centers and academic programs on waqf studies, activate the culture of waqf, extent awareness on the importance of waqf among the nation, giving the freedom to the waqif in managing their respective waqf, and having leaders who are role models in waqf creation.

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