

SOME UNRESOLVED ISSUES ON *WAQFS*; POSSIBLE RESOLUTIONS

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ABSTRACT

Waqfs, an age-long private led redistributive charitable financial instrument continues to be relevant in today's wealth management and voluntaristics discourse. While some issues surrounding the amicable institution are largely clear, some issues albeit little, remain controversial or largely unresolved. It is these issues that this study attends to or addresses. In this article, the author tries to do some justice to the issue of family waqfs, the origins of waqfs, and also re-addresses some orientalist's incursions or attacks on waqfs and tries to put an end to the controversies. These resolutions are pertinent and have far reaching implications in deeply understanding, developing, adopting and adapting the institution of waqfs to current civilizations. Adopting Islamic scriptural legal reasoning, documentary research as well as a qualitative approach, the author concludes that the institution of waqf has been around since time immemorial and that prophet Muhammed (PBUH) only be re-sanctioned it. The author further concludes that if properly viewed, family waqfs does not in any way infringe on the Islamic law of inheritance. Finally, the author concludes that the institution of waqfs is indeed a bonafide islamic institution sanctinoned in the received revealed scriptural legal sources in Islam and even according to logical prisms.

Keywords: *resolving waqf issues, possible resolutions, family waqfs, voluntaristics discourse, waqf origins*

INTRODUCTION

Waqf succinctly defined refers to intergenerational charity. Its importance cannot be over emphasized. Its uses cut across social, economic, political and legal uses. For example, economic history has it that the institution of *waqfs*

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played a prominent role in the provision of social amenities and infrastructural facilities, where it was documented that in some countries where it thrived, there was “over-supply” of public goods. This is quite remarkable. Nevertheless, this remarkable institution has had turbulent times in history which affected or dented its functionings to optimal derived levels. Issues ranging from legality of forms, permissibility and originality were raised by (chiefly) “modernists” and orientalist. For the institution to live up to expectation and maximize its potentials, there is need to forge an understanding of this institution, to resolve some unresolved issues or controversies and clarify misconceptions surrounding it. Particularly, this article addresses; issues of the institution’s true origins, the family *waqfs* controversy and the orientalist’s attacks on *waqfs*. To this end, the author’s illuminates *waqfs* addresses the pertinent issues and concludes with a remark on the expectations from this exposition.

BRIEF ILLUMINATION ON *WAQFS*

Waqf is an intergenerational purposive religious charitable quest borne out of a non-coercive process whereby a donor earmarks a particular definitive corpus instructing that its fruits or dividends (including its use) be channelled to a specified “Islamically” permissible course wholly for the sake of Allah, the Supreme Being” (Saidu, 2016: 3).

Religiously, it ensures that a (mortal) human being is able to fulfil the rationale behind his existence on earth even in death. The rationale is aptly depicted by the creator in the *Qur’ān* in Chapter 51 verse 56 and “corroboratingly” in Chapter 67 verses 2-3. This means that we were created purposely to worship Allah, the Creator such that, all our deeds or action qualify as worship so long as they are carried out in order to please Allah.¹ This worship of Allah rationale which is carried out through the noble deeds of man ceases as the reality of the mortality of man creeps in. However, *waqf* ensures the continuity because “when a man dies, his acts come to an end, but three, recurring charity, or knowledge (by which people) benefit, or a pious son, who prays for him” i.e. the deceased.²

The economics of *waqf* is quite clear. Being a private sector led initiative, it complements vigorously the over saddled state machinery in the delivery of

¹ They must however be done with the sole intention of pleasing Allah and in the way the Prophet (PBUH) has enjoined or sanctioned. For evidence, please see book; Rethinking Philanthropic Foundations; Making *Waqfs* Work for Nigeria.

² *Ṣaḥīḥ Muslim*, *ḥadīth* narrated by Abū Hurayrah, Chapter of What Reward Reaches A Man After His Death, *ḥadīth* no. 20.

its mandate which ultimately is to provide the quality of life to which each of the citizenry aspires. This could be readily seen in history where *waqfs* have provided and sustained the best educational institutions, quality healthcare, other infrastructural facilities as well as social amenities which ultimately reduce(s) government expenditure and by extension a reduction in the rate of “interest” by cushioning the crowding out effect, reduction in other forms of taxes thereby enhancing consumer surpluses, boosting employment cum aggregate production, encouraging Shariah receptive quasi-costless wealth distribution, augmenting adaptive capacities in financial engineering and innovations e.g. Sukuk SPV’s and thereby fostering growth and development (Cizakca, 2011).

Trickling down from the economic merits are socio-political dividends that emanate from *waqfs* which postulate that an economically sound nation is usually free of socio-political unrest. Relatedly, *waqf* might enhance democratic values as well as institutional building being an age-long decentralized civil society institution.

It should be mentioned that *waqfs* is of course a charitable institution, but nevertheless, it differs from other forms of charity in that, it is ongoing i.e. perpetual, intergenerational or operates in a continuum or continuous fashion. Ongoing charity may include designating a house or a place as *waqf* so that its income is spent on education or health orphans/poor welfare, building mosques or buying *Qur’āns* in mosques and so on.

THE TRUE ORIGIN OF *WAQFS*

In what appears to be a “license to be part of the inhabitants of heaven”³, Prophet Muhammad (Peace be upon Him, henceforth PBUH) sanctioned the (real estate) *waqfs* when “Umar bin Khattab got some land in Khaibar and he went to the Prophet (PBUH) to consult him about it saying, “O Allah’s Messenger (PBUH) I got some land in Khaibar better than which I have never had, what do you suggest that I do with it?” The Prophet (PBUH) said, “If you like you can give the land (corpus) as endowment and give its fruits in charity.” So `Umar gave it in charity as an endowment on the condition that would not be sold nor given to anybody as a present and not to be inherited, but its yield would be given in charity to the poor people, to the Kith and kin, for freeing slaves, for Allah’s Cause, to the travellers and guests; and that there would be

³ Continuous good deeds which *waqf* affords ultimately leads to heaven by the Creator’s leave. See section 2 above; for more information.

no harm if the guardian of the endowment ate from it according to his need with good intention, and fed others without storing it for the future (with a view to becoming rich)”⁴

Some⁵ have argued that the institution of *waqf* predates Islam. This is because the construers of this notion misconceive that the religion of Islam starts with Prophet Muhammad (PBUH). However this is not the case. Islam has been the religion of mankind since time immemorial i.e. since man set foot on the surface of the earth. Allah says in the glorious *Qur’ān* in chapter 30 verse 30 “.... direct your face (i.e. self) toward the religion, inclining to truth. [Adhere to] the *fitrah*⁶ of Allah upon which He has created [all] people. No change should there be in the creation of Allah. That is the correct religion, but most of the people do not know.” Explanatorily, Allah’s Apostle; prophet Muhammad (PBUH) said, “Every child is born with a true faith of Islam⁷ (i.e. to worship none but Allah Alone) but his parents convert him to Judaism, Christianity⁸ or Magianism, as an animal delivers a perfect baby animal. Do you find it mutilated?”⁹

Perhaps a definition of the word Islam makes the argument clearer. Islam is derived from the Arabic trilateral root word “sin lam mim” which occurs 140 times in the *Qur’ān* in 16 derived forms. In the form of a verbal noun, it occurs

⁴ *Ṣaḥīḥ al-Bukhārī, ḥadīth* narrated by Ibn ‘Umar, chapter of conditions in *waqf. ḥadīth* no. 24. This *ḥadīth* is also narrated via slightly different channels totalling about three different narrations all with essentially the same meaning.

⁵ Cizakca (2000), Arjomand (1998), Duncan-Jones (1982), Othman (1981), Coing (1981), Singer (2008). etcetera.

⁶ The innate inclination of man to worship his Creator prior to the corruption of this innateness by external influences. In essence, Islamic monotheism is the religion of *fitrah* i.e. an embodiment of the nature of man

⁷ The Arabic word used here is *fitrah* which is the same word used in the Quranic verse quoted above i.e. *Qur’ān*, 30 verse 30

⁸ It is instructive to note that the words Christianity, Judaism were ascribed to these religions by its followers after the coming of Moses and Jesus (PBUH). They themselves never used those names and never called their message as such. In fact, the religion they brought and preached was Islam in the sense of submission to God. This “puritist” message brought by the duo has been largely distorted after their departure up until the time of Prophet Muhammad and until now. Muslims believe Prophet Muhammad was sent by God to set the records straight.

⁹ *Ṣaḥīḥ al-Bukhārī, ḥadīth* narrated by Abū Hurayrah, chapter of the (dead) children of Al-Mushrikun, *ḥadīth* no.138. This *ḥadīth* with essentially the same wording appears six times in *Ṣaḥīḥ al-Bukhārī*, not less than once in *Ṣaḥīḥ Muslim* and *Sunan Abū Dāwūd*. These books are amongst the major books of *ḥadīth*.

eight times in the *Qur'ān*, while in the proper noun (sil'm) it occurs once. Collectively and linguistically, the word denotes, peace as well as submission, while in the legal (religious) sense, it connotes peace acquired by submission to (the will) Almighty God. What this meaning of Islam suggests is that all the prophets essentially brought the same fundamental basic message and preached the same thing i.e. Islam¹⁰, which is to submit or worship the only true God but of course, the nitty-gritty of the teachings differed as far as the nation and the era in which the Prophets came differed.

To this extent, the *Qur'ān* posits that the teaching of all Prophets is Islam and that they i.e. the Prophets and their true disciples are indeed Muslims.¹¹ This idea is expressed in Chapters: 2 verses 131-133, 3 verses 52 and 67 as well as 5 verse 111 of the noble *Qur'ān*. Categorically, God says in the *Qur'ān* that "... We did not send any Messenger before you (O Muhammad) but We revealed to him (saying): Laa ilaaha illa Ana [none has the right to be worshipped but I (Allah)], so worship Me (Alone and none else)" (*Qur'ān* 21 verse 25). Similarly, Chapter 2 verse 136 of the *Qur'ān* states that; "Say (O Muslims): We believe in Allah And that which has been sent down to us and that which has been sent down to Ibrahim, Isma'il, Ishaq, Ya'qub, and to Al-Asbaat [the offspring of the twelve sons of Ya'qub], and that which has been given to Musa and 'Isa, and that which has been given to the Prophets from their Lord. We make no distinction between any of them, and to Him we have submitted (in Islam)"

It follows that "Mankind is a single nation. So Allah raised prophets as bearers of good news and as warners. . ." (*Qur'ān* 2 verse 213) and "certainly God (We) raised in every nation a messenger, saying; serve Allah and shun the devil" (*Qur'ān* 16 verse 36). *Qur'ān* chapter 10 verse 47, 13 verse 7, 40 verse 78 as well as chapter 35 verse 24 further accede to this position. In other words, God sent prophets to all nations on earth, at various stages of their epoch.¹² Accordingly, Muslims have to believe in all the prophets and messengers of God, equally, without distinction, wherever they may have appeared as the Creator asserts in the *Qur'ān* that, "...those who believe in Allah and His

¹⁰ For example Jesus Christ who came before Muhammad confirms this when he said in the Gospel of John Chapter 5 verse 30 that; "I seek not my own will, but the will of the Father (Islam) which hath sent me." Gospel of Matthew Chapter 5 verses 17-20 also express the continuity of the message of the Prophets.

¹¹ One who submits to the will of the Almighty God.

¹² Only few of the prophets were mentioned (numbering about 25) by name in the *Qur'ān* (see *Qur'ān* 4 verse 164 *Qur'ān* 40 verse 78).

messengers and make no distinction between any of them (in belief), to them He will grant their rewards.” (*Qur’ān*, 4: 152).¹³

Bearing the above in mind, it is not difficult to see why seemingly similar institutions as *waqfs* occurred before the coming of Prophet Muhammad. This is because the historical civilizations now known to man must have been influenced by the teaching(s) of their Prophets which invariably includes the social institutions which they instituted as been permissible by the Creator. It is only therefore safe to conclude that Prophet Muhammad only renewed and perfected the enviable *waqf* institution by ultimately re-sanctioning it. One reason necessitating this sanctioning might be because he was the last and final messenger, the seal of all the Prophets (*Qur’an*: 33 verse 40). Another reason might not be unconnected to the fact that the previous Prophets’ messengership was time bound and place or nation specific¹⁴ while Prophet Muhammad’s was for the whole of mankind and meant to last till the end of time (*Qur’ān* 21 verse 107, 34 verse 28 and *Ṣaḥīḥ al-Bukhārī*, *ḥadīth* narrated by Jabir bin Abdullah, chapter of the sayings of the Prophet (PBUH) that the earth has been made for me a Masjid i.e. place for praying and a thing to purify i.e. to perform sandy ablution, *ḥadīth* no. 87).

Waqfs, since its re-sanctioning has continued to be visible making a profound impact across the Muslim world, starting from the era of the companions of the Prophet who put it into practice down to the Ottoman times where it somewhat reached a functional peak and thereafter a decline and now a (much needed) rejuvenation in contemporary Muslim lands. Informatively, during its functional sojourn it even had profound influence on and became the harbinger for seemingly similar social institutions such as the trusts of English people.

THE FAMILY *WAQF* CONTROVERSY

Running through the *waqf* literature, is a trend and tendency to bifurcate *waqfs* into family and charitable *waqfs*. As the name implies, family *waqfs* connotes *waqfs* for the benefit of the founders direct family members while charitable *waqfs* refers to that *waqf* for other beneficiaries other than the families usually stipulated by the founder. Although, Cizakca (2011) has rightly noted that such protruding distinction is a western concept and not tenable in Islamic law

¹³ The same theme runs through chapters: 2 verses 136, 285, and 3 verse 84 of the glorious *Qur’ān*.

¹⁴ For instance; Jesus (PBUH) was sent only for the Jews i.e. lost sheep of Israel. See *Qur’ān* chapter 3 verse 49, Gospel of Mathews; chapter 10 verses 5-6 and chapter 15: 24.

which treats both as more or less ideologically the same, it might be pertinent and instructive to touch on the issue of family *waqfs* which has generated some controversies in the past even amongst some notable jurist. The controversy centres on whether the family *waqf* is indeed permissible under the Islamic Shariah especially when its activation seems to infringe on the Islamic law particularly the law of inheritance and the potential of such a *waqf* to foster injustice and dispute within families which is considered as sacred institutions in Islam. Here, the author highlights points in his opinion that might have been missed or left out in these arguments which might lay to rest the age-long disagreements cum reservations on family *waqfs* in relation to Islamic inheritance law.

In the *ḥadīth* of Umar that hands down to *waqfs* its legitimacy, the narration was concluded with what Umar did after the Prophet advised him on the land he had; "...So Umar gave it in charity as an endowment but its yield would be given in charity to the poor people, to the Kith and kin, for freeing slaves, for Allah's Cause, to the travellers and guests...." Of particular importance to this discussion is the Kith and kin or relatives used in the *ḥadīth* as it relates to the issue of family *waqfs*. The Arabic word used here is *Aqrabina*. This *ḥadīth* is narrated in not less than thirteen (13) variations in all the major books of *ḥadīth*¹⁵ using the same word *Aqrabina*. The same word is used in the *Qur'ān* in verses that talk about inheritance for relatives who are not statutory heirs who could get cut-off from inheritance by prescription; such verses include Chapter 4 verses 7 and 33 of the *Qur'ān*, Chapter 2 verse 180 of the *Qur'ān*. Whereas, in verses that stipulate shares for statutory heirs who do not get cut-off from inheritance by prescription such as *Qur'ān* chapter 4 verse 11 to 12, clear words are used to denote shares for wives, children, husbands, fathers, mothers other than the word relatives; *aqrabina*.

¹⁵ The word *Aqrabina* meaning relatives is missing in the narration of *Sunan At-Tirmidhi*, but appears in *Ṣaḥīḥ Muslim*, *Ṣaḥīḥ al-Bukhārī*, *Sunan Ibn Mājah*, *Sunan Abū Dāwūd* and *Sunan al-Nasa'ī*. All with authentic chain of narrations. The *ḥadīth* are as follows; *Sunan al-Nasa'ī*, *ḥadīth* narrated by 'Umar, chapter of endowment; how the endowment is to be recorded, *ḥadīth* nos. 4, 5, 6, 7 and 8. *Sunan Ibn Mājah*, *ḥadīth* narrated by Ibn 'Umar, chapter on charity, *ḥadīth* no. 2468. *Sunan Abū Dāwūd*, *ḥadīth* narrated by Ibn 'Umar, chapter of what has been related about a man who institutes an endowment, *ḥadīth* no. 17. Jami at-Tirmidhi, *ḥadīth* narrated by Ibn 'Umar, chapter of what has been related about *waqf*, *ḥadīth* no. 56. *Ṣaḥīḥ al-Bukhārī*, *ḥadīth* narrated by Ibn 'Umar, chapter of conditions in *waqf*, *ḥadīth* no. 24, *Ṣaḥīḥ al-Bukhārī*, *ḥadīth* narrated by Ibn 'Umar, chapter of usufruct of an endowment, *ḥadīth* nos. 35 and 36 and in *Ṣaḥīḥ Muslim*, *ḥadīth* narrated by Ibn 'Umar, chapter of *waqf*, *ḥadīth* nos. 21, 22 and 23.

What the above suggests is that it appears that relatives (should be seen as) (is) distinct from progenies (offspring, sons, daughters) and wives, husbands in Islamic jurisprudence and even in the Arabic language, as words such as *azwajukum*, *abaukum*, *abnaukum*, *awladikum*, *walidani* are used for the latter group. In fact, the word *aqrabina* or relatives is almost not used as a collective term for nuclear families such as wives, sons, etc. in the *Qur'ān* or the sayings of the Prophet (PBUH). If this contention is founded, then family *waqfs* as it is labelled today will (should) only relate to relatives, which therefore excludes the nuclear family or those who are statutory heirs and cannot be cut off by other inheritors by association, relationship or clanship in the Islamic law of inheritance. Hence, the much ado or conflict with laws of inheritance disappears. Making the case for imminent resolution stronger is the fact that the legal or statutory heirs cannot receive additional inheritance entitlements through bequests but other inheritors can. This was made clear by the Prophet (PBUH) himself when He said “Allah has appointed for everyone his due right; thus no bequest may be made to a (legal) heir.....”¹⁶ He (PBUH) was also reported to have said; “No bequest may be made to a (legal) heir”. (Jami' at-Tirmidhi 2121: Book 30, *ḥadīth* 6). So, where a bequest is channelled into a family *waqf*, the beneficiaries will only be those relatives who are non-statutory legal heirs who can be cut off by prescription or inheritors with prescribed shares. They are about 15 possible male categories and 11 female categories of legal heirs depending on the situation of the family, deaths and survivor stats.¹⁷ The non-legal heirs who are relatives are usually the maternal uncle and

¹⁶ *Sunan Abū Dāwūd*, *ḥadīth* narrated by Abū Hurayrah, chapter of what has been related about willing to an heir, *ḥadīth* no. 9. Jami-at-Tirmidhi, *ḥadīth* narrated by Amr bin Kharajah, chapter of what has been related about there is no will for the heir, *ḥadīth* no.6

¹⁷ The legal heirs normally comprise of the following categories of persons namely; Male Category: Son, Son's son, and further down by mere male lineage, Father, Father's father, and further up by mere male lineage, Full brother (from both parents), Paternal brother (from the father only), Maternal brother (from the mother only), Full brother's son, and further down by mere male lineage, Paternal brother's son and further down by mere male lineage, Full-paternal uncle (father's full brother), Paternal-paternal uncle (a father's paternal brother), Full-paternal uncle's son, and further down by mere male lineage, Paternal-paternal uncle's son, and further down by mere male lineage, Husband and Male emancipator (of a slave). Female Category: Daughter, son's daughter, and further down by mere male lineage, Mother, Maternal grandmother, and further up by mere female lineage, Paternal grandmother, and further up by mere female lineage. Paternal great grandmother, and further up by mere female lineage, Full sister. Paternal sister, Maternal sister, Wife and Female emancipator (of a slave)

sister's sons, brother's daughter etcetera. Family *waqfs* should essentially also cover this latter group. General clauses in the will instituting *waqf*, that at the instance of death, wealth not exceeding one third should go to the non statutory legal heirs/relatives mentioned above if they do not normally qualify by virtue of being legal heir survivors will be a requirement. This might include legal heirs who do not have prescribed shares and have been cut off by virtue of legal heirs cum survivors.

One might argue that the words that relate what Umar did with the lands describes Umar's actions and are not the Prophet's which should be taken hook, line and sinker. Although the actions of Umar might not be considered fully sacrosanct as he is not infallible, his actions or even his words cannot be shoved aside for the following reasons; 1.) If he had implemented the instructions on *waqfs* wrongly during the time of the Prophet, the Messenger would have corrected him. This is because there is a consensus in Islamic jurisprudence that the Prophet cannot be silent when a wrong is being done i.e. when the Laws of Allah are being violated. 2.) Umar had a very high status amongst the companions of the prophets at that time to the extent that legislations were revealed from the Heavens after he made suggestions to the Prophet. 3.) The Muslims are instructed to follow the way of the companions¹⁸ of the Prophet in conforming with the Quranic texts cum authentic texts from the *sunnah*¹⁹ by Allah in the glorious *Qur'ān* in Chapter 4 verse 115 which reads; "And whoever contradicts or opposes the Messenger after the right path has been shown clearly to him and follows other than the path of the believers,²⁰ We shall give him what (outcome) he chose and admit him into Hell ---what an evil destination". A similar message is repeated in chapter 9verse 100 of the *Qur'ān*. 4.) Particularly, the Prophet (PBUH) instructed the Muslims to "... follow (My) His *sunnah* and the *sunnah* of the rightly guided caliphs²¹ after me. Hold and bite onto it with the molar teeth and be warned of the newly

¹⁸ 'Umar is a major companion who happens to be the second caliph of the Muslims and among the ten promised paradise

¹⁹ The word *sunnah* invariable means *ḥadīth* when looked at from the science of *ḥadīth* prism.

²⁰ Believers here applies primarily to the companions. (Tafsir ibn Kathir)

²¹ As mentioned earlier, 'Umar is one, the other three are Abu Bakr, 'Ali and 'Uthman.

invented matters²² for verily every newly invented matter is an innovation and every innovation is misguidance.”²³

Summarily, perhaps what was intended with the permissibility of *waqfs* by the Prophet was for it to benefit charitable courses including relatives excluding direct (preference) heirs of the founders who have stipulated shares in the Islamic law and cannot be cut off by the existence of other qualified heirs.

The Case of Family *Waqf* Kick-Started Inter Vivos

The above exposition aimed at resolving the family *waqf* controversy might at best be one-sided as it only address a *waqf* “kick-started” via the bequest-inheritance conduit. The question in the mind of a keen academic and observer will be, what about the *waqf* initiated via the gift (*hibah*) conduit during the lifetime of the endower or waqif when he is in good and sound health or hale and hearty? The author provides an answer for this through the following exposition based on deductions from the Islamic Shariah.

The verdict regarding (major) gifts by a father or parent to the offspring which is the cornerstone of family *waqfs* is that; all offspring who are potential gifts beneficiary have to be treated fairly in that, the males take twice what is given to females, as such, major gifts (which is usually the nature of *waqf* properties) is seen as hastening to share one’s wealth or inheritance before actual death and this should follow the law of inheritance just like a *zakāh* paid upfront (before its due) would also follow the *zakāh* payment principles as stipulated in the Shariah.

The evidences backing this assertion are embodied in not less than 13 authentic *ḥadīth* variations in the books of *ḥadīth*. Eight²⁴ of them contained

²² Innovations in the creed or acts of worship.

²³ *Sunan Abū Dāwūd*, *ḥadīth* narrated by Irbad ibn Sariyah, chapter of adherence to the *sunnah*, *ḥadīth* no. 12. *Jami-at Tirmidhi*, *ḥadīth* narrated by Irbad Ibn Sariyah, chapter of what has been related about adhering to the *sunnah* and staying away from innovation, *ḥadīth* no. 32. *Sunan Ibn Mājah*, *ḥadīth* narrated by Yahya bin Abu Muta, chapter of the book of *sunnah*, *ḥadīth* no. 44, *Sunan Ibn Mājah*, *ḥadīth* narrated by Abdur Rahman bin Awf, chapter of the book of *sunnah*, *ḥadīth* nos. 45 and 46. *Sunan Ibn Mājah*, *ḥadīth* narrated by Jabir bin Abdullah, chapter of the book of *sunnah*, *ḥadīth* no. 47.

²⁴ *Ṣaḥīḥ al-Bukhārī*, *ḥadīth* narrated by Nu’man bin Bashir, chapter of gifts to one’s sons, *ḥadīth* no. 20 and 21. *Ṣaḥīḥ Muslim*, *ḥadīth* narrated Nu’man bin Bashir, chapter on It is disliked to favour some of one’s children over others in gift giving, *ḥadīth* nos. 18, 19, 20, 22, 23 and 25.

in *Ṣaḥīḥ al-Bukhārī* and *Muslim* are reported here as they highlight a contradistinction, somewhat similar but different (drawable) conclusions or verdicts from the Prophet (PBUH). They are as follows;

It was narrated by ‘Amir; I heard An-Nu`man bin Bashir on the pulpit saying, “My father gave me a gift but `Amra bint Rawaha (my mother) said that she would not agree to it unless he made Allah’s Messenger (PBUH) as a witness to it. So, my father went to Allah’s Messenger (PBUH) and said, ‘I have given a gift to my son from `Amra bint Rawaha, but she ordered me to make you as a witness to it, O Allah’s Messenger (PBUH)!’ Allah’s Messenger (PBUH) asked, ‘Have you given (the like of it) to everyone of your sons?’ He replied in the negative. Allah’s Messenger (PBUH) said, ‘Be afraid of Allah, and be just to your children.’ My father then returned and took back his gift.” Expressing a similarly message and revealing the instruction of the Prophet is the narration of An-Nu`man bin Bashir; that his father took him to Allah’s Messenger (PBUH) and said, “I have given this son of mine a slave.” The Prophet asked, “Have you given all your sons the like?” He replied in the negative. The Prophet (PBUH) said, “Take back your gift then.”. Emphasizing the instruction is another similar narration from Nu`man b. Bashir where he reported that his father had donated a slave to him (and) Allah’s Apostle (PBUH) said: Who is this slave (how have you come to possess it)? Thereupon he (Nu`man b. Bashir) said: My father has donated it to me, whereupon he said: Have all brothers (of yours) been given this gift as given to you? He said: No. Thereupon he (the Holy Prophet) said: Then return him.

Reflecting the Prophet’s equity verdict ruling is a similar narration by Nu`man b. Bashir who reported that (his) My father donated to me some of his property. My mother Amra bint Rawaha said: I shall not be pleased (with this act) until you make Allah’s Messenger (PBUH) a witness to it. My father went to Allah’s Apostle (PBUH) in order to make him the witness of the donation given to me. Allah’s Messenger (PBUH) said to him: Have you done the same with every son of yours? He said: No. Thereupon he (the Holy Prophet) said: Fear Allah, and observe equity in case of your children. My father returned and got back the gift. Highlighting the injustice present in not observing equity in the issue of gifts is another variant of the *ḥadīth* narrated by Nu`man b. Bashir reporting that his mother bint Rawaha asked his (Nu`man’s) father about donating some gifts from his property to his son. He deferred the matter by one year, and then set forth to do that. She (Nu`man’s mother) said: I shall not be pleased unless you call Allah’s Messenger (PBUH) as witness to what you confer as a gift on your son. (Nu`man said): So father took hold of my hand and I was at that time a boy, and came to Allah’s Messenger (PBUH). and said: Allah’s Messenger, the mother of this son (of mine), daughter of Rawaha

wishes that I should call you witness to what I confer as gift to her son. Allah's Messenger (PBUH) said: Bashir, have you any other son besides this (son of yours)? He said: Yes. He (the Holy Prophet) said: Have you given gifts to all of them like this? He said: No. Thereupon he (the Holy Prophet) said: Then call me not as witness, for I cannot be witness to an injustice.

Further emphasizing the injustice ruling is another narration by Nu'man b. Bashir (Allah be pleased with them) where he reported that Allah's Messenger (PBUH) said to his father; Call me not as witness to an injustice. A narration in *Ṣaḥīḥ Muslim* referenced above where Nu'man b. Bashir (Allah be pleased with them) reported: (His) My father took (him) me to Allah's Messenger (PBUH) and said: Allah's Messenger, bear witness that I have given such and such gift to Nu'man from my property, whereupon he (the Holy Prophet) said: Have you conferred upon all of your sons as you have conferred upon Nu'man? He said: No. Thereupon he (the Holy Prophet) said: Call someone else besides me as a witness. And he further said: Would it, please you that they (your children) should all behave virtuously towards you? He said: Yes. He (the Prophet) said: Then don't do that (i.e. do not give gift to one to the exclusion of others)" indicates and depicts clear cut prohibition of such an action. Finally, the *ḥadīth* of Jabir (Allah be pleased with him) who reported that the wife of Bashir said (to her husband): Give to my son your slave as a gift, and make for me Allah's Messenger (PBUH) a witness He came to Allah's Messenger (PBUH) and said: The daughter of so and so (his wife Amra bint Rawaha) asked me to give my slave as a gift to her son, and call for me Allah's Messenger (PBUH) as a witness. Thereupon he (the Holy Prophet) said: Has he (Nu'man) brothers? He (Bashir) said: Yes. He (further) said: Have you given to all others as you have given to him? He said: No. He said: Then it is not fair; and verily I cannot bear witness but only to what is just", reinforces the lack of fairness ruling and injustice associated with a noble action such as gift done in an unequitable manner.

It is deducible from the *ḥadīth* that the Prophet (Peace be Upon Him) (and of course the Islamic Shariah) abhors the favouring or placing of one progeny over the other and concluded that it is falsehood and injustice, refusing to bear witness to such an act and insisting that the "gifter" reclaims the gift. A command in this respect of justice indicates non-permissibility of such an act and it is obligatory to treat the offspring fairly.

Explaining the above *ḥadīth* (s), Ibn Hajar in his commentary of *Ṣaḥīḥ al-Bukhārī, Fath al Baari* 5/214 expounds that the reason for the compulsoriness of treating the kids fairly is that differentiation between offspring sows seed of discord among families, fosters enmity and parental disobedience which

are impermissible in Islam. Similarly, Ibn Qudamah in his book of Islamic jurisprudence, *Al Mughni* 5/114 also explains the prohibition in a similar fashion. Ibn al-Qayyim al-Jawziyyah in his book *Ighaalhat al-halfaz* (1/540) opines that it is absolutely impermissible to give preference to one offspring over the other, He further stated that even if there had not been any clear text to prohibit that, such actions would have still being prohibited in the interest of the Islamic society. Rather emphatic and decisive is the view of Tawoos, a prominent scholar of the Islamic jurisprudence, who said, in fact it is impermissible to even give a burnt loaf of bread to one child and not give to other children. Ibn Qudammah reveals that Al-Mubarak, Mujahid and Urwah have expressed converging views at one time or the other. Less stringent is the opinion of Ibn Taymiyyah, Ahmad, Ibn Qudamah however said the action of preferential treatment is expressly prohibited unless there is a “legitimate” Islamic Shariah excuse to back the action.

Having established the impermissibility of “non-fairness” in gift sharing, the scholars cum jurists went ahead to give definitive statements on the sharing formula for such gifts. While some jurists such as Abū Ḥanīfah, Shaafi Al-Mubarak they must be given equal shares i.e. males and females receive equal synonymous shares of the such gifts owing to the statement of the Prophet statement in the *ḥadīth* quoted above ; “Treat them fairly (equally)” “Would you like them all to honour you equally?” “Yes.” “Then treat them fairly (equally).” Especially when the daughter is indifferent from the son in the Shariah obligation to honour the parents, which of course should apply gifts giving. to giving gifts to her, Ibn Qudammah, Ibn Uthaymeen, Ibn Baaz, Ata, Shurayh, Ishaq, Muhammad ibn al Hasan clarify that fairness in the statement of the Messenger would mean, that the males should be given double what the females will receive by virtue of the verse 111 of chapter 4 of the *Qur’ān*; “Allah commands you as regards your children’s (inheritance); to the male, a portion equal to that of two females; ...” where Allah has explains how wealth is to be shared. In fact *Athar*’s report that the righteous predecessors i.e. the Salafs did not share out wealth except that they did it according to the book of Allah

Therefore, based on the prophetic prohibition as well as the above submissions, it is safe to prescribe that the fairness or equity been enjoined here implies doubling the share of males over that of the females in view of Allah’s verdict on inheritance in *Qur’ān* 4 verse 111. Implicatively for *waqfs*, read in conjunction with the clarification of *waqf* activated by inheritance bequest, where any one endower wishes to institute a family *waqf* by way of gifts to the beneficiaries usually the direct offspring, the benefits accruing as

to be devoluted in line with the laws of Inheritance. By so doing, the *waqfs* so instituted will not infringe on the laws of inheritance.

RE-ADDRESSING ORIENTALISTS ATTACKS ON *WAQFS*

The legitimacy of *waqfs* seems unquestionable at least in the Islamic sphere because it was directly sanctioned by the Prophet (PBUH) himself. In fact it is considered a sacrilege tantamount to disbelief to reject or consider impermissible what the Messenger has permitted as Allah instructs and warns in the glorious *Qur'ān* chapter 59 verse 7 that “Whatsoever the Messenger gives you take it and whatsoever he forbids you abstain from it and fear Allah; verily Allah is severe in punishment”. Confirming this waqf unquestionability motion, Qurtubi said; there is no dispute among the scholars concerning *waqfs* of aqueducts and mosques in particular, but they differed concerning other types of *waqfs*. Similarly, Jaabir said; there was no one among the Companions of the Messenger of Allah (PBUH) who had the means, but he set up a *waqf*. However, this standpoint did not seem to have dissuaded the orientalist²⁵ who cast aspersions on the legitimacy of *waqfs* as an institution.

They argue that the word *waqf* was neither specifically used by the Prophet nor was it resounding in early juristic discourse pertinent to such institutions. This is however unfounded as more often than not, institutional infrastructure for a phenomenon, the workings or constituent functions as well as paraphernalia for a phenomenon precedes its naming i.e. we conceive an institution or an idea etcetera and then give it a name. If names or labels were a testimony to a particular phenomenon or thing, then every computer is a desktop, every Hitler is a killer, every Mandela is a freedom fighter and even every Osama bin Laden is a terrorist. This is of course not the case. Thus, it is the mechanism of operation or the contents cum components of a phenomenon be it a social institution such as *waqfs* that determines to a large extent the label placed on it. Hence, so far the description, details and the workings conform with, match or resemble the intergenerational purposive charity (*waqf*) sanctioned by the Prophet, the name ascribed to it is immaterial; whether *waqfs*, *habs*, *ṣadaqah-habs* and so on. Therefore, to this end, the attack on the name, *waqfs* as a question mark on its legitimacy is intellectually laughable.

They further argue that the *ḥadīth* relating to the *waqfs* is defective. They claim its narratives are not earlier than beginning of 3rd century. Needless of much details, this is however a misconception as a close look at this allegation

²⁵ Schacht (1950, 1995), Hennigan (2004), Juynbol (1983), Powers (1984) to mention a few.

suggests a lack of proper understanding of the Arabic language and the sciences of *ḥadīth* including knowledge of the biographies of *ḥadīth* narrators, lack of extensive consultation leading to hasty misleading conclusions as well as use of misplaced logic, conjectures and missing objectivity on the part of the allegers and accusers. It is noteworthy that the *ḥadīth* of Umar on *waqfs* occurs in *Ṣaḥīḥ Muslim*²⁶ amongst other books of *ḥadīth* which is adjudged by the scholars of *ḥadīth* and by extension the Muslim folk as one of the most authentic books after the *Qur'ān*, if not the most authentic depending on the way one looks at it. Imam Muslim (821 CE- 875 CE) included in his collection of *ḥadīths* only narrations; with unbroken chain of narrators, reconcilable with other narrations of other narrators, devoid of defects. He in most cases narrated only *ḥadīths* transmitted by two different narrators from two different companions and was fairly consistent in the use of names of narrators and did not hesitate to point out minutest variations in textual narrations. Overall the book of *ḥadīth* has a superb organization which somewhat gives his work an edge over *Ṣaḥīḥ al-Bukhārī*.

Another argument put forward by the detractors is that *waqf* as an institution lies contrary to the dictates of the *Qur'ān* especially the law of inheritance detailed in verses 11, 12 and 176, chapter 4 of the glorious *Qur'ān*. What the proponents of this argument fail to realize is that the *Qur'ān* does not and cannot contradict itself (*Qur'ān*, 4: 82) and neither can the *ḥadīth*²⁷ of the Prophet which essentially explains the general information contained in the *Qur'ān* contradict it i.e. how can an explainer contradict the explained. This might be argued for, if not that Allah aptly says in the *Qur'ān* that “..... Muhammad (PBUH) has neither gone astray nor has erred. Nor does he speak of (his own) desire, it is only a revelation revealed” (*Qur'ān*, 53: 2-4). In fact when Aishah the wife of the Prophet was asked what was the character of the prophet, she categorically said, “the character of the Prophet (PBUH) was the *Qur'ān*”²⁸ so how can an institution sanctioned by the Prophet for the Muslims contravene the stipulations of the *Qur'ān*. Of course, a good Muslim knows too well of the cogency of sincerity of purpose as well as conformity with the stipulations of the Prophet when carrying out charitable deeds such as *waqfs* such that he does not deliberately carryout a (family) *waqf* in order to circumvent the law of inheritance. In fact, considering the author’s earlier

²⁶ *Ṣaḥīḥ al-Bukhārī*, *ḥadīth* narated by Ibn Umar, chapter of conditions in *waqf*. *ḥadīth* no. 24.

²⁷ The sayings, actions, tacit approvals and the actions he refrained from. It is sometimes used interchangeably with the word *sunnah*.

²⁸ *Ṣaḥīḥ Muslim*, *ḥadīth* narrated by Sa’d ibn Hisham bin Amr, chapter of Night Prayer, and the one who sleeps and misses it or is sick, *ḥadīth* no.168,

point at resolving the family *waqf* controversy, these allegations are effectively brought to “ashes”. As a form of guidance, it is stipulated that bequests (one of the distributional conduit for *waqf*) by a testator at the time of death cannot and should not exceed one-third of the estate of the testator or deceased.²⁹

Overall, perhaps it is not unsafe to conclude that the continued flourishing of *waqfs* in history and contemporary times vis-à-vis coexistence with other Islamic institutions as well as conformity with Islamic stipulations despite these allegations is a sure alibi that *waqf* is indeed a legitimate social institution.

CONCLUSION

By and large, this article has shed light on the institution of *waqfs*, tried to; expose the true origins of the institutions, tried to resolve the controversial family *waqfs* and readdress the issues raised by the orientalist by adding some fresh perspectives to the debate. Particularly, the author posits that the institution of *waqfs* has been around since time immemorial, ever since civilizations emerged on the earth surface, since there were Prophets sent in every age and to every nation. As such, what Prophet Muhammad (PBUH) did was to re-sanction the institution and to set the records straight. Therefore, to say that *waqfs* started with Islam (i.e. with the current Muslims-Prophet Muhammad) is a fallacy. This knowledge has far reaching implications in deeply understanding developing and adopting the institutions to current civilizations. On the issue of family *waqfs*, the author posits that the rightful beneficiaries covered under “family” is in a restricted sense which mainly refers to the non-legal or standard heirs cum relations who are normally cut-off by the standard or statutory heirs. Put differently, beneficiaries of family *waqfs* would be those families i.e. relatives or who are non-nuclear family members or statutory heirs who can be “cut-off” by other inheritors in tenable relationship or association in the Islamic law of inheritance. Also, *waqf* initiated via the gift conduit will also be allotted equally among children or at best shared according to the law of inheritance if it involves the wider legal heirs as the Islamic Shariah portends. As far as the orientalist “incursions” are concerned, the author argues that they were unfounded, lack intellectual rigour

²⁹ *Ṣaḥīḥ al-Bukhārī*, *ḥadīth* narrated by Sa’d Ibn Abi Waqqas, chapter to will one-third of one’s property, *ḥadīth* no. 5. This *ḥadīth* is also reported in *Sunan Ibn Mājah*, narrated by Ibn ‘Abbās, chapter on wills, *ḥadīth* no.2815, *Sunan al-Nasa’ī*, narrated by Ibn ‘Abbās, chapter on bequeathing one-third, *ḥadīth* no. 24 and in *Sunan al-Nasa’ī*, narrated by Ibn ‘Abbās, chapter on bequeathing one-third, *ḥadīth* no. 22 with slightly different wordings

and are effectively porous arguments. He argues that, the *waqf hadīths* were authentic and that the *Qur'ān* and *hadīth* do not and will never contradict each other amongst other submissions.

On a very final note, the author therefore envisages, through this exposition, a better understanding of the institution of *waqfs* and its further developments cum adaptations in various legally receptive countries of the world.

REFERENCES

- Abū 'Ubayd, Q. S. (1988). *Kitab al-Amwal [The Book of Wealth]*. Bayrūt, Lubnan: Dār al-Shurūq.
- Abū Dāwūd Sulayman Ibn al-Ash'ath al-Sijistānī al-'Azdī (2008). *Sunan Abū Dāwūd*. English-Arabic, trans. Yaser Qadhi. Saudi Arabia: Darussalam.
- Acemoglu, D., Robinson, J. A., & Woren, D. (2012). *Why Nations Fail: The Origins of Power, Prosperity, and Poverty*, vol. 4. New York: Crown Business.
- Alias, A. (2011). "Unleashing the Potential of the Waqf as an Economic Institution in Malaysia." PhD. Thesis, INCEIF University.
- Ariff, M. (ed.). (1991). *The Islamic Voluntary Sector in Southeast Asia: Islam and the Economic Development of Southeast Asia*. Institute of Southeast Asian Studies.
- Arjomand, S. A. (1998). "Islamic Apocalypticism in the Classic Period," *Encyclopedia of Apocalypticism*. New York: Continuum, 2, 238-283.
- Arjomand, S. A. (1998). "Philanthropy, the Law, and Public Policy in the Islamic World before the Modern Era," *Philanthropy in the World's Traditions*, 109-132.
- Asiedu-Akrofi, D. (1989). "Judicial Recognition and Adoption of Customary Law in Nigeria." *The American Journal of Comparative Law*, vol. 37, 571-593.
- As-Sallab, A.M. n.d. *Ali ibn Abi Talib*. Saudi Arabia. IIPH.
- As-Sallab, A.M. n.d. *The Biography of Abu Bakr As-Sideeq*. Saudi Arabia. Darussalam.
- As-Sallab, A.M. n.d. *Umar Ibn Al-Khattab, his life and times*. Saudi Arabia. IIPH.
- At-Tirmidhi, H. M. (2007). *Jami at-Tirmidhi*. English-Arabic, trans. Abu Khaliyi. Saudi Arabia: Darussalam.
- Babbie, E. R. (2015). *The Practice of Social Research*. Nelson Education.

- Barnes, R. J. (1987). *An Introduction to Religious Foundations in the Ottoman Empire*. Leiden: EJ Brill.
- Basar, H. (1987). Management and Development of Awqaf Properties. *IRTI, Jeddah*.
- Baskan, B. (2002). "Waqf System As A Redistribution Mechanism In Ottoman Empire," *Northwestern University, Department of Political Science*.
- Al-Bayhaqī. (n.d.). *Al-Sunan al-Kubrā*. Qāhirah: Dār al-Ḥajr.
- Bible, H. (1952). *Revised Standard Version. Reference Edition*. New York: Thomas Nelson & Sons.
- Bible, K. J. (1932). "Authorized Version," *Cambridge Edition*, <http://www.kingjamesbibleonline.org>.
- Al-Bukhārī, M. (1997). *Ṣaḥīḥ al-Bukhārī*. English-Arabic, trans. M.M. Khan. Saudi Arabia. Darussalam.
- BWA. (2015). "Bangladesh Waqf Administration," <http://www.waqf.gov.bd/>
- Carter, Lief H. & Thomas F. Burke (2007). *Reason in Law*. 7th ed. New York: Pearson Education, Inc.
- Cizakca, M. & Alias, A. (2014). "Should Malaysian States Have a Fresh Approach to *Waqfs*? A Proposal for a Model Waqf Enactment?" *ISRA International Journal of Islamic Finance*, vol. 6, no. 2.
- Cizakca, M. (1995). "Cash Awqaf of Bursa, 1555-1823," *Journal of the Economic and Social History of the Orient*.
- Çizakça, M. (1996). *A Comparative Evolution of Business Partnerships: The Islamic World and Europe, with Specific Reference to the Ottoman Archives*, vol. 8. Brill.
- Cizakca, M. (1998). "Awqaf in History and its Implications for Modern Islamic Economies," *Islamic Economic Studies*, vol. 6, no. 1, 43-70.
- Cizakca, M. (1999). "Relevance of the Ottoman Cash *Waqfs* (Awqaf al-Nuqud) for the Modern Islamic Economies." Paper Presented, 3rd International Conference on Islamic Economics, International Islamic University Malaysia, Kuala Lumpur.
- Çizakça, M. (2000). *A History of Philanthropic Foundations: The Islamic World from the Seventh Century to the Present*. Boğaziçi University Press.
- Cizakca, M. (2001). "Principles of Islamic Economics as Applied By the Ottoman State: Policies, Institutions and Consequences." International Seminar On Islamic Approach To Market Regulations and Economic Stability. Convened In Tehran. Iran.

- Cizakca, M. (2004). "Ottoman Cash Awqaf Revisited: The Case of the Bursa 1555-1823." *Foundation for Science Technology and Civilization*. UK.
- Çizakça, M. (2011). *Islamic Capitalism and Finance: Origins, Evolution and the Future*. UK: Edward Elgar Publishing.
- Coing, H. (1981). "Remarks on the History of Foundations and their role in the Promotion of Learning," *Minerva*, vol. 19, no. 2, 271-281.
- Al-Daudi A. (1995). *Kitab fi hi'l Amwal*. Pakistan: Islamic Research Institute.
- Faridi, F. R. (1983). "A Theory of Fiscal Policy in an Islamic State," *Journal of Research in Islamic Economics*, vol. 1, no. 1, 15-30.
- Al-Fawzaan, S. (2005). *A Summary of Islamic Jurisprudence*. Riyadh, Saudi Arabia: Al-Maiman Publishing House.
- Gaudiosi, M. (1988). "Influence of the Islamic Law of Waqf on the Development of the Trust in England: The Case of Merton College," 136 U. Pa. L. Rev. 1231 Available at: http://scholarship.law.upenn.edu/penn_law_review/vol136/iss4/6
- Hakim, C. (1987). *Research Design*. London: Allen Unwin.
- Hamid, A. W. (1995). *Companions of the Prophet*. United Kingdom: Muslim Education & Literary Services.
- Hasan, Z. & Abdullah, M. N. (2008). "The Investment of Waqf Land as an instrument of Muslims: Economic development in Malaysia," The Dubai International Conference on Endowments' Investment. 4-6.
- Hennigan, P. C. (2004). *The Birth of a Legal Institution: The Formation of the Waqf in Third-century AH Ḥanafī Legal Discourse*. 18. Brill.
- Hidayatul, I. & Shahul, H. (2011). "Waqf Accounting and Management in Indonesian Waqf Institutions: The Cases of Two Waqf Foundations," *Humanomics*, vol. 27, no. 4, 252-269.
- Hoexter, M. (1997). "Adaptation to Changing Circumstances: Perpetual Leases and Exchange Transactions in Waqf Property in Ottoman Algiers," *Islamic Law and Society*, vol. 4, no. 3, 319-333.
- Ibn Kathir (1998). *The Life of Prophet Muhammad; Al-Sira al-Nabawiyya*. United Kingdom: Garnet Publishing.
- Ibn Kathir (2000). *Tafsir Ibn Kathir*. London: Al-Firdous Ltd.
- Ibn Mājah (2007). *Sunan Ibn Mājah*. English-Arabic, trans. Al-Khattab N. Saudi Arabia: Darussalam.
- Ibn Qudāmah (1972). *al-Mughnī*. Riyāḍ: al-Maktabah al-Ḥadīthah.

- Ibn Taymiyyah, A. A. H. (2000). *Majmū‘ al-Fatawā*. Bayrūt: Dār al-Kutub al-‘Ilmiyyah.
- Al-Imam Shams al-Shirbini (2015). *The Book of Endowment (Kitab al-Waqf)*. Kuala Lumpur. IBFIM.
- IUF. (2015). Indiana University Foundation. Available at; https://iufoundation.iu.edu/doc/Financial_Highlights_13-14.pdf
- JAHWAR. (2015). “Department of Awqaf, Zakat & Hajj. Prime Minister’s Department.” <http://www.jawhar.gov.my/en/>
- Juynboll, G. H. (1983). *Muslim Tradition: Studies in Chronology, Provenance and Authorship of Early Hadith*.
- Kahf, M. & Mahamood, S. (2011). *Essential Readings in Contemporary Waqf Issues*. Selangor: CERT Publications.
- Keles, H. (2001). A Study on the Processing Manner and the Economic Results of Charters of Money Waqf in the 19th Century in the Ottomans G.U. *Gazi Egitim Fakültesi Dergisi Cilt*.
- Kuleli, T. and Turkon, N. (2008). “Turkey’s Revised Foundation Law and Important Amendments.” *Recht & Steuern*, http://www.private-magazin.ch/media/docs/private/2008/05/en/070_Turkeys_revised.pdf
- Lumina. (2015). “Lumina Foundation.” <https://www.luminafoundation.org/>
- Mahmood, S. M. (2006). *Waqf in Malaysia: Legal and Administrative Perspective*. Kuala Lumpur: University of Malaya Press.
- Mandeville, E. (1979). “Usurious Piety: The Cash Waqf Controversy in the Ottoman Empire.” *International Journal of Middle Eastern Studies*, vol. 10, no. 3, 289-308.
- Mannan, M. (1992). “Conference on Financing Development in Islam.” *Seminar Proceedings Series 30*. Jeddah, Saudi Arabia: Islamic Research and Training Institute (IRTI).
- Mannan, M. (1992). *Financing Development in Islam. Third International Conference on Islamic Economics*. Kuala Lumpur: Islamic Research and Training Institute, Islamic Development Bank.
- Mason, J. (2002). *Qualitative Researching*. Newbury Park CA: Sage.
- Al-Mubarakpin, S. (1996). *The Sealed Nectar; Biography of the Noble Prophet*. Saudi Arabia: Darussalam.
- MUIS. (2015). “Majlis Ugama Islam Singapura.” <http://www.muis.gov.sg/>
- Muslim, H. N. (2007). Şaḥīḥ Muslim*. English-Arabic, trans. N. Khattab. Saudi Arabia: Darussalam.

- NAIT (2015). "North American Islamic Trust." <http://www.nait.net/>
- Al-Nasa'ī (2007). *Sunan al-Nasa'ī*. English-Arabic, trans. Al-Khattab N. Saudi Arabia: Darussalam.
- Al-Nasa'ī (n.d.). *Sunan al-Kubra*. Beirut. Muassasah al-Risalah.
- Nielsen, W.A. (2001). *Golden Donors: A New Anatomy of the Great Foundations*. Transaction Publishers.
- Othman, M.Z. (1981). "Administration of Waqf in the State of Kedah." *Islamica*.
- Platt, J. (1981a). "Evidence and Proof in Documentary Research: 2: Some Shared Problems of Documentary Research," *The Sociological Review*, vol. 29, no. 1, 53-66.
- Platt, J. (1981b). "Evidence and Proof in Documentary Research: 1: Some Specific Problems of Documentary Research," *The Sociological Review*, vol. 29, no. 1, 31-52.
- Polak, P. (2008). *Out of Poverty*. Berrett-Cochler Publishers Inc.
- Potter, J. & Wetherell, M. (1987). *Discourse and Social Psychology: Beyond Attitudes and Behaviour*. Sage.
- Potter, J. (1997). "Discourse Analysis as a Way of Analysing Naturally Occurring Talk," *Qualitative Research: Theory, Method and Practice*, vol. 2, 200-222.
- Powers, D.S. (1984). "Revenues of Public *Waqfs* in Sixteenth Century Jerusalem," *Archivum Ottomanicum*, vol. 9, 163-202.
- Rashid, S. K. (1978). *Wakf Administration in India: A Socio-Legal Study*. Delhi: Vikas.
- Sabancı Vakfi. (2015). Available at; <http://www.sabancivakfi.org/homepage/>
- Saidu, O. S. (2016). *The Operability of Waqfs in Nigeria*. Kuala Lumpur: INCEIF Knowledge Management Centre.
- Saidu, O. S. (2018). *Rethinking Philanthropic Foundations; Making Waqfs Work for Nigeria*. United States: Create Space, Amazon.
- Saidu, O.S. (2014). "Islamic Accounting and the Cash Waqf; A Primer," *Soc. Sci.*, vol. 73 (2014) 26004-26008.
- Saidu, O.S. (2015). "Recent Philanthropy Strides: Lessons for Islamic Philanthropy?" *Research in Islamic Studies*, vol. 2, no. 2, 59-81.
- Sait, S., & Lim, H. (2006). *Land, Law and Islam: Property and Human Rights in the Muslim World*, vol. 1. Zed Books.
- Salamon, L. (2014). *Leverage for Good*. New York: Oxford University Press.

- Salamon, L. (2014). *New Frontiers of Philanthropy*. New York: Oxford University Press.
- Salamon, L. M. (1992). *America's Nonprofit Sector*. New York: The Foundation Center.
- Salamon, L. M. (2001). "Scope and Structure: The Anatomy of America's Nonprofit Sector." *The Nature of the Nonprofit Sector*, 23-39.
- Salamon, L. M. (2012). *America's Nonprofit Sector: A Primer*, 3rd ed. New York: Foundation Center.
- Salamon, L. M. (2012). *America's Nonprofit Sector: A Primer. Abridged Version*. New York: Foundation Center.
- Salamon, L., Sokolowski, W., & List, R. (2003). *Global Civil Society: Dimensions of the Nonprofit Sector*. Baltimore: Institute for Policy Studies. Center for Civil Society Studies, Johns Hopkins University.
- Schacht, J. (1950). "Foreign Elements in Ancient Islamic Law," *Journal of Comparative Legislation and International Law*, 9-17.
- Schacht, J. (1950). *The Origins of Muhammadan Jurisprudence*. Oxford: Clarendon Press.
- Schacht, J. (1959). "Islamic Law in Contemporary States," *Am. J. Comp. L.*, vol. 8, 133.
- Scott, J. (2014). *A Matter of Record: Documentary Sources in Social Research*. John Wiley & Sons.
- Seale, C., Gobo, G., Gubrium, J. F., & Silverman, D. (eds.). (2004). *Qualitative Research Practice*. Sage.
- Sekaran, U. (2006). *Research Methods for Business: A Skill Building Approach*. John Wiley & Sons.
- Sesli, F. A. (2010). "Foundation Administrations and Foundation Land Ownership in Turkey from Past to Present," *African Journal of Business Management*, vol. 4, no. 9, 1769-1777.
- Shemesh, B. (1969). *Taxation In Islam*. Leiden: EJ Brill.
- Stibbard, P., Russell, D., & Bromley, B. (2012). "Understanding the Waqf in the World of the Trust," *Trusts & Trustees*, vol. 18, no. 8, 785-810.
- The Chronicles of Philanthropy (2013). Report, <http://philanthropy.com/section/Home/172>
- The Quran (1996). *Muhsin Khan Translation*. Riyadh: Muktaba Darusslam.
- The Quran (2012). *Saheeh International Translation*. Jeddah: Al-Muntada Al-Islami.

- VKV. (2015). “Vehbi Koc Foundation.” <http://www.vkv.org.tr/?hl=en>
- Warees (2015). “Wakaf Real Estate.” <http://www.warees.sg/>
- Wilson R. (2012). *Legal, Regulatory and Governance Issues in Islamic Finance*. United Kingdom: Edinburgh University Press.
- Yūsuf, A. (1979). *Kitāb al-Kharāj*. Qāhirah: al-Maṭba‘ah al-Salāfiyah.
- YWM (2015). “Yayasan Waqaf Malaysia.” <https://www.ywm.gov.my/>

List of Statutes

- Administration of Muslim Law Act. (AMLA) 2015.
- Foundations Law (2008). “Turkey.” <http://www.vgm.gov.tr/icerikdetay.aspx?Id=168>
- Foundations Law (Law 2762). 1934. Turkey.
- State Religious Enactments. Various states.

