

## Management of Waqf Properties: A Case Study in Sri Lanka

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## ABSTRACT

*Waqf* is an essential component of the Islamic economic instrument that is firmly considered to be capable of resolving socio-economic issues, primarily in the effort to eradicate poverty caused by a lack of income and work. Based on the analysis of the semi-structured interview, this study seeks to investigate the role of the *Waqf* Board of Sri Lanka and the challenges and issues arising in managing *waqf* assets. The review of the literature contributed to constructing its theoretical structure. The findings reveal several shortcomings in the administration of *waqf* assets, including insufficient skilled human resources, lack of utilization of *waqf* assets, unawareness of the community on *waqf*, misuse of the *waqf* assets, and shortage of transparency and accountability. Hence, the study proposes that the proper management of the *waqf* assets would be sufficient to meet most if not all the needs of the community to a significant extent. The findings will be beneficial to *waqf* managers and will help enhance *waqf* institution administration and management. The findings will be beneficial to *waqf* managers and will help enhance *waqf* management.

**Keywords:** *Waqf*, Management, Administration, Property, Islam, Institution

## Background of the Study

*Waqf* is an Arabic word that means hold, prevent, or restrain (Osman, 2012). In legal terms, it means to keep from becoming the property of a third person. It is defined as a Muslim's permanent submission of a valued property to the ownership of Allah. Once the *Waqf* founder has decided on the kind of management for his or her *waqf*, the *mutawalli* (manager) commits to control the *Waqf* properties in the best interests of the beneficiaries (Puad et al., 2014). *Waqf* is encouraged in a few Quranic verses. According to Che Azmi & Hanifa (2015), one such verse is "None of you will achieve true [piety] until you give from what you cherish: whatever you give, God is well aware of it" (Al-Qur'an, 3:92).

Mohsin (2019) indicates that *Waqf* practices are also encouraged by another Islamic source, al-Hadith. According to one often-cited Hadith, "When a person dies, all of his acts cease, with the exception of three things: recurring charity, knowledge (which benefits others),

and pious offspring who pray for him” (Muslim, 1631). Many Muslims consider *waqf* to be one of the charitable activities that Islam encourages, based on these Quranic and Hadith texts (Saad et al., 2017).

*Waqf* property management that is effective, efficient, and systematic will contribute to the community’s socio-economic development (Mutalib & Maamor, 2018). In the past, *waqf* played a significant role in fostering the ummah’s socio-economic welfare. The *waqf* institution’s wealth was solidly established during the golden age of the Great Ottoman Empire in Turkey (Umar & Haron, 2021). Back then, the *waqf* organization was able to fund a variety of facilities and social services such as infrastructure development, community services, education, cultural and religious services (Hamat, 2014). Accordingly, *Waqf* institutions had played a significant role in delivering social amenities like education and health care, as well as assisting the destitute, orphans, and the needy, as well as building commercial businesses and religious facilities at no expense to the government. *Waqf* is also one of the wealth-generating and distribution strategies built on the basis of Islamic teachings and concepts (Kamaruddin et al., 2018).

Further, *Waqf* institutions are one of the numerous mechanisms established by Islam to alleviate poverty and improve social welfare. *Waqf* provides the material infrastructure and generates revenue for use in social welfare projects at the family, community, and state levels, among other things. *Waqf* is a charitable deed that falls under the general words of *Sadaqah* and *Infaq* (N. Saad et al., 2017).

*Waqf*, on the other hand, became less popular in Muslim society over time as the *waqf* institution, despite having enormous property worth, is no longer relevant nowadays (Ihsan & Hameed, 2011). This could be attributed to two factors. To begin with, the majority of *waqf* properties do not now generate income. Second, the *waqf* institution operates with limited personnel resources, not to mention a lack of technical and financial skills in some areas. Because of the absence of financial skills, the *waqf* institution’s income will be quite low (Hamat, 2014).

Abas & Raji (2018) found that insufficient funds, poor performance by the *waqf* manager, unregistered *waqf* land, out-of-date data, and confiscation of ownership rights by heirs are the key factors contributing to inefficient management and maintenance of *waqf*.

Since *waqf* has been proven to be an effective tool in the past for eradicating hunger, poverty, and misery, as well as promoting equitable wealth distribution (Kamaruddin, 2018), it is critical to identify successful contemporary *waqf* institutions and examine the management practice or approach used to manage *waqf* properties or assets. It’s also crucial to look at how well these *waqf* institutions deliver *waqf* investment revenues to the intended beneficiaries (N. Saad et al., 2017).

Fawzer (2011) notices that the condition of Sri Lankan Muslims has deteriorated in terms of education, religion, and the economy due to a variety of factors, including lack of funds, government assistance and support, the Muslim community’s backwardness, and Muslim politicians’ incapacity to bring socio-economic growth to the Muslim community. Accordingly, this clearly demonstrates the importance of *waqf* and the voluntary sector in uplifting the Muslim community in Sri Lanka. Many of the properties and lands donated and endowed for the benefit of Muslims have been encroached upon by the government or individuals, posing a serious threat to the *Waqf* institution in Sri Lanka.

As an institution that manages *waqf* property in Sri Lanka, where Muslims are a minority, the *Waqf* Board of Sri Lanka and the *Waqf* Tribunal have been established under Muslim Mosques and Charitable Trusts or Wakfs Act No. 51 of 1956, which was amended by Act No. 21 of 1962 and Act No. 33 of 1982 under the Department of Muslim Religious and Cultural Affairs under the Ministry of Buddhism and Religious Affairs (The Department of Muslim Religious and Cultural Affairs- Sri Lanka, 1987).

The *waqf* institution's ability to manage the *waqf* property is based on how it deals with the obstacles and issues that come with using the *waqf* property (N. M. Saad et al., 2017). Hence, the goal of this study is to examine the management practices and techniques of the *Waqf* Board and the *Waqf* Tribunals of Sri Lanka to determine the optimum management strategy or approach.

### **Objective of the Study**

The major goal of this study is to investigate the role of the *Waqf* Board of Sri Lanka and the challenges and issues arising in managing *waqf* assets.

### **Research Methodology**

This study is qualitative. The researchers began this study with data collection. To collect data, all information related to the management of the *waqf* property in Sri Lanka was obtained through interviews.

The semi-structured interviews were conducted with members of the *Waqf* Board, such as the Chairman, as well as experienced *Waqf* board members, religious experts, and cultural development officers. Although a total of 10 persons were invited to the interview, only five members of the *Waqf* board and three others responded to the interview. The documents or other secondary data were analyzed through content analysis to obtain the necessary information based on the objectives of the study.

There were six questions prepared in the interview for the assessment related to the management of *waqf* assets in Sri Lanka. However, not all questions were asked to all of the interviewees. For example, members and the director of the *Waqf* board were asked about the management of *waqf* assets in the whole of Sri Lanka and the challenges they face, and experienced ex-members were asked questions regarding reforms to be undertaken in the *Waqf* assets management of the *Waqf* board.

### **Results and Discussion**

#### **The scope of *waqf***

When it comes to their view on *waqf*, which is promoted by basic Islamic sources, it is similar to other Islamic assets distribution methods such as *zakat*, *sadaqah* (voluntary charity), and *sadaqah jariyah* (everlasting charity). Further, this mechanism, based on the premises, the assets should be shared among the whole Muslim community without accumulation to one party and is considered to be a major contributor to the economic advancement and the maintenance of economic equality and balance of the community. And as for most of their knowledge and understanding, It was possible to identify that the *waqf* was abbreviated only to the mosque, its associated properties, and cemeteries.

In contrast, Section 32 (1) of the Muslim Mosques and Charitable Trusts or Wakfs Act-Sri Lanka (1956) indicates that “the provisions of this Part shall apply to every Muslim charitable trust or wakf created for all or any of the following purposes other than a Muslim charitable trust or wakf which is solely for the benefit of a registered mosque: -

- (a) the relief of poverty among Muslims or any section thereof.
- (b) the advancement of the education of Muslims or any section thereof.
- (c) the advancement of Islam generally.
- (d) the management of any mosque or Muslim shrine or place of the religious resort or the performance of religious rites or practices at such mosque, shrine or place or in any other place whatsoever.
- (e) any purpose beneficial to Muslims or any section thereof; and
- (f) any other purpose recognized by Muslim law as religious, pious or charitable”.

Accordingly, charitable trusts or *Waqfs* can be established with the aim of alleviating poverty among Muslims, promoting education and religion, or any other religious, pious, or philanthropic purpose authorized by Islamic Law (Thabith, 2019).

In fact, *waqf* has been a major contributor to the economic condition of Muslims in Islamic history, but today it has been forgotten that it is economic progress and simply reduced under the one duty of mosques. It can be seen that the *Waqf* sector is as pervasive in emerging countries as Malaysia, Indonesia, and Bangladesh, as well as in the economic, educational, cultural, medical orphanage, and widow care community institutions. The major reason would be the lack of awareness given to the Muslim community on the position of *waqf* in Islam and the concern given by the officials regarding the *waqf* assets (Noipom & Labduang, 2020).

Further, Sairally & Muhammad (2020) argue that the aim has been to expand *waqf* mobilization beyond traditional areas such as mosques, graves, Islamic schools, and drinking water wells to serve a variety of other social purposes relevant to communities today. Furthermore, besides employing *waqf* as a tool for social investments, the goal has been to promote its use for commercial purposes in order to produce long-term profits for *waqf* beneficiaries. According to them, reinterpretations of fiqh rules and re-examinations of their applications in Islamic finance have been required to rejuvenate the concept of *waqf* so that it stays relevant to modern society. The concept of temporary cash *waqf*, established by the International Shari’ah Research Academy for Islamic Finance (ISRA) and endorsed by the ISRA Council of Scholars in 2016, is one such example. This has given rise to new possibilities in terms of establishing new *waqf* structures.

Similarly, Mohammad & Iman (2006) propose to replace the perpetuity of the physical being of the object with that of dedication by assigning a value to the dedication, which is then secured and invested, in an attempt to rethink the concept of *waqf* perpetuity and inalienability. According to the principle of the value-based concept of *waqf* properties, they recognize the validity of all valuable *waqfs*, including cash, usufruct, and labor, which are capable of perpetuity.

It is important to point out that even though there are officials, including some *ulama*, who understand the scope and law of *waqf* to some extent, the proper environment for the implementation of *waqf* is yet to be created. Although Sri Lanka is a country with a Muslim minority, it has made separate legal arrangements for the *waqf* sector at the government level. Such a rare opportunity can make a huge contribution to the lives of Sri

Lankan Muslims if Muslim officials and politicians handle it in the right way (A.B.M. Ashraf, personal communication, December 16, 2021).

### **The Management of *Waqf* Assets**

*Waqf* is a significant issue that affects economic, political, community, educational, and social growth, in addition to its spiritual and religious aspects. Because the *Waqf* institution deals with a wide variety of concerns ranging from economic to social aspects of human growth, it can be considered one of the most important weapons for enhancing Islam's pride, dignity, and dominance. As a result, such a significant issue cannot be left to its own devices without adhering to any preset regulations, norms, or scientific management systems that are consistent with the general guidance of Islamic precepts (Karim, 2010). As a result, the use of professional management concepts and principles, as well as contemporary best practices and appropriate and time-based *Waqf* systems, provide the foundation for operational excellence, resulting in total efficiency and effectiveness (Chowdhury et al., 2012).

Even though Marsoof (2004) and Mahroof (1990) point out the fact that the Sri Lankan government has become more aware of the need to revitalize the new *waqf* institution in the recent decade, Thabith & Mohamad (2021) argue that the *Waqf* property as it is currently practiced in Sri Lanka provides no further assistance for economic development or benefit to a segment of the population. According to them. This can be seen in the *Waqf* property management, its performance, and infrastructure system, which is currently not a well-recognized *Waqf* property management in Sri Lanka. Thus, there are a number of legal and practical difficulties and challenges in managing *Waqf* contracts effectively.

### **Challenges in Managing *waqf* Assets**

The *Waqf* Board of Sri Lanka acknowledges that it faces significant challenges in managing *waqf* assets, including insufficient education, awareness, and skilled human resources; a lack of involvement, support, and participation from concerned Muslim stakeholders; an insufficient record management system; insufficient accountability and transparency; and a lack of public awareness of the board's responsibilities. The following section delves into these issues in further depth.

### **Insufficient Skilled Human Resources**

The Department of Muslim Religious and Cultural Affairs, which is under the Ministry of Buddha Sasana and Religious Affairs, is the functioning institute for maintaining perfect coordination with the Wakfs Board and Wakfs Tribunal, which were established by Wakfs Act No 51 of 1956, amended by Wakfs Act No 21 of 1962 and Wakfs Act No 33 of 1982 to implement the Wakfs Act's objectives, to administer the Muslim mosques, Muslim Institutes, and charitable trusts of Sri Lanka. As an outcome, the duties and administrative aspects of this department include registering Muslim Mosques and Charitable Institutes, allocating and deciding the duties and functions of the board of trustees of registered Muslim Mosques and Charitable Institutes and wakfs trusts, and maintaining the fund of Muslim charitable trusts (Department of Muslim Religious and Cultural Affairs, 2013).

In a study on the challenges facing *waqf* administration in Malaysia, Chowdhury et al. (2012) discovered that in some circumstances, persons involved and trusted in administering *waqf* assets are not qualified. The *Waqf* Board of Sri Lanka is no exception because, as previously stated, the institution lacks qualified human resources and is administered by non-Muslims who do not understand the basic tenets of Islam regarding *waqf*. At the same time, as it is being managed, the Ministry is not paying any attention to the issues related to *waqf*. Furthermore, it was found that the Muslim executives associated with the *waqf* sector lack a deeper understanding of the Sri Lankan *waqf* law and *waqf* law in Islamic Jurisprudence.

Likewise, in terms of the development of *waqf* assets, Omar (2013) suggests that there is an urgent institutional need to impart knowledge and skills in the art and science of *waqf* development, as well as to develop a cadre of trained professionals and managers who are familiar with both the Shariah aspects of *waqf* and the scientific techniques of management of charity-based and not-for-profit institutions.

However, the lack of properly skilled resources who possess a sufficient amount of knowledge on the Sri Lankan *waqf* law to provide proper training to the respective executives is one of the critical problems faced by the *waqf* sector, as the issue was confirmed by the authorities of the Department of Muslim Religious and Cultural Affairs (MRCA). Further, it was pointed out in an interview that the MRCA and the *waqf* board are facing difficulties in obtaining resources to address shortcomings regarding these issues. This matter urges the availability of impactful resources and experts in the field with consideration of the interpretation of the *waqf* law from the perspective of modern Islamic jurisprudence.

### **Lack of utilization of *waqf* assets**

Endowment, according to Wibowo (2015), has grown and developed in Indonesia as a religious and social dimension and has been implemented by the community through agencies or community organizations such as Muhammadiyah, Nahdlatul Ulama, schools, hospitals, or other forms of endowments, despite the fact that in practice, there is still no professional endowment management, as some of them are still displaced or whose condition does not clear its management. This situation is not produced by unprofessional *nazir*, but rather by awareness of a lack of understanding of the *waqf*.

However, according to him, since the new paradigm of endowments, with awareness of the potential of such a large endowment for the welfare of the ummah, endowments have been developed into things that are productive by not just physical endowments, immovable property (land, buildings) only, and holding it or maintaining the integrity of the property of *waqf* only for worship and social, but also develop more productive *waqf* property which may be used for the welfare of the community either through the addition of *waqf* property or the creation of new businesses based on the concept of *waqf*. Thus, in the administration of *waqf* endowments in Indonesia, a new paradigm of endowments is emerging, which includes both the types of things or treasures that have been presented as endowments, as well as effective utilization and management mechanisms, he claims.

In Contrast, although the *Waqf* Board of Sri Lanka and the MRCA have been involved in the island-wide construction and reconstruction of mosques and related *waqf* properties as well as the development of Muslim Charitable Trusts, Arabic colleges, Ahadhiya Schools, and al-Quran madrasa and carrying out Islamic cultural events such as Milad Day celebration and related-competitive events with the distribution of gifts, carrying out various projects such as promoting and rewarding Islamic writers and giving opportunities to new writers to conduct Quran competitions, still, there is a desperate need for utilization of *waqf* by endowments productive done by collecting, investment, production, partnerships, trade, agribusiness, industry, technology development, construction of buildings, apartments, flats, supermarkets, shops, offices, educational facilities or health facilities, and businesses that do not conflict with objectives of Shari'ah, etc.

### **Unawareness of the Muslim Community on *Waqf***

Another issue affecting this vital finance mechanism, according to Hashim (2010), is the lack of effective outreach programs that educate the public about the role and relevance of *Waqf* institutions. According to him, the problem stems from the negative image that has been imprinted on people's minds, to the point where a substantial portion of the population is unaware of the significance of *waqf* institutions in their daily lives.

While investigating the Muslim community's views on the *waqf* and its impact on socio-economic growth in Uganda, Ahmed et al. (2015) found that the Muslim community faces

significant socio-economic challenges. According to them, understanding *waqf* and its socio-economic role are critical to revitalizing the *waqf* institution, which will help improve the social welfare of the Muslim community. They also believe that a high level of understanding of *waqf* and its socio-economic roles among Uganda's Muslim community will give a platform for religious authorities to encourage Muslims to donate their assets as *waqfs* for socio-economic development. Though the institution of *waqf* has been in Sri Lanka Zanzibar since the middle of the twentieth century, people are becoming more aware of its responsibilities as time passes.

Likewise, the lack of awareness of *waqf* among Muslims was one of the issues identified by Puad et al. (2014). Most people, they claim, assume that *waqf* is only a Muslim obligation. Non-Muslims, on the other hand, can contribute in the same way. By quoting a survey conducted by MAIS in 2008, 70 percent of Muslims in Malaysia are unaware of the MAIS's *waqf* initiatives, and they conclude that Malaysian Muslims are still unaware of the socio-economic significance of *waqf* as a result of this fact. Furthermore, several investors have questioned the bank's ability to manage the fund since its inception in 2012. This is due to, according to them, a lack of transparency regarding fund usage.

Despite the fact that Nigeria has a large Muslim population, Abubakar (2014) concedes that most Muslims in Nigeria lack fundamental awareness of *waqf* and its socio-economic role in poverty reduction and development. In this sense, even though the *waqf* has been recognized and legislated by the Sri Lankan government as the greatest opportunity available to Sri Lankan Muslims, the fact that most of the Sri Lankan Muslims today lack proper knowledge of the importance of the scope of *waqf* can be considered as one of the most important challenges in the *waqf* administration.

### **Misuse of the Waqf Assets**

Worldwide, the lack of efficient management is a major issue faced by several *waqf* institutions as reported by several scholars such as Abas & Raji (2018), Sanyinna et al. (2017), Moh'd et al. (2017), Hashim (2010), Shirazi et al. (2015) and Yahya (2008). Mismanagement and misuse of *waqf* assets and/or institutions have been reported in the historical experience of several countries.

Shirazi et al. (2015) highlighted the rich experience of *waqf* institutions' social, economic, political, scientific, cultural, and religious contributions to the development of the community in question in their literature study. Similarly, Cizakca (2004) produced a great deal of information on the significant role that *the waqf* institution had in Turkish history from the 15th to the 18th centuries. During the fifteenth and sixteenth centuries, even the Ottomans introduced and legitimized monetary *waqfs* following lengthy arguments (Çizakça, 2016). Unfortunately, the *waqf*'s current resources are insufficient to cover even the mosque's general maintenance. Accordingly, it might be argued that today's *waqfs* are poorly managed (Moh'd et al., 2017).

According to Hashim (2010), the lack of efficient management is also due to a lack of logistics. During his investigation, he discovered that the *Waqf* Commission of Kenyan Coast is unable to determine and identify *Waqf* properties prior to their registration. In Zanzibar, Moh'd et al. (2017) discovered the same issue. In fact, the same problem exists in Sri Lanka, where, despite the fact that all *waqf* properties are required to be registered under the *Waqf* Board and the Department of Muslim Religious and Cultural Affairs, there is no accurate and exact figure thus officially known existing.

### **Shortage of transparency and accountability**

Another issue confronting the *waqf* institution is a lack of accountability and transparency. The majority of the labor is unskilled and uneducated, which contributes to the situation. The Mutawallis are not held responsible for their actions. Several examples of *waqf* property loss and misuse, as well as their neglect of *waqfs*, have been reported. Puad,

Rafdi, and Shahar (2014), for example, examined the concerns and limitations of the *waqf* instrument and found cases of family members misusing *waqf* properties for personal gain. In this investigation, there were also reports of faulty administration and a lack of documentation, with some *waqfs* being simply handed over verbally.

According to Yahya (2008), the *Waqf* and Trust Commission of Zanzibar looks after the properties, farms, mosques, and other assets of deceased founders on the two main islands of Unguja and Pemba. He also discovered that 655 tenants are unregistered. This issue arises as a result of the institution's employees' irresponsibility. Does this have an impact on the institution's income and funding model? The value of *waqf* assets leased, for example, does not always mirror market value, he argues.

Similarly, donating properties registered under a particular mosque by trustees to their close ones such as relatives for their benefit, non-registration of *waqf* properties of a particular mosque with the Waqf Board, a decrease of some *waqf* assets from their fair or actual value such as a rented shop belonging to a particular mosque by the administration for only Rs. 1,000 (LKR) while, according to the prevailing custom, such kinds of shops in the particular area are rented out for Rs 25,000 or Rs 30,000 (LKR), using *waqf* assets for personal gain, owning the property belonging to the mosque by the tenant to the extent where there are some records of exchanging a particular property of a mosque as dowry for the daughter and mismanagement of records are some aspects of mismanagement or misuse of *waqf* assets which reflect the insufficient accountability of the authorities who possess the responsibility of *waqf* assets in Sri Lanka.

## Conclusion

*Waqf* has played an important role in the growth of the nation through diverse economic and social advancements throughout history. Recognizing the importance of trust in the management of *waqf* property, it is the responsibility of the appropriate agencies to ensure that it is effectively managed so that the advantages are more visible and value is created. According to the study, the *Waqf* Board of Sri Lanka has several shortcomings in their administration of *waqf*, including insufficient skilled human resources, lack of utilization of *waqf* assets, and unawareness of the community on *waqf*, misuse of the *waqf* assets, and shortage of transparency and accountability. Hence, the study proposes that the proper management of the *waqf* assets would be sufficient to meet most if not all the needs of the community to a significant extent.

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