

Waqf (Endowment) in the Maliki School and Algerian Law: Its Concept, Provisions, and Means of Preservation

SidAli GHEBRID *

**University of Algiers 1, Faculty of Islamic Sciences,
Laboratory of Chariaa (Algeria)**

s.ghebrid@univ-alger.dz

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Abstract:

It is well known and certain that The Endowment (WAQF) is known to be of great importance and an important role in the development of the Islamic economy and society. The fact of the Endowment is that it was an ancient regime that existed before Islam, and for what Islam came he desired, presented it in an orderly and tight manner, and made it compatible with financial transactions and Shari'a purposes and grand rules; that is because the endowment aims to achieve the obedience of God Almighty by imprisoning part of the money without its personal disposition and making its benefits in charitable works and different destinations of righteousness, such as centres for the real definition of Islam, the construction of mosques, the appointment of residents and imams, preachers and permits, and the drilling of wells, construction of roads, establishment of centres and institutions responsible for health and social care, assistance to students and pupils, assistance to the poor and families in need or homeless, for the sake of all this, the regime of endowment in Islam has been in place from the time of sending the prophet Muhammad (PBUH) to this day, hence; Waqf is a source of Islamic finance and a source of good; It ensures and sustains many homes and families in crises and social disasters.

* Corresponding author

On the legal side; The endowment contract is an official document registered in courts, personal status judges and notaries to protect and legalize real estate transactions, endowment institutions, as well as Algerian law authorizing the suspension to dispose of his or her property, provided that it is documented by the courts or by the legally mandated authorities; The endowment's owner (Waqif) may identify persons who can avail themselves of the benefits of the endowment as well as individuals who benefit from the transfer and operation of the endowment administration after the endowment's owner death, whether they are from Al-Waqif's family or from outside.

Keywords: Endowment; Financial transactions; Islamic economy; Islamic finance; Algerian law.

1- Introduction:

This study focuses on a specific branch of Islamic jurisprudence, namely the topic of endowment (waqf). It is worthy of exploration as it represents a successful and noble tradition in the history of the Islamic nation. Comprehensive understanding of this subject is impossible given the plethora of existing studies that intersect with this research; however, this study addresses certain legal aspects, as well as some conditions and methods of protecting endowments. The interest in endowments has been a continuous practice among the Islamic community from the prophetic era to this day, resulting in significant outcomes in different fields in Islamic World over the centuries.

hence; I will define the endowment in jurisprudence (jurisprudence terminology) and Algerian law, as well as the framework and structures related to its institution. I will also mention some specific jurisprudential rulings associated with it.

The central research problem posed is whether endowments have emerging rulings? and how endowment institutions can preserve this endowment in light of new types that have arisen?

Research scope: Explaining the concept of endowment and the various jurisprudential rulings related to it, and focusing on ways to protect endowments from all aspects.

To achieve all this, I adopted descriptive, analytical and incomplete inductive search methodology, in order to achieve research objectives, the most important of which is the ways of protecting it.

As for previous studies, there are many studies on the general concepts of waqf, most of which are in Arabic such as:

- Administrative Allocation As A Mechanism For The Transfer Of Property Waqf To Manage Religious Affairs And Endowments In Algerian Legislation, Edited by: Belli Ahmed – Chawki Nadir.

- Endowment Formulas Between Prevention And Authorization In Algerian Legislation -An Analytical Study Comparing The Provisions Of Islamic Sharia-, Edited by: Bouhassoune Abderrahmane.

- An article In English: Water Endowment Requirement And Contemporary Applications As A Tool In Promoting Sustainable Water Security -From The Perspective Of Islamic Economics-, Edited by: Hireche Abdelkader.

The institution of endowment (waqf) is one of the institutions that has shown a distinctive aspect in the history of Islamic civilization, and the tracker of historians' and travellers' writings and thinkers' works stands impressed by this ancient Islamic institution.

The waqf system has served as the primary funding source for educational facilities, healthcare and social services, defense and security establishments, as well as institutions of thought and culture.

However, I will limit my discussion to what the Maliki school has generally addressed, and I may include relevant points from other schools of thought as needed. This research is structured into an introduction and two main sections: the first focuses on the concept of endowment and its general rulings as: Definition of Guardianship over the Endowment and supervisor of it, and The Concept of Endowment and Its Relation in the Maliki School and Algerian Law, while the second section addresses ways to protect Waqf from the Aspect of Nothingness (Non-existence), and from the Aspect of Existence, then, I concluded the research with a conclusion containing the most important findings and recommendations.

2- Endowment's concept and its general provisions:

History has proven the effectiveness of the Islamic endowment regime in perpetuating these noble endeavors to fulfill their mission in serving the Holy Quran and other educational and social facilities as required, thereby achieving the legal objectives and noble goals. This serves to inspire determination and prompts the nation to do generously¹.

The concept of Endowment and its related Terminology

2-1 The Concept of Endowment and Its Related Terminology:

2-1-1 The Concept of Waqf / Endowment and Its Relation in the Maliki School:

A- Definition of Waqf / Endowment:

- Linguistic Definition of Waqf / Endowment:

The term "Waqf" refers to the ownership of something in perpetuity; it is to dedicate it, as in "uqfahu." To endow land, property, or an animal means to dedicate it in the cause of Allah, hence it is an endowed entity, and it is referred to as "waqf." The plural form is "awqaf."²

Legal Definition of Endowment: According to the definition provided by Maliki jurists, Ibn Arafah who defines endowment as giving the benefit of something the duration of its existence while necessitating that it remains in the ownership of the donor, even if this is merely hypothetical³.

Additionally, the definition provided by al-Adawi states that endowment is giving benefits in perpetuity⁴.

"Waqf" is named by this term because the property is endowed, and "Habs" because the property is held in custody; some jurists express it as "habs," while others use "waqf," with the latter being considered stronger in the context of custody. The two terms are synonymous in language; one may say "waqftuh" (I endowed it) and "habastuh" (I held it)⁵. Thus, waqf is equivalent to habs, although jurists have predominantly used the term "waqf."⁶

B- Definition of Endowment Management:

Endowment management refers to the authority responsible for maintaining the endowment, ensuring the preservation of the endowed property, organizing its utilization, and delivering these benefits to the entitled beneficiaries. This is referred to in legal terms as (**Nizarah On The Waqf**).

C- Definition of Guardianship over the Endowment:

Guardianship over the endowment is a legal authority that allows its holder to manage the affairs of another, coercively if necessary⁷.

Guardianship (wilayah) is the authority granted to an individual to manage a particular matter, which is accompanied by the responsibility to preserve that matter and fulfill the purpose of its existence. It is a legitimately established right to administer the endowment's affairs, safeguard its assets, invest it, and disburse its proceeds to its beneficiaries in a legitimate manner according to the conditions of the endowment owner⁸.

The guardianship over the endowment can be either original or by authenticity (original guardianship /wilayah asliah), which belongs to the endower (Waqif) by default or as required by the donor (endowment owner), or may be a beneficiary's right (mawquf alayh); the beneficiary has the right to original guardianship if the endower has not appointed a supervisor (nazir) for the endowment. Alternatively, it may be held by a judge or ruler due to their general authority if the endower has not reserved the guardianship for themselves or appointed an administrator. Then there is the sub-guardianship (proxy guardianship/ wilayah bil-wakalah) of a non-original guardian if required by the owner (endower), and the supervisor of the endowment may delegate to any person all or some of his property or authorize someone to assist him in managing his endowment.⁹

D- Definition of the Supervisor of Waqf affairs:

The jurisprudence scholars named the (Nazir), the guardian, the administrator, or the supervisor of Awqafs (endowments).

The Awqafs administrator or supervisor (nazir) refers to an individual who possesses the authority to manage the endowment and oversee its

affairs, including its exploitation, reconstruction and preservation, execution of owner's conditions, and disbursement of its benefits to the rightful beneficiaries. The administrator may only act in ways that benefit the endowment if he deems it to be in good interest, and he do not permit to anyone to do an act only that he increases endowments welfare¹⁰.

The Supervisor of Waqfs has the right to lease Waqfs if he sees interests and benefits in it. He is entitled to utilize the endowed land by cultivating it with various types of crops, while ensuring that he serves the interests of the endowment and its beneficiaries. Additionally, he has the authority to convert agricultural land -especially those near urban areas- into buildings for rental purposes under special conditions. He also has the right to change the characteristics of waqfs better than those that are more suitable for waqfs and beneficiaries' interests¹¹.

2-1-2 The Concept of Waqf and Its Related in Algerian Civil Law:

The concepts and definitions related to endowments in Algerian civil law do not significantly differ from those in Islamic jurisprudence, except in terms of phrasing; as legal scholars base their references on sharia law. Therefore, I will provide definitions for some relevant terms concerning endowments in the law as follows:

A- Definition of Endowment in Algerian Civil Law: Endowment is defined in the Algerian civil law, which encompasses Family Law, under the 3rd Article of Law No. 91-10 dated: Shawwal, 12th, 1411 AH, corresponding to April 27, 1991, concerning endowments, amended and supplemented, as follows: The endowment is the confinement of property from ownership in perpetuity for charitable purposes, for the benefit of the poor, or for any purpose of righteousness, goodness and benevolence.¹²

The reader of this definition notes that it is based on the combination of three essential characteristics of endowments: perpetuity and durability, relinquishing ownership of the endowed property, and the characteristic of the intention of charity and giving; the definition mentioned in Law No. 91-10 stipulates that the charitable giving is for the benefit, not for the endowed property itself.

B- Definition of Endowment Properties in Algerian Civil Law:

Endowment properties are also defined in Article 31 of Law No. 90-25, which encompasses real estate guidance law, as follows: "Endowment properties are real estate that the owner has confined of their own will to ensure that enjoyment is perpetual for the benefit of a charitable organization or a public benefit association, whether this enjoyment is immediate or occurs upon the death of the appointed intermediary guardians specified by the said owner."¹³

C- Definition of Endowment Supervision:

Article 7 of Law No. 90-10, dated April 27, 1991, states that endowment supervision refers to the direct management of the endowed property, its care, development, utilization, preservation, and protection¹⁴.

D- Definition of the Endowment Supervisor:

Articles 33 and 34 of Law No. 91-10, dated Shawwal 12, 1411 AH, corresponding to April 27, 1991, define the endowment supervisor as the individual responsible for managing endowment properties in accordance with procedures determined by a regulatory text that defines the conditions for appointing the endowment's supervisor, his rights, and the limits of his authority.

2-2 The Ruling of Endowment:

Islamic scholars have differing views on its ruling, but the correct opinion -which is held by the Maliki school and the majority- is that it is recommended and encouraged; this is because it is one of the best acts of devotion one can offer to Allah Almighty. Our Prophet Muhammad (Peace be Upon Him), along with Omar, Uthman, Ali, Talha, Zubair, and other companions (may Allah be pleased with them), dedicated houses and lands as endowments. This practice is unique to Muslims¹⁵.

Al-Shafi'i also indicated that endowment is one of the characteristics of Islam's people, because people of ignorance era did not endow any houses or lands for the sake of endowment, while it is the Muslims who have established this practice¹⁶.

It is well known that endowment involves preserving the original asset while dedicating its benefits for use¹⁷. Its ruling is that it is among the best acts of devotion and recommended practices, due to its contribution to public benefit and the attainment of continuous reward. The evidence for this is the well-known hadith: "When a person dies, their deeds are discontinued except for three exceptions: a continuous charity, or knowledge from which benefit continues to be reaped, or a righteous child who supplicates for him."¹⁸

In contrast to the Maliki school and the majority, Abu Hanifa and his followers held that endowment is prohibited and invalid during the lifetime of the endower. Abu Hanifa did not permit endowment, leading some people to take this statement at face value and assert that endowment is not permissible. But the correct saying that all scholars say that endowment is permissible, including Abu Hanifa and his companions¹⁹.

Narrated Ibn Omar: Omar acquired land in Khaybar and came to the Prophet Muhammad (Peace Be Upon Him) saying: "I have obtained land that is more valuable to me than any wealth I have ever possessed. What do you command regarding it?" The Prophet replied: "If you wish you may make the property an endowment and give its produce as Chariry." So Omar gave the land as Chariry (in endowment on the condition) that must not be sold, inherited, or given away. And he gave its produce as Chariry to be devoted to the poor, relatives, the emancipation of slaves, in Allah's Cause, for travelers and guests, and there is no sin upon the one who administers it if he eats something from it in a reasonable manner or gives something to a friend to eat, provided he does not store anything as goods (for himself)²⁰.

In the words of Jabir (may Allah be pleased with him): "I know of no one among the Companions of the Messenger of Allah (Peace Be Upon Him) from the emigrants and the helpers who did not establish an endowment²¹."

It has been reported from Ibn Rushd that endowments are a desirable act, worked by the Prophet (Peace Be Upon Him) and the Muslims thereafter²².

Additionally, consensus has been reported regarding the legitimacy of waqf (endowment); Al-Qarafi stated: "They wrote extensively on this matter, prohibiting sale and gifting, and their endowments are well-known in the two holy sanctuaries with their conditions and circumstances, passed down by their successors from their predecessors; thus, it is a consensus."²³

The waqf (endowment) played a vital role in the Financing the Public Treasury (Muslim House of Money /Bayt al-Mal of Muslims) and in Building and Developing Islamic Civilization. This is because the Prophet (Peace Be Upon Him) motivated, as well as the Companions and those who came after them competed to contribute and initiate it.

The prime example of waqf is the endowment established by the third caliph, Uthman ibn Affan (may Allah be pleased with him), when he purchased the Well of Ruma from a Jew and dedicated it as an endowment for the Muslims.

2-3 Some Juridical Rulings of Waqf:

Our scholars have addressed many rulings related to waqf; here I will discuss two of its general issues: 1st issue: for the endower benefit from his endowment, and the 2nd issue: jurisprudence ability to change the Waqif's requirement.

2-3-1 The Ruling on the benefit of the endower (Waqif) from his endowment (Waqf):

Which appears from the statements of the scholars the permission of waqif's benefit from his waqf; however, he is considered like any other individual. According to Uthman (may Allah be pleased with him) that the Prophet (Peace Be Upon Him) asks "Whoever buys Ruma's Well, but his bucket will be like the buckets of other Muslims." Thus, Uthman (may Allah be pleased with him) purchased it²⁴.

In the hadith, it is understood that the waqif may benefit from what he endows if he stipulates that condition. This can be divided into two categories: if someone endows a well for the water carriers, it is permissible for him to drink from it even if he does not stipulate it; this is because he is included among the water carriers. On the other hand, if someone endows a property, he is not permitted to benefit from any part of it unless he stipulates that his share in it is equal to that of any other Muslim. If he does not make such a stipulation, then he is not allowed to derive any benefit from it, as he has dedicated it for the sake of Allah, and it is not permissible to retract that²⁵.

If someone provides a channel of water to a mosque, he is allowed to drink from it. Likewise, if he provides a channel of water to others, he is permitted to drink from it as well²⁶.

Omar (may Allah be pleased with him) stated, "There is no harm for the one in charge to eat," and it may be that the waqif or others may take charge; this is broad for everyone²⁷.

2-3-2 The Ruling on Changing the Waqif's Requirement:

It is not permissible to change the waqif's 's requirement, according to the Maliki school and the other three schools. However, but Hanbalis school stated some details.

According to the Malikis (as well as the Hanafis and Shafi'is), the waqif's requirement is as a legal text (text of the Shari'ah), both in understanding and implication, and must be adhered to. Just as it is necessary to heed and follow the text of the Shari'ah, it is equally essential to respect the waqif's conditions that comply with the Shari'ah, as they serve the interests that return to the waqif. Conversely, any condition that contradicts the Shari'ah is invalid²⁸.

The Malikis further emphasize that the waqif's condition must be followed, even if it involves something deemed disliked (Makruh)²⁹.

It is permissible, according to them (Four Jurisprudence School), for the supervisor of the waqf to do any actions regarding the waqf that are aligned with its intended purpose, even if they contradict its conditions. For example, if water is endowed for bathing and ablution, the overseer may allow the thirsty to drink from it; this is permitted because if the waqif were alive, he would not prohibit such use³⁰.

In the Hanbali school, there is a difference of opinion. They permit changing the waqif's condition to something more beneficial. Thus, if water is endowed specifically for drinking, it would not be permissible to use it for ablution or bathing, but wealthy individuals may drink from the water designated for that purpose³¹.

3- Means of Preserving Waqfs:

It is established in Islamic law that the property of a waqf belongs to Allah Almighty, and it is essential to preserve it and refrain from any actions that would transfer ownership. The preservation of waqfs will be from two aspects: from the aspect of nothingness (non-existence), and from the aspect of existence. The details of what we have mentioned are as follows:

3-1 Preserving Waqfs from the Aspect of Nothingness:

The preservation of waqf assets from the aspect of nothingness refers to the attention and care given to the waqf properties of various types, protecting them from loss, decay, and waste. This aspect of preservation aligns with the first part of the definition of waqf, which is the (holding of the asset), It is like preserving the capital, and safeguarding the capital takes precedence over seeking profits and benefits. Methods that can be employed to preserve waqfs from this aspect include:

1. Reviewing the management of waqf facilities, auditing, and regulating them.
2. Preserving waqfs by organizing their utilization, delivering and disbursing of this benefit to the legitimate manner' beneficiaries and preserving their its assets; by keeping it in a valid condition capable of generating other Waqfs' benefit.
3. Preserving the assets of the waqf requires reconstruction and renewal of it in order to maintain its substance and production capacity, and to perform maintenance in order to uphold the productive capacity of Waqf funds. It is decided to replace Waqf in cases of subvertation or diminished productive capacity. As stated in "Al-Durr Al-Mukhtar" and its commentary, the revenues of the waqf should be allocated to its renovation before being distributed to the rightful beneficiaries, as this takes precedence due to the necessity of its reconstruction³².

According to the renowned opinion of the Maliki school in renewing of the waqf, if the waqf has subverted and a party other than the waqif wishes to restore it, the waqif or his heirs have the right to prohibit this restoration, as the property itself is owned³³.

There is a weak opinion that contradicts the majority, which is attributed to Malik, allowing the sale or exchange of the waqf if it is in disrepair³⁴, or that a portion may be sold sufficient for its repair, but not the entirety if not needed³⁵.

What appears to me from the statements of our Maliki scholars is that the following can be the following:

- If the waqf is in devastation and is under the ownership of the Waqif or his heirs, they have the right to prevent the non-owner from restoring or renewing it, because it is a disposal in his non-ownership.
- However, if the waqf is not under the ownership of the endower or his heirs, but rather is public property, then it is permissible to renew or repair it in order to preserve ownership and general interest.
- Some old endowments were modest things, perhaps the cost of restoring them was more than the value of the endowment itself.

This is supported by what has been narrated from Ibn al-Qasim and Ibn Wahb from Malik regarding the permissibility of selling or exchanging the waqf if it is in disrepair³⁶.

4. Restoring what has deteriorated or what is about to collapse; restoration is the remedy for waqfs at risk of deterioration.

5. Review the management and maintenance of the endowments; The maintenance of the endowments is to protect them so that it is not destroyed.

6. One of the ways to preserve wealth from depletion -including waqf assets- is to keep it away from prohibited and questionable transactions. It is important to note that one of the means of losing waqf assets is to invest some waqf funds in certain forbidden transactions, such as usurious loans, prohibited assets, and transactions that are forbidden. Allah, the Exalted, says in Surat Al-Baqarah, Verse 276 That Allah abolishes usury and increases charitable giving. And He, the Almighty, says In Surat Ar-Rum, Verse 39 That whatever [interest] you give to increase within the people's wealth will not be increased by Allah".

3-2 Preserving Waqf in Terms of Existence:

Preserving the waqf in terms of existence refers to maintaining it by increasing its value and creating additional resources and sources for the waqf. This involves achieving profits, expanding the customer base, and enhancing sales and export resources. The preservation of endowments funds can be preserved in terms of existence by:

1. Preserving the endowment's principal involves performing certain functions; this includes investing it, generating returns, and distributing them.

2. Replacement and exchange: Also referred to as investment and substitution; this involves selling the waqf asset and purchasing another asset to serve as a waqf in its place, or transferring the waqf from one asset to another³⁷.

This method preserves the productive capacity of the waqf by selling a waqf asset that has become damaged or has diminished in its yield and replacing it with another asset using its proceeds. This approach is permissible among the majority of scholars, with varying interpretations regarding its scope and application³⁸.

3. Preserving the waqf assets by investing some of the waqf funds in avenues that are legally permissible.

4- Conclusion:

In concluding this research, it is important to mention some of the findings reached, as well as some recommendations and proposals based on what has been addressed in its various branches, as follows:

4-1 Findings:

Among the notable findings related to this research are the following:

1. The waqf has played a crucial role in assisting countries and governments in fulfilling public functions such as education, healthcare, defense, infrastructure maintenance, combating unemployment, and achieving food security, thereby reducing the amount of expenditure directed toward these sectors, which is becoming increasingly necessary for countries and governments in the Islamic world.

2. The waqf system in Islam serves various purposes, including its investment in diverse economic and charitable sectors and fields, significantly contributing to economic development and strengthening both the profit-oriented and the non-profit charitable aspects.

3. The subject of substitution and replacement is regulated by Islamic jurisprudence, allowing for such actions in cases of waqf degradation, a decrease in its productive capacity, or the existence of an alternative avenue yielding a higher return than the current waqf.

4. Our Maliki jurists have thoroughly addressed the topic of waqf and excelled in all its aspects. Maliki jurisprudence has made a significant contribution to this, particularly concerning the preservation and development of endowment and standing up to the condition of the endower and the intention of its owner or heirs, and the appointment of supervisors to manage and maintain the endowment.

4-2 Recommendations:

What I can recommend and suggest on the subject of waqf are the following:

1. Revitalizing the Endowment Institution to revive this important and lost role. To achieve this, the responsible and concerned authorities must demonstrate their respect for the waqf institution, provide support for it, facilitate its role, and encourage individuals and institutions to dedicate their funds as waqf. Governments can select a number of vital projects, prepare specialized studies for them, and take the necessary endorsement procedures, then invite philanthropists and investors to allocate their funds in support of these projects in accordance with the legal and customary provisions of waqf.

2. The institution responsible for awqaf must exercise great diligence in recovering all that has been verified as waqf belonging to it, as many waqf properties have been lost due to encroachments over many years, the absence of an accurate inventory, and the deterioration of numerous endowments under its purview. Therefore, it is essential to form committees to comprehensively and thoroughly inventory and reclaim them.

3. It is necessary to enact laws that regulate and govern the waqf system and its projects, ensuring they align with our sound Maliki jurisprudence.

4. The establishment of new endowments is necessary, as most of the existing waqf properties are inherited from ancestors, and current generations have not contributed to creating new endowments or renewing the old ones, due to the lack of awareness about endowments and their importance, in addition to what has settled in the minds that endowments are the responsibility of the government. So it's time to turn to adopt modern financing methods that are based on collective waqf.

5. There should be an increase in scientific studies related to innovative types of waqf, such as waqf for benefits and properties, as well as waqf associated with the digital and virtual world. Public awareness needs to be raised about these concepts so that waqf can have a bright future, ensuring that future generations benefit from its proceeds and that the intentions of the endowers are fulfilled, making it a continuous charity that is beneficial in this life and after death.

At the end of this article, I ask God Almighty to Guide us to the Straight Path, to give us peasant and success in this life and in the other, He deserves all praise at the beginning and the end.

5- References:

- 1- **Al-Qur'an El-Karim**, Electronic Mus-haf, Shamela Library.
- 2- Abu Sulayman, Abd al-Wahhab bin Ibrahim, **The Interest of Muslims for Waqf in Service of The Holy Quran**, King Fahd Complex for the Printing of the Holy Quran, Medina- KSA.
- 3- Mohamed bin Yaqub El-Fairuzabadi, **Al-Quaamus Al-Muhit**, ER-Risalah Foundation, Beirut, Lebanon, 8th Ed, 1426 AH-2005 CE.
- 4- Ahmad Rida, **Mu'jam Matan Al-Lugha**, Dar Maktabat Al-Hayat, Beirut, Lebanon, 1380 AH - 1960 CE.
- 5- Mohammad ibn Mohammad ibn Arafah, **Al-Mukhtasar Al-Fiqhi**, Edited by: Hafiz Abdul Rahman Mohammad Khair, Khalaf Ahmad Al-Khabtour Charity Foundation, 1st Ed, 1435 AH - 2014 CE.
- 6- Ali bin Ahmed El-Adawi, **Haashiyat El-Adawi on Kifayat ET-Talib AR-Rabbani**, Edited by: Yusuf ES-Sheikh Mohamed El-Baqai, Dar El-Fikr, Beirut, Lebanon, 1st Ed, 1414 AH 1994 CE.
- 7- Mohammad ibn Qasim al-Rasa'i, **Commentary on the Limits of Ibn Arafah**, Al-Maktabah Al-Ilmiyyah, Beirut, Lebanon, 1st Ed, 1350 AH.
- 8- Mohammad ibn Abdullah al-Kharchi, **Commentary on Mukhtasar Khalil by al-Kharchi**, Dar Al-Fikr, Beirut, Lebanon.
- 9- Abdul Aziz ibn Abdullah, **Ma'alimat al-Fiqh al-Maliki**, Dar Al-Gharb Al-Islami, Beirut, Lebanon, 1st Ed, 1403 AH - 1983 CE.
- 10- Mohammad ibn Ahmad al-Salih, **Al-Waqf in Islamic Law and Its Impact on Community Development**, King Fahd National Library, Riyadh, KSA, 1st Ed, 1422 AH - 2001 CE.
- 11- Mohamed bin Ahmed al-Desouki, **Haashiyat ED-Desouki on ES-Sharh El-Kabir**, Dar El-Fikr, Beirut, Lebanon.
- 12- Mouloud Ouslimane, **El-Waqf According to the Maliki Jurists and Its Role in Achieving Social Solidarity**, Master's Thesis, El-Qarawiyyin University, Faculty of Sharia, Fes, Morocco, 1423 AH - 2003 CE.
- 13- Ministry of Awqaf and Islamic Affairs in Kuwait, **The Kuwaiti Jurisprudential Encyclopedia**, Dar Al-Salasil Press, Kuwait, 2nd Ed, from 1407 AH to 1427 AH.
- 14- Mohammad Ubaid Al-Kubaisi, **The Rulings of Waqf in Islamic Law**, Al-Irshad Press, Baghdad, Iraq, 1397 AH - 1977 CE.
- 15- **The Official Gazette**, Waqf Law 91-10, Article 03, dated 12 Shawwal 1411 AH, corresponding to April 27, 1991 CE.

- 16- **The Official Gazette**, Real Estate Guidance Law issued by Decree 90-25, amended and supplemented in Article 31, dated November 18, 1990 CE.
- 17- **The Official Gazette**, Waqf Law 91-10, Article 07, dated 12 Shawwal 1411 AH, corresponding to April 27, 1991 CE.
- 18- Ahmed bin Ghanem El-Nafrawi, **Al-Fawakih Al-Diwani on the Treatise of Bin Abi Zayd El-Quayrawani**, Dar El-Fikr, 1415 AH - 1995 CE.
- 19- Mohammad ibn Idris Al-Shafi'i, **Al-Um**, edited by Rafat Fawzi Abd Al-Muttalib, Dar Al-Wafa, Mansoura - Egypt, 1st Ed, 1422 AH - 2001 CE.
- 20- Mohammad ibn Mohammad Al-Hattab, **Mawahib Al-Jalil in the Commentary on Mukhtasar Khalil**, Dar Al-Fikr, Beirut - Lebanon, 3rd Ed, 1412 AH - 1992 CE.
- 21- Ali ibn Mohammad Al-jum'a, **Dictionary of Economic and Islamic Terminology**, Al-Obeikan Library, Riyadh - KSA, 1st Ed, 1421 AH - 2000 CE.
- 22- Muslim bin El-Hajaj El-Naissabouri, **Authentic Hadeeths of Imam Muslim / (Sahih Muslim)**, Edited by Mohamed Fouad AbdElbaqi, Dar Ihya' El-Tourath El-Arabi, Beirut – Lebanon.
- 23- Abu Bakr bin Mas'ud El-Kassani, **Badaa'i' Al-Sana'i' fi Tartib ES-Sharai'**, Dar El-Kutub El-Ilmiya, Beirut - Lebanon, 2nd Ed, 1406 AH - 1986 CE.
- 24- Mohamed Amin bin Omar bin Abidin, **Radd El-Muhtar 'ala ED-Durr El-Mukhtar**, Dar El-Fikr, Beirut - Lebanon, 2nd Ed, 1412 AH - 1992 CE.
- 25- Ahmed bin Shu'ayb El-Nasa'I, **Sunan El-Nasa'I / (ES-Sunan El-Kubra)**, edited by Abdelfattah Abu-ghuddah, Islamic Printed Office, Alepo- Syria, 2nd Ed, 1406 AH 1986 CE.
- 26- Abu Bakr El-Khasaf, **Ahkam El-Awqaf**, Deewan 'Umoom El-Awqaf, Cairo - Egypt.
- 27- Mohamed bin Ahmed ibn Rushd, **El-Muqaddimat El-Mumahhidat**, Edited by Dr. Mohamed Hajji, Dar El-Gharb El-Islami, Beirut - Lebanon, 1st Ed, 1408 AH - 1988 CE.
- 28- Ahmed bin Idris El-Quarafi, **ED-Dhakira**, Edited by Mohammad Hajji - Said A'raab - Mohammad Bou Khobza, Dar Al-Gharb Al-Islami, Beirut - Lebanon, 1st Ed, 1414 AH - 1994 CE.
- 29- Mohamed bin Ismail El-Bukhari, **Authentic Hadeeths of Imam El-Bukhari/ (Sahih Al-Bukhari)**, Edited by Mohamed Zoheir An-naacer, Dar Tawq An-najat, 1st Ed, 1422 AH.

- 30- Ali bin Khalaf bin Battal, **Sharh Sahih Al-Bukhari by Bin Battal**, Edited by Yasser bin Ibrahim, Al Rushd Library, Riyadh - KSA, 2nd Ed, 1423 AH - 2003 CE.
- 31- Ahmed bin Ali bin Hajar El-Asqualani, **Fath El-Baari Sharh Sahih El-Bukhari**, Dar El-Ma'rifah, Beirut - Lebanon, 1379 AH - 1959 CE.
- 32- Othman bin Mohamed Shaata Al-Dumyati, **I'aanet AT-Talibin 'ala Halli Alfadh Fath El-Mu'in**, Dar El-Fikr, Beirut - Lebanon, 1st Ed, 1418 AH - 1997 CE.
- 33- Ahmed bin Mohamed ES-Sawi, **Bulghat ES-Salik li-Aqurab El-Massalik ila Madhhab El-Imam Malik**, Dar Al-Ma'arif, Beirut – Lebanon.
- 34- Ali bin Souleiman El-Mardawi, **El-Insaf fi Ma'rifati Ar-Rajihi min El-Khilaf**, Dar Ihya' El-Tourath El-Arabi, Beirut - Lebanon, 2nd Ed.
- 35- Uthman bin Umar ibn Yunus, **Jam'i Al-Ummahat**, edited by Abu Abdul Rahman Al-Akhdr Al-Akhidri, Dar Al-Yamama, 2nd Ed, 1421 AH 2000 CE.
- 36- Issa bin Sahl ElGharnati, **Deewan El-Ahka'm El-Koubra**, Dar Al-Hadeeth, Cairo - Egypt, 1428 AH - 2007 CE.

¹ See: Abu Sulayman, Abd al-Wahhab ibn Ibrahim, The Concern of Muslims for Waqf in Service of the Holy Quran, King Fahd Complex for the Printing of the Holy Quran, Medina, Saudi Arabia, (p. 48).

² See: Mohammad ibn Yaqub al-Fairuzabadi, Al-Qamus Al-Muhit, Al-Risalah Foundation, Beirut, Lebanon, 8th Ed, 1426 AH-2005 CE, (p. 860); Ahmad Rida, Mu'jam Matan Al-Lugha, Dar Maktabat Al-Hayat, Beirut, Lebanon, 1380 AH - 1960 CE, (5/800).

³ See: Mohammad ibn Mohammad ibn Arafah, Al-Mukhtasar Al-Fiqhi, Edited by: Hafiz Abdul Rahman Mohammad Khair, Khalaf Ahmad Al-Khabtour Charity Foundation, 1st Ed, 1435 AH - 2014 CE, (8/429).

⁴ See: Ali ibn Ahmad Al-Adawi, Hashiyat Al-Adawi on the Commentary of Kifayat al-Talib al-Rabbani, Edited by: Yusuf Al-Sheikh Mohammad Al-Baq'a'i, Dar Al-Fikr, Beirut, Lebanon, 1st Ed, 1414 AH 1994 CE, (2/263)

⁵ See: Mohammad ibn Qasim al-Rasa'i, Commentary on the Limits of Ibn Arafah, Al-Maktabah Al-Ilmiyyah, Beirut, Lebanon, 1st Ed, 1350 AH, (p. 410); Mohammad ibn Abdullah al-Kharchi, Commentary on Mukhtasar Khalil by al-Kharchi, Dar Al-Fikr, Beirut, Lebanon, (7/78).

⁶ Abdul Aziz ibn Abdullah, Ma'alimat al-Fiqh al-Maliki, Dar Al-Gharb Al-Islami, Beirut, Lebanon, 1st Ed, 1403 AH - 1983 CE, (p. 328).

⁷ Mohammad ibn Ahmad al-Salih, Al-Waqf in Islamic Law and Its Impact on Community Development, King Fahd National Library, Riyadh, Saudi Arabia, 1st Ed, 1422 AH - 2001 CE, (p. 78).

⁸ See: The same reference, (p. 78).

⁹ See: Mohammad ibn Ahmad al-Desouki, Hashiyat Al-Desouki on Al-Sharh Al-Kabir, Dar Al-Fikr, Beirut, Lebanon, (4/78).

¹⁰ See: Mouloud Ouslimane, Al-Waqf According to the Maliki Jurists and Its Role in Achieving Social Solidarity, Master's Thesis, Al-Qarawiyyin University, Faculty of Sharia, Fes, Morocco, 1423 AH - 2003 CE, (p. 59); Ministry of Awqaf and Islamic Affairs in Kuwait, The Kuwaiti Jurisprudential Encyclopedia, Dar Al-Salasil Press, Kuwait, 2nd Ed, from 1407 AH to 1427 AH, (2/383-384).

¹¹ See: Mohammad Ubaid Al-Kubaisi, The Rulings of Waqf in Islamic Law, Al-Irshad Press, Baghdad, Iraq, 1397 AH - 1977 CE, (pp. 199-202).

¹² See: The Official Gazette, Waqf Law 91-10, Article 03, dated 12 Shawwal 1411 AH, corresponding to April 27, 1991 CE.

¹³ See: The Official Gazette, Real Estate Guidance Law issued by Decree 90-25, amended and supplemented in Article 31, dated November 18, 1990 CE.

¹⁴ See: The Official Gazette, Waqf Law 91-10, Article 07, dated 12 Shawwal 1411 AH, corresponding to April 27, 1991 CE.

¹⁵ See: Ahmad ibn Ghanem Al-Nafrawi, Al-Fawakih Al-Diwani on the Treatise of Ibn Abi Zayd Al-Qayrawani, Dar Al-Fikr, 1415 AH - 1995 CE, (2/160).

¹⁶ See: Mohammad ibn Idris, Al-Um, Al-Shafi'i, edited by Rafat Fawzi Abd Al-Muttalib, Dar Al-Wafa, Mansoura - Egypt, 1st Ed, 1422 AH - 2001 CE, (5/107); Mohammad ibn Mohammad Al-Hattab, Mawahib Al-Jalil in the Commentary on Mukhtasar Khalil, Dar Al-Fikr, Beirut - Lebanon, 3rd Ed, 1412 AH - 1992 CE, (6/18).

¹⁷ See: Ali ibn Mohammad Ljam'a, Dictionary of Economic and Islamic Terminology, Al-Obeikan Library, Riyadh - Saudi Arabia, 1st Ed, 1421 AH - 2000 CE, (p. 488).

¹⁸ Narrated by Muslim in his Sahih, Book of Wills, Chapter on What Rewards a Person Reaps After His Death, (1631).

¹⁹ See: Abu Bakr ibn Mas'ud Al-Kasani, Bada'i' Al-Sana'i' fi Tartib Al-Sharai', Dar Al-Kutub Al-Ilmiya, Beirut - Lebanon, 2nd Ed, 1406 AH - 1986 CE, (6/218-219); Mohammad Amin ibn Omar ibn Abidin, Rad Al-Muhtar 'ala Al-Durr Al-Mukhtar, Dar Al-Fikr, Beirut - Lebanon, 2nd Ed, 1412 AH - 1992 CE, (4/338).

²⁰ Narrated by Al-Nasa'i in his Sunan, Book of Habas, Chapter on How to Document a Habas, (3599), and it is authentic.

²¹ Narrated by Abu Bakr Al-Khasaf in Ahkam Al-Awqaf, Chapter on What Has Been Reported Generally About the Charities of the Companions of the Messenger of Allah (Peace Be Upon Him), Diwan 'Uloom Al-Awqaf, Cairo - Egypt, (p. 15).

²² See: Mohammad ibn Ahmad ibn Rushd, Al-Muqaddimat Al-Mumahhadat, Edited by Dr. Mohammad Hajji, Dar Al-Gharb Al-Islami, Beirut - Lebanon, 1st Ed, 1408 AH - 1988 CE, (2/417).

²³ Ahmad ibn Idris Al-Qarafi, Al-Dhakira, Edited by Mohammad Hajji - Said A'raab - Mohammad Bou Khbez, Dar Al-Gharb Al-Islami, Beirut - Lebanon, 1st Ed, 1414 AH - 1994 CE, (6/323).

²⁴ Narrated by Al-Bukhari in his Sahih, Book of Wills, Chapter on Whosoever Considers the Donation of Water and His Bequest as Valid, Whether Allocated or Not..

- ²⁵ See: Ali ibn Khalaf ibn Battal, *Sharh Sahih Al-Bukhari* by Ibn Battal, Edited by Yasser ibn Ibrahim, Al-Rushd Library, Riyadh - Saudi Arabia, 2nd Ed, 1423 AH - 2003 CE, (6/492); Ahmad ibn Ali ibn Hajar Al-Asqalani, *Fath Al-Bari Sharh Sahih Al-Bukhari*, Dar Al-Ma'rifah, Beirut - Lebanon, 1379 AH - 1959 CE, (5/30).
- ²⁶ See: Al-Fawakih Al-Dawani on the Epistle of Ibn Abi Zayd Al-Qayrawani, (2/157); Hashiyat Al-Adawi on Kifayat Al-Talib Al-Rabbani, (2/233).
- ²⁷ Narrated by Al-Bukhari in his *Sahih*, Book of Wills, Chapter on When One Makes a Waqf of Land or a Well, and Conditions for Himself Similar to the Buckets of Muslims, (2778).
- ²⁸ See: Rad Al-Muhtar 'ala Al-Durr Al-Mukhtar, (6/437); Al-Fawakih Al-Dawani on the Epistle of Ibn Abi Zayd Al-Qayrawani, (2/261); Othman ibn Mohammad Shata Al-Dimyati, *I'aaanat Al-Talibin 'ala Hal Alfadh Fath Al-Mu'in*, Dar Al-Fikr, Beirut - Lebanon, 1st Ed, 1418 AH - 1997 CE, (3/200).
- ²⁹ See: Al-Fawakih Al-Dawani on the Epistle of Ibn Abi Zayd Al-Qayrawani, (1/211); Ahmad ibn Mohammad Al-Sawi, *Bulghat Al-Salik li-Aqrab Al-Masalik ila Madhhab Al-Imam Malik*, Dar Al-Ma'arif, Beirut - Lebanon, (4/120); Hashiyat Al-Adawi on Kifayat Al-Talib Al-Rabbani, (2/242).
- ³⁰ See: Al-Fawakih Al-Dawani on the Epistle of Ibn Abi Zayd Al-Qayrawani, (2/161).
- ³¹ See: Ali ibn Sulayman Al-Mardawi, *Al-Insaf fi Ma'rifat Al-Rajih min Al-Khilaf*, Dar Ihya' Al-Turath Al-Arabi, Beirut - Lebanon, 2nd Ed, (7/57).
- ³² See: Rad Al-Muhtar 'ala Al-Durr Al-Mukhtar, (4/366-367).
- ³³ See: Othman ibn Umar ibn Yunus, *Jam'i Al-Ummhat*, edited by Abu Abdul Rahman Al-Akhdr Al-Akhidri, Dar Al-Yamama, 2nd Ed, 1421 AH 2000 CE, (p. 453).
- ³⁴ See: Isa ibn Sahl Al-Gharnati, *Diwan Al-Ahkam Al-Kubra*, Dar Al-Hadith, Cairo - Egypt, 1428 AH - 2007 CE, (p. 588).
- ³⁵ *Sharh Mukhtasar Khalil* by Al-Kharashi, (6/56).
- ³⁶ See: *Diwan Al-Ahkam Al-Kubra*, (p. 588).
- ³⁷ *Al-Waqf in Islamic Law and Its Impact on Community Development*, (p. 131).
- ³⁸ See: The same reference, (pp. 131-142), with abbreviations and modifications.