



Shari'ah Heterogeneity of Indian Islamic Waqf Law (IIWL) and Accounting and Auditing Organization for Islamic Financial Institution (AAOIFI) Standard: A Comparative Study in Light of Classical Rulings

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Abstract

The establishment of the institution of Waqf, or Islamic endowment, was evident from the early days of Islam. Hence, the Prophet's companions (رضي الله عنهم) had established Waqf for their family members or needy people. Over some time, Waqf played a vital role in Islamic history by serving sectors like health, education, and social welfare. With the introduction of Islam in India, the institution of Waqf spread in Delhi and then to other parts. Governance of these Waqf bodies was directly managed by the royal court of the Muslim emperor. After the fall of the Mughal Empire, some acts were enacted by the British empire. Post-independence of India, new laws and acts related to Waqf were enacted, but Shari'ah observation was not the core theme of these acts. In 1972, the All-India Muslim Personal Law Board (AIMPLB) was formed, and it planned to codify *fiqh* rulings related to family matters and Waqf. This study compares the rulings of Indian Islamic Waqf Law (IIWL) with AAOIFI's Shari'ah Standard on Waqf (AAOIFI refers to: no 60, issued in 2019). To achieve this objective, the qualitative method is adopted. The study is divided into a) Introduction, b) Literature Review, c) Analysis, and d) Conclusion and Recommendation. The study highlighted 67 rulings of AAOIFI and IIWL and found five instances of Shari'ah heterogeneity where IIWL has less favourable implications, besides 22 rulings where IIWL has no stand. The study recommends revising IIWL to ensure the growth of Waqf and longer sustainability.

Keywords: Waqf, Islamic endowment, Social welfare, Shari'ah, IIWL, AAOIFI

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1. Introduction

1.1 Waqf in Islam

Waqf is an act by the owner to refrain from any sort of disposition of what he owns by retaining the asset itself so its return for welfare to seek Allah's nearness (Al Bahūti, 1993). There is some evidence of the practice of establishing Waqf in the pre-Islamic era. Egyptians experienced family Waqf, where an elder son of the family was not allowed to dispose of the subject land rather than disburse the revenues on his siblings. This was stated in Dahshur declaration as well (Abū Zahra, 2004). In Islamic history, among the earlier instances of family Waqf was the Waqf created by the companion Abū-Talḥa (RA) wherein he endowed his land in Bīrḥā for his family. Similarly, the companion Umar (RA) endowed his land in Khaybar to benefit poor and needy people (Al Bukhārī, 2017).

Throughout history, Waqf played an essential role in Islamic civilization by achieving social cooperation, providing healthcare, looking after schools and libraries (Majir, 2014). Overall, Waqf can be classified as a

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charitable Waqf, family, or progeny Waqf or a combined Waqf, where it combines the beneficiaries from the family and a righteous purpose (Al Nadwī, 2014).

1.2 History of Waqf in India

Upon reaching Islam to the Indian subcontinent, Waqf bodies were established by the Sultans of Delhi. The first Waqf in Delhi was *Quwwat-ul-Islam Masjid*, which was built by Sultan Qutb al-Dīn Aybak in 1193 (Nadwī, 2014). It is reported that Firoz Shah Tughlaq (d. 1388) created a charitable Waqf to arrange the marriage expenses of poor girls. More than one thousand girls used to avail funds from this Waqf. Also, a Waqf was created to distribute more than three million rupees to the poor and the needy people (Barnī, 2015).

Similarly, Waqf bodies were made to contribute to the running and construction of religious schools and spending on students studying there (Al Ḥasnī, 2001). Even Waqf was made for mosques in India. Sultan Firoz Shah ordered the construction of 8 mosques in Firozabad, near Delhi, which accommodated more than ten thousand persons (Salwat, 2009). India had huge Waqf to serve the need of public and private libraries (Rafiq, 1982). Also, Waqf bodies were made to serve the medical needs of hospitals, which were known as *bimāristān*. Firoz Shāh built 50 hospitals, and one of them was in Delhi, known as *Dār al-Shifā* (Barnī, 2015). Further, there was Waqf for serving the *Khānqāh* and auberge hostel (Salwat, 2009). As per the current figures, there are around 1964 Waqf properties in Delhi, including mosques, graveyards, *Ṣūfī* shrines, commercial places, and lands specified for Waqf (Al Nadwī, 2014).

1.3 Governance of Waqf in India

It was observed that the Muslim Sultans of Delhi aimed to achieve prosperity and development of the public by abiding with norms of social justice. The Waqf bodies were generally governed by a system which ensured that a) Waqf bodies were registered, b) the overseer used to be a person who abides by the teachings and values of Islam, c) Waqf bodies were managed in compliance with Islamic rulings, d) Waqf revenues were distributed in line with Shari'ah, e) Waqf assets were duly repaired on time, and f) to ensure running a fair and open trial for those who misuse funds intended for the Waqf funds (Al Nadwī, 2014).

During the Muslim era, Waqf bodies were managed by overseers appointed formally for the post, and they were supervised by Shari'ah-judges. A robust system of governance ensured generating good revenues. After independence from the British, the responsibility of Waqf in India was given to the government authorities instead of handing it over to Muslim organizations. The government has created the Central Waqf Council, which has various Waqf Boards in different states (Al Nadwī, 2014).

The British Government has enacted Waqf law under the Muslim Waqf Validating Act (1913). Various Waqf laws were followed either as a new law or an amendment to the previous ones. The last full-fledged act was enacted under the name of the Waqf Act (1995). It was observed that the Act deals with establishing the Waqf Board at the centre and the state level.

1.4 Islamic codification of Waqf

At a community level, the All-India Muslim Personal Law Board (MPLB) has proposed a law, or a standard, for matters related to Muslim personal law and matters of inheritance, will, and Waqf (IFA, 2002). These laws relied on the books and opinions of Ḥanafī jurists. These laws are not enacted by any government but are applied in the parallel legal system of Muslims who aim to follow the law of Shari'ah in their day-to-day life. On the other hand, AAOIFI (Bahrain), being a world-renowned and reputed Shari'ah standard body, has issued its Standard No. (60) on Waqf in 2019. Considering the diversity of AAOIFI's Shari'ah Board members, the rulings represent various schools of Fiqh. Currently, there are no studies that focus on AAOIFI's Waqf standard or conduct a comparative study with MPLB's Islamic law of Waqf. The findings will facilitate identifying the gaps in improving the Islamic law of Waqf in India.

2. Problem Statement

AAOIFI is considered the world's leading standard-setting body, which issues standards on Shari'ah, governance, and accounting. The Shari'ah Board of AAOIFI consists of renowned Shari'ah scholars from all over the world. The recent Shari'ah Standard No. (59): Waqf is a re-issuance of an earlier standard which was a result of a long debate and consideration. On the other hand, Waqf Law issued by MPLB (India) has wide-acceptance within the Muslim community. There is no research conducted a study on Shari'ah heterogeneity

of AAOIFI's standard against MPLB's law. It is believed such a study will help with scope of Waqf practices among Indian Muslims.

3. Literature Review

Indian scholars have addressed Waqf's matters through various writings on *fatwā* (Al Nadwī, 2014). Among the earliest writings is *Fatāwā Ālam Gīrī*, which is also known as *Fatāwā Hindiya*, that was written on the order of the Moughal Emperor Aurang Zayb (d. 1707). The book is a compendium of pronouncements of the Ḥanafī jurisprudence, where the scholars have presented rulings from the prior references. The work was done under the supervision of Nizām al-Dīn Burhānpūrī. The book on Waqf included 14 chapters that addressed matters related to the definition of Waqf, its causes, rulings, and conditions.

Further, it has references on things which are acceptable to be subject of Waqf and things which are not. Also, it discussed Waqf with a proviso, usurpation of Waqf and Waqf declaration. The book is considered one of the earliest efforts of the semi-codification of Islamic legal rulings as Ḥanafī (Al Zarqā, 2004). Before that, Farīd al-Dīn Andarpatī (d. 786) had authored a large collection of *fatwās* on various aspects of Islamic jurisprudence with the title *Fatāwā Tatārkhāniya*. The book consisted of 20 volumes, and the 8th volume was dedicated to sale and Waqf. The book of Waqf covered all the aspects related to Waqf rulings and, overall, the book is considered one of the biggest references on Ḥanafī jurisprudence.

In recent times, Indian scholars addressed the topic of Waqf at a collective level. In 1997, the Islamic Fiqh Academy (New Delhi) conducted a three-day session on the topic of Waqf. Scholars, researchers, government officers, and legal professionals were invited to contribute to the conference. Upon the conclusion of the conference, all the presented papers were published by the Academy. The scholarly works, edited by Mujāhid al-Islam Qāsmī, included papers and articles on Waqf in the modern era, important types of Waqf in the present times, problems, and issues of managing Waqf, and assessment of the Waqf Act 1995. Towards the end, there were resolutions on Waqf with reference to India (IFA, 2016). This could be considered as the first Arabic work in modern Indian, which was the product and reflection of collective stand by religious scholars. This was followed by another session of discussion conducted by the academy in 2004. The proceedings were published in Urdu in 160 pages under the title *Mawjūda Aham Samājī Masā'il Kay Hal Kay Liya Waqf kī Ahamī Aur Tariqakār* (Importance of Waqf in solving current issues of Waqf and its methodology). The proceedings addressed matters related to the necessity of exercising *ijtihād* in the modern issues of Waqf, rulings on establishing new types of Waqf, and, most importantly, usage of Waqf in serving the social goals when it comes to poverty upliftment.

Contemporary Indian scholars have addressed Waqf either by writing inclusive books on Waqf or by addressing queries raised by the public. As far as dedicated books on Waqf are concerned, so there are few important works in this regard. For instance, Maḥmūd al-Ḥasan Ārif has written a 282 pages book in Urdu with the title "*Islām kā Qānūn Waqf mia Tārīkh Muslim Awqāf:*" The author presented the legal framework of Waqf in Islam with detail while addressing the special or general issues which may arise in establishing and managing Waqf. Also, the book presented the history of Waqf in the Indian subcontinent. Also, Khālid Sayf Allah Raḥmānī has covered the topic of Waqf in his encyclopaedic work in Urdu titled *Qāmūs al-Fiqh*. The chapter discussed the definition and conditions of establishing a Waqf besides conditions related to appointing an overseer and his responsibilities. What makes this work on Waqf different among the works done by Indian scholars are referring to the rulings of other jurisprudence besides the Ḥanafī rulings. Considering the scenario of India, the section emphasized Waqf related to the mosques and the places of performing prayers (e.g., Eid grounds) (Raḥmānī, 2012).

Further, the author Khālid Sayf Allah Raḥmānī has addressed the rulings on Waqf via another book in Urdu called *Jadīd Fiqhī Masā'il*, wherein he particular to unprecedented matters of Waqf establishment and management. In more recent works is the Urdu book by Zafar Ālam Nadwī with the title *Islām kā Nizame Waqf*. The book aimed to re-present the rulings on Waqf mentioned in the classical references to address new matters and issues. The book followed contemporary approach in presenting the rulings and making it easy for the readers to reach the required information.

On the other hand, Indian scholars responded to general queries raised by the public from time to time. For instance, Ashraf Alī Thanwī (d. 1943) compiled a *fatwā* compendium titled *Imdād al-Fatāwā*, which addressed matters related to the management of Waqf like selling assets of the Waqf property to serve other purposes of Waqf (Thānwī, 1428H). Similarly, Kifāyat Allah Dehlawī (d. 1952) addressed in his *fatwā* compendium, titled

Kifāt Al-Muftī, various matters related to Islamic law. In the 7th volume, more than 250 pages were dedicated to various *fatwās* related to Waqf with focus on Waqf of mosques, Eid-grounds, graveyards, and Waqf on children. The author relied on the directives of the Qurān and Sunnah, besides referring to juristic consensus (Dihlawī, 2001). Further, Abd Raḥīm Lājpurī presented a compendium titled *Fatāwā Raḥīmiya* which addressed matters related to Waqf of graveyards, mosques, and religious institutions of a Madrasa. The book also contains *fatwās* on the management of Waqf by non-Muslims (Lājpurī, 2003).

In the 1970s, when Muslims of India was the target of a common civil code which aims to eliminate their juristic identity as advised by Islam, so Muslim scholars called for a convention to establish the Muslim Personal Law Board on 27th December 1972, and Muḥammad Ṭayb Qāsimī was chosen as its head (Nadwī, 1430H). In due course of time, the board has worked on a draft of Islamic law in Urdu related to marriage, divorce, gift, inheritance, and Waqf. The purpose of these laws, which were not enacted by a government, was to enable *Qāḍī* or Shari'ah-judge, i.e., Muslim judges in parallel courts, to judge various matters in line with Islamic teachings. The rulings were divided into 13 books of law, which were known individually as *qānūn*. Each law contained sections that were referred to as *dufa*, i.e., the legal section. The Waqf law presented rulings on Waqf establishment besides its management and governance. In the footnote, references were given from the classical books of *fiqh* like *Fatāwā Hindīya*, *Rudd al-Muḥtār*, and *Baḥar al-Rā'iq*. Undoubtedly, the effort is the first of its kind in India, which deserves to be classified as codification. However, it remained mostly confined to the Ḥanafī view without referring to other schools of jurisprudence. Also, the law on Waqf was confined to the physical property and gave no reference to different kinds of possible Waqf.

Considering the scholarly efforts of Indian scholars on matters and issues of Waqf, it is evident that mostly the Waqf are related to mosques, graveyards, or religious institutions. Further, the reliance is mostly made on the Ḥanafī school of jurisprudence. This kind of approach and scholarly works mark a research gap against the modern development in the thought and rulings of Waqf, which can be better understood via AAOIFI's Shari'ah Standard on Waqf.

4. Analysis

The Waqf is created by a party referred into Arabic as *wāqif* (MAIA, 2006). In this paper, the party is referred endower because endowment, also refer to “any property belonging permanently to charity” (Oxford, 2015). Further, the Waqf has *mustahiq fi al-waqf* who is a party entitled to a share in the proceeds or revenue of the Waqf (Abū Zahra, 2004). This party is referred in the present study as Waqf beneficiary. The Waqf is managed by the overseer (*nāzir*) who leases property, collects the rental, and disburses the accumulated amount in Shari'ah-wise acceptable ways, and is also referred to as *mutawālī* (Hammād, 2008). The same position is also referred to as trustee (*amīn*) as well which was defined in the Indian Trusts Act as “one to whom property is entrusted to be administered for the benefit of others” (Aiyar, 1997).

The Waqf Law proposed by the Muslim Personal Law Board (India) (IFA, 2002) is referred in this paper as Islamic Indian Waqf Law or IIWL. On the other hand, reference to AAOIFI's Shari'ah Standard No. (60) on Waqf (AAOIFI, 2019) is referred as AAOIFI.

This section of the paper deals with the following aspects of Waqf rulings: a) creation of Waqf, b) Waqf beneficiaries, c) Waqf assets, d) governance of Waqf, and e) management of Waqf.

4.1 Creation of Waqf

4.1.1 The Endower's qualification

As per IIWL, the person who is instituting the Waqf should be believing in seeking the religious reward for the act of Waqf.

As per IIWL, the endower should be of full mental capacity and adult. AAOIFI had no reference on the age and the mental status of the endower. There seems to a juristic consensus that the endower cannot be a child. This was adopted by Ḥanafīs (Al Kāsānī, 1986), Mālikīs (Al Dardīr, 2010), Shaf'īs (Al Ramlī, 2003), and Ḥanbalīs (Al Bahūtī, 1983).

As per AAOIFI (no 60, issued in 2019), Waqf can be instituted by a non-Muslim. There was no reference by IIWL on this point because as per Ḥanafīs, a Waqf by a non-Muslim will be acceptable if two conditions are fulfilled: a) the purpose of Waqf was in itself permissible as per Shari'ah, and b) the purpose of Waqf is deemed as a religious subservience as per the religion of the endower. Hence, a non-Muslim cannot endow upon a mosque because this is not an act of subservience in his religion.

As per AAOIFI, the Waqf can be done by a legal entity or juristic person when the decision to institute the Waqf is made by its owners or those who have the right to take the decision. IWL has no reference to this matter.

4.1.2 Enforceability of Waqf

In general, the Waqf can take effect immediately, which is referred to in *fiqh* as *nājiz*. However, if the endower wanted to put a contingent condition of affecting the Waqf, then there is a difference of opinion. IWL does not permit stipulating such a condition. However, AAOIFI allows contingent Waqf wherein Waqf is affected on approval from a supervisory authority or effective from a future date. The view of AAOIFI is based on Mālikīs (Al Dasūqī, 2010) and Ḥanbalīs (Al Mardāwī, 1956).

As per AAOIFI, the Waqf asset can be what is subjected to the rescission option. In case the part, which has the option, affirm the contract, then Waqf will be enforceable from its inception. Otherwise, the Waqf will stand nullified. However, IWL does not provide any reference on same subject.

As per AAOIFI, Waqf asset can be of something subject of pledge provided its enforceability is dependent on any of the following: a) the pledgee waives his rights in the pledge, b) the debt is settled, c) the pledge applies on the part over and above the debt amount, and in any of the given cases, the Waqf shall be enforceable from the time of inception. There is no reference in IILW on instituting Waqf which is subjected to pledge.

As per IWL, the Waqf should be absolute and not a promise to institute a Waqf. Once Waqf is created, it becomes binding, which cannot be rescinded. This view is taken as per by the majority of the scholars, including Shāfi'īs (Al Nawawī, 1991), Mālikīs (Al Dasūqī, 2010), Ḥanbalīs (Al Bahūtī, 1983). However, Abū-Ḥanīfah (Ibn Ābidīn, 2003) sees that Waqf is not binding, and it can be dismissed by the endower. Although as per Ibn Ḥanbal, the merely verbal statement does not make the Waqf binding, rather its possession is necessary as the case with gift contract (Ibn Qudāma, 1997).

The endower could be on the death bed while making the Waqf. AAOIFI and IWL, the Waqf, cannot be more than one-third of the left-over properties of the deceased. However, AAOIFI gives the endower the right to revoke it, but the same right is not possible under IWL.

4.1.3 Duration of Waqf

As a principle, the Waqf should be perpetual as viewed by AAOIFI and IWL. This view was in line with Ḥanafīs (Ibn Ābidīn, 2003), Shāfi'īs (Al Sharbīnī, 2000) and Ḥanbalīs (Ibn Qudāma, 1997). However, AAOIFI also permits a temporary Waqf provided it a) the period is specified or b) bound by a condition. In case the period has elapsed, or the condition is met, then the Waqf asset is returned to its owner or his heir. This view was in line with by Mālikīs (Al Dasūqī, 2010) and an opinion by Ḥanbalīs (Al Mardāwī, 1956).

4.1.4 Purpose of Waqf

As per IWL, the Waqf can be done on a thing that can be used, as per the customs, by rich and poor people. This includes mosques, hospitals, or auberge hostels. On the other hand, there is no reference by AAOIFI for such a generalization. Mālikīs (Al Dasūqī, 2010) and Shāfi'īs (Al Sharbīnī, 2000) opined that the Waqf could be dedicated specifically for the rich. However, Ḥanafīs do not allow Waqf, where the beneficiaries are exclusively the rich. Rather it can be stipulated that it's for the rich followed by the poor people (Ibn Ābidīn, 2003). Even Ḥanbalīs (Al Bahūtī, 1983) does not permit the exclusive beneficiary to be a group of rich people.

As per AAOIFI, the cause of Waqf could be absolute (*muṭlaq*), so it will be disbursed in the charitable causes as found suitable by the overseer or the judge. IWL did not refer to a case of absolute Waqf where a particular beneficiary is not mentioned. As per the majority of the jurists, such a Waqf is valid (MAIA, 2006). As per Abū Yūsuf, the poor shall be the beneficiary of such a Waqf (Al Burhānpūrī, 2000). Whereas Mālikīs advised considering the local customs at the time of instituting a Waqf. Hence, if generally, people disburse the Waqf for a group of students, then the same will be followed. Otherwise, it will be disbursed to the poor (Al Dasūqī, 2010). Ḥanbalīs advised considering the sequence and percentage of inheritance distribution (Al Bahūtī, 1993).

As per AAOIFI, it is prohibited if the purpose of Waqf was non-permissible, and it shall be substituted by a permissible cause. IWL has no reference to the same. Ḥanafīs advised that the purpose of Waqf which is not an offering, pursuant to the religion of the endower, then it shall not be validated as Waqf. Hence, Waqf on the mosque by a non-Muslim will not acceptable (Ibn Ābidīn, 2003). Ibn Rushd opined that Waqf by non-Muslims

on the worshippers of the church would be void because it's disobedience, as per Islam, but Waqf can be instituted by a non-Muslim for repairing the church and providing treatment to the injured and patients of the church (Ibn Rushd, 2012).

4.2 The Waqf beneficiary

As per AAOIFI, the Waqf beneficiary should be a permissible entity. For example, Waqf to exclusively benefit a bar is prohibited. It is found that Mālikīs does not recognize a Waqf by a non-Muslim for a church because the purpose is not a recognized offering as per Islamic teachings (Al Dasūqī, 2010). Shāfiīs (Al Sharbīnī, 2000) and Ḥanbalīs (Al Bahūfī, 1993) permit Waqf to a utility of a church which is used by Muslims as well as non-Muslims like the public passage.

As per AAOIFI, the endower could name himself as the first beneficiary of the Waqf and then other charitable causes (AAOIFI, 2019). IIWL did not refer to making the endower a beneficiary, but it allowed the endower to make use of the Waqf asset either partially or fully during his lifetime if the same was stipulated. As per Mālikīs (Al Dasūqī, 2010), Shāfiīs (Al Sharbīnī, 2000), and Ḥanbalīs (Al Bahūfī, 1993), the person who owns something cannot make himself as an endower for the same. However, as per Ḥanafīs (Ibn Ābidīn, 2003), such a stipulation is permissible.

IIWL recognizes the Waqf for the benefit of the family or the relatives of the endower. Further, AAOIFI permits the stipulation of preferential entitlement among the Waqf beneficiaries based on the marriage, financial or physical status. Ḥanafīs permitted selecting a group of poor as the Waqf beneficiaries (Ibn Ābidīn, 2003), and it is permitted to prefer a particular person in the distribution or in the entitlement (Al Ṭarābulī, 1981).

4.2.1 Discontinuation of Waqf beneficiary

As per AAOIFI, it is valid if the Waqf beneficiary was an entity that is intermittent, and upon discontinuation, the Waqf money can be disbursed on charitable causes which have similar nature. For example, the endower may stipulate that Waqf income is spent on pilgrims coming from a particular place or country. In case pilgrims did not come from that country, then Waqf funds can be spent on other country pilgrims or same country pilgrims performing *Umrah*. Although, the opinion of Ḥanafīs (Ibn Ābidīn, 2003), Mālikīs (Al Dasūqī, 2010), and Ḥanbalīs (Al Bahūfī, 1993) was to disburse the amount on the poor if the first beneficiary is no longer available. There is no reference in IIWL about such a case.

As per AAOIFI, if Waqf beneficiary is no longer available, then the overseer may disburse the Waqf proceeds into the following sequence: a) to disburse in the relevant channels as specified by the endower, b) to disburse in similar kind of channels, and if nothing is available, then it shall be disbursed in general welfare purposes. IIWL did not make the reference to such a scenario. As per Ḥanafīs, it is required to mention a final beneficiary that has a perpetual nature. Although, Abū Yūsuf has two views if the beneficiary is no longer existing: a) the endower will resume ownership of the Waqf asset, or b) after non-existence of the nominated beneficiary, Waqf will be for the poor due to the perpetuality nature of the Waqf (Ibn Ābidīn, 2003). Mālikī differentiates between perpetual and timed Waqfs. Hence, for perpetual Waqf, if the beneficiary is no longer existing, then the close relatives of the endower shall be declared as the beneficiary of the Waqf with entitlement in line with the share in the inheritance distribution. However, for timed Waqf, the ownership of the Waqf will return to the endower or his heirs (Al Dasūqī, 2010). Ḥanbalīs have the same view as the view of Mālikīs in the perpetual Waqf (Al Bahūfī, 1993). The treatment Shāfiīs have two opinions that a) the Waqf continues, and the beneficiaries shall be the close relatives of the endower based on their needs and not based on the inheritance, and if no relatives are there, then the ruler may disburse the proceeds of Waqf for the general welfare, or b) the Waqf will discontinue by disbursing the proceeds to the poor and needy (Al Sharbīnī, 2000).

4.3 The Waqf asset

4.3.1 Ascertainment of Waqf asset

IIWL and AAOIFI require that the Waqf asset should be known. However, AAOIFI permits Waqf over an asset that will devolve into its knowledge (*ya'uwul ilā ilm*). As per Ḥanafīs, the Waqf asset should be known (Ibn Ābidīn, 2003). Similarly, Shāfiīs (Al Sharbīnī, 2000) and Ḥanbalīs (Al Bahūfī, 1993) required the Waqf asset to be specific. However, Mālikīs permitted to stipulate contingency in ascertaining the Waqf asset wherein

the endower stipulates that if a particular house was owned by him, then it shall be Waqf, but contingency cannot be open-ended (e.g., owning any house) (Al Dasūqī, 2010).

As per AAOIFI, it is not necessary that Waqf asset is existing at the time of creation of Waqf. For example, fruits of coming seasons can be subject of Waqf. IIWL did not refer to this scenario.

4.3.2 Types of Waqf asset

As per AAOIFI, the Waqf asset should be an appraisable property (*māl mutaqaawim*). As per Ḥanbalīs, it is not valid to institute Waqf on anything which does not qualify to be subject of sale like a dog, pig or other predators which are not meant for hunting (Ibn Qudāma, 1997). One opinion of Shāfiīs permitted Waqf over trained dog but not otherwise (Al Sharbīnī, 2000). However, Mālikī permitted Waqf of something owned by the endower even if it cannot be sold like skin of slaughtered animal, hunting dog or a ran away slave (*abd ābiq*) (Al Dasūqī, 2010). IIWL did not refer to this point because Ḥanafīs (Al Zaylāī, 2002) do not permit Waqf of movable assets on a standalone basis.

As per AAOIFI, the real estate can be a Waqf asset, and this includes even movable items which are placed at the real estate for permanent fixing (*itiṣāl qarār*). The same view was taken by IIWL. There is a juristic agreement to accept Waqf of immovable properties (MAIA, 2006).

As per AAOIFI, any movable item, whether it was a physical property (vehicle, machinery, tools, production equipment) or intangible property (websites and digital websites), can be subject to Waqf. This view is in line with the view of Mālikīs (Al Dasūqī, 2010), Shāfiīs (Al Sharbīnī, 2000), and Ḥanbalīs (Al Bahūtī, 1993) where Waqf of any kind of movable thing was permitted. However, as per IIWL, Waqf of a movable property will be valid only for those things which have a custom of doing a Waqf on them. Hence, if a movable thing is rarely subjected to Waqf, then its Waqf will not be valid. As per Ḥanafīs, movable property cannot be purposefully a subject of Waqf. However, as per Muḥammad b. Ḥasan (a prominent Ḥanafī scholar), it was permitted to accept Waqf of movable if its Waqf was a custom among the people (Ibn Ābidīn, 2003).

As per AAOIFI, the Waqf asset can be over usufruct by its owner, so a lessee can do Waqf of the lease usufruct provided the period of Waqf is no longer than the lease period. Also, Waqf can be done on permissible moral rights (e.g., publication and patent rights) wherein the endower does Waqf over the proceeds or usage of the same. This is in line with Mālikīs view (Al Dasūqī, 2010). IIWL did not address this point. As per Ḥanafīs (Ibn Ābidīn, 2003), Shāfiīs (Al Sharbīnī, 2000) and Ḥanbalīs (Al Bahūtī, 1993), Waqf has to be of a physical property (*ayn*) and not of usufruct.

As per AAOIFI, the Waqf asset could be cash where it can be used in any of the ways like a) investment in a permissible way and disbursing the proceeds for the purpose of Waqf, or b) extending permissible loans. As per Ḥanafīs (Ibn Ābidīn, 2003) and Mālikīs (Al Dasūqī, 2010), Waqf over cash for extending a loan and returning its substitute (*badal*) is permitted. IIWL has no reference of cash Waqf. As per the view adopted by Shāfiīs (Al Sharbīnī, 2000) and Ḥanbalīs (Ibn Qudāma, 1997), such a Waqf is invalid.

4.3.3 Ownership of Waqf asset

As per AAOIFI and IIWL, the endower should be the owner of the Waqf asset. The ownership could be final (*bāt*) or ancillary (*tābi*) like instituting Waqf over dividends of the shares which are owned by the endower.

As per AAOIFI, the owner, who took the ownership in a prohibited way, cannot institute Waqf over the same. The owner is supposed to do charity of the same. Further, if the property was a seized asset, then the restitution (*radd al-damān*) should take place by returning the seized asset to its legitimate and original owner. As per Ḥanafīs (Al Burhānpūrī, 2000), if the usurper purchased the seized land from the seized party after instituting a Waqf, then the prior Waqf stands invalid.

4.4 Governance of Waqf

4.4.1 Stipulation by the endower in Waqf

As per IIWL, any stipulation made by the endower in the Waqf is considered as valid as undisputed text (*naṣṣ*). Hence, the Waqf shall be governed according to the stipulation, but a Shari'ah-judge may institute a change in the Waqf which does not miss out the purpose of the Waqf. As per AAOIFI, the endower may stipulate any condition and it should be abided by provided a) the condition is not against Shari'ah, b) it does not prevent any rulings of Waqf. The prevailing customs may be observed while understanding the conditions stipulated by the endower. These types of conditions are referred as valid conditions (*shurūṭ ṣaḥīṭha*) and are accepted by

Ḥanafīs (Ibn Ābidīn, 2003), Mālikīs (Al Dasūqī, 2010), Shāfiīs (Al Nawawī, 1991), and Ḥanbalīs (Ibn Qudāma, 1997).

As per AAOIFI, it is voided to stipulate in the Waqf a) a condition which is prohibited (e.g., depositing the Waqf proceeds in an interest-bearing account or extending conventional financing to invest cash Waqf accounts), b) a condition which adversely interferes with the Waqf (e.g., non-removal of the overseer despite any reason), c) a condition which poses as an obstacle to the interest of the Waqf (e.g., paying the beneficiary at the cost of necessary repairs). As per Ḥanafīs, a condition of no dismissal of the overseer in any case would be void, but the Waqf is valid (Ibn Ābidīn, 2003). Similarly, as per Mālikīs (Al Dasūqī, 2010), a condition of paying the beneficiaries at the cost of repairing the Waqf asset would be void.

4.4.2 Qualification of the Waqf overseer

As per IIWL, the overseer should be Muslim. As per Ḥanbalī, if the Waqf beneficiary is a Muslim or it's a mosque, then it's required that the Waqf overseer is Muslim (Al Bahūtī, 1983). This condition was not referred to by AAOIFI. As per Ḥanafīs, Islam is not a condition for the overseer (Ibn Ābidīn, 2003). As per IIWL and AAOIFI, the overseer should have mental capacity (*aqil*) and attained the age of adulthood (*bulūgh*). The jurists have agreement on both conditions (MAIA, 2006).

As per IIWL and AAOIFI, the overseer should have moral probity (*adālah*). As per one view of Ḥanafīs, this condition is a preferential condition (*shart awaliya*) and not for the validity of the Waqf (Ibn Ābidīn, 2003). As per IIWL and AAOIFI, the overseer should have the administrative skills and capabilities to manage the trust (*kifāya*). As per AAOIFI, the overseer could be anyone, either a juristic entity or a natural person.

4.4.3 Selection of Waqf overseer

As per IIWL, the right of selecting the Waqf overseer is given, consequently, to the endower, the administrator, the beneficiaries of the Waqf, religious and aware residents of the area, and then to Shari'ah-judge. Hence, the primary right of appointing an overseer remains with the endower, but if the endower did not select one party, then he shall be considered as an overseer. On the other hand, based on AAOIFI, if the overseer was not selected, then the relevant authorities may select one. As per Mālikīs (Al Dasūqī, 2010) and Ḥanbalīs (Ibn Qudāma, 1997), if no overseer was selected, then the ruler shall appoint an overseer for non-specific beneficiaries. In case the beneficiary was specific and adult, then the beneficiary shall be appointed as an overseer. In case the beneficiary was a minor, then his guardian will be appointed as an overseer. As per Ḥanafīs, the overseership is given to the endower, then to the administrator, and then to the ruler (Ibn Ābidīn, 2003). As Shāfiīs, the judge has the right to appoint someone as an overseer in this case (Al Sharbīnī, 2000).

As per IIWL, the endower can appoint one or more overseers for the period he finds suitable. The endower may stipulate the consecutive turns for overseers' periods. When a Waqf has more than one overseer, requires joining decision by both of them. This view is in line with Shāfiīs (Al Sharbīnī, 2000), Ḥanbalī (Al Bahūtī, 1993), and Abū Ḥanīfah (MAIA, 2006). This view was not mentioned in AAOIFI. As per Abū Yūsuf, both the overseer has the right of disposition individually (Al Ṭarābulṣī, 1981).

4.4.4 Fee for the Waqf overseer

As per IIWL, the endower, his representative, or Shari'ah-judge may fix a fee for the overseer. As per AAOIFI, the fee for the overseer can be fixed or a percentage of the Waqf proceeds. As per Ḥanafīs (Ibn Ābidīn, 2003), Shāfiīs (Al Sharbīnī, 2000), and Ḥanbalīs (Al Bahūtī, 1993), if the endower fixed the fee for the overseer, then it can be more than the market rate (*ujrat al-mithal*). However, as per Mālikīs, the fee for the overseer is left for the estimate of the judge and the endower and not necessarily to be linked to market rate (Al Dasūqī, 2010).

As per AAOIFI, if the relevant authorities found it suitable, then they may revise the fee. As per IIWL, if the overseer was not allotted a fee by the endower or relevant authorities, then the overseer shall be entitled to the market rate. As per Ḥanafīs (Ibn Nujaym, 1997), if the judge fixes the fee for the overseer, then it cannot be more than the market rate. As per AAOIFI, the fee of the overseer shall be deducted from the proceeds of the Waqf asset. The same view is adopted by the majority of jurists (MAIA, 2006). As per Ibn Attāb, it was opined that the overseer's fee would be deducted from *Bayt al-māl* (Al Ḥaṭṭāb, 2010). The source of deducting the overseer's fee was not stated in IIWL.

4.4.5 Revocation by endower's death

As per IIWL, if no specification was made for the period of the service to be provided by the overseer, then upon the endower's death, the position of overseer is dismissed. In other cases, upon the death of the endower, the administrator has the right to nominate an overseer or manage the Waqf asset on his own. In case the administrator did not keep the period of appointing the overseer open-ended, then, upon the death of the administrator, the overseer is dismissed. If the endower appointed someone as administrator and another party as overseer, then upon endower's death, both the parties will be jointly performing the job of overseer.

4.4.6 Dismissal of the overseer by the endower

As per AAOIFI, the endower may dismiss the overseer in the following cases: a) the right of revocation was stipulated in the Waqf deed, b) revocation was in the interest of the Waqf, or c) misconduct or negligence from the overseer. As per IIWL, the endower can dismiss the overseer from his position provided Shari'ah-judge has not given a judgment in maintaining his position. As per Ḥanafīs, if the endower has stipulated that he and his children will have the authority to dismiss the overseer, then it would be permitted for the endower to dismiss the overseer anytime. However, if no authority was taken, then the overseer represents the beneficiaries of Waqf (Ibn Nujaym, 1997). As per Shāfiīs (Al Sharbīnī, 2000) and Ḥanbalīs (Al Bahūfī, 1993), if the initial overseership was given to the endower, then the overseer can be dismissed by the endower, otherwise it will not be possible. As per Mālikīs (Al Ḥaṭṭāb, 2010), self-appointment by the endower is not permitted. Hence, revocation of the overseer should be by Shari'ah-judge.

4.4.7 Appointment by Shari'ah-judge

As per IIWL, Shari'ah-judge may appoint an overseer in cases like a) the endower is alive, but neither shows interest in the Waqf asset nor appoints someone as an overseer or b) the endower died but did not name as Waqf overseer or administrator of the inheritance.

4.4.8 Dismissal of the overseer by the judge

As per IIWL, a Shari'ah-judge may appoint a protector above the overseer based on the overseer's breach of trust. By this appointment, the overseer has no liberty in his decisions. Otherwise, he may make decisions as he finds them suitable.

As per AAOIFI and IIWL, if the overseer commits negligence and misconduct, then the judge/Shari'ah-judge or relevant authorities may dismiss the overseer who was appointed by the endower, another Shari'ah-judge, or another relevant authority. This view is in line with Ḥanafīs (Ibn Ābidīn, 2003), Mālikīs (Al Ḥaṭṭāb, 2010), and Shāfiīs (Al Sharbīnī, 2000). However, as per Ḥanbalīs (Al Bahūfī, 1983), the judge may dismiss the overseer even without misconduct by the overseer. As per IIWL, an overseer, who was appointed by the endower of the administrator, cannot be dismissed by the judge with no valid Shari'ah grounds. However, an overseer, who is appointed by a Shari'ah-judge, can be dismissed by another Shari'ah-judge.

4.4.9 Resignation of the overseer

As per AAOIFI, the overseer may resign by himself provided informing the endower and relevant authorities by a sufficient period. There is no reference in IIWL about the same.

4.4.10 Responsibilities of the overseer

As per IIWL, the overseer has the responsibility of presenting the accounts of the Waqf to a) the endower, b) the parties who are benefiting from it, c) residents of the area who have an understanding of things and are religious, or d) Shari'ah-judge. Further, as per AAOIFI, the overseer is supposed to make independent accounts of the Waqf asset.

4.4.11 Dissolution of Waqf

As per AAOIFI, the timed Waqf stands dissolved by the end of the period. However, if the Waqf was subjected to total loss, then it stands dissolved whether it was timed, bound by the condition, or perpetual. As per Ḥanafīs, if the place of worship is no longer usable, then either it shall return to the original owner or sold off and proceeds given to other mosques. However, for investment Waqf, it will remain a Waqf, and its revenue, even if it was less, will be disbursed to the beneficiaries (Ibn Ābidīn, 2003). Similarly, as per a view of Shāfiīs, if

the Waqf asset was lost with no human cause, then Waqf will return to the endower (Al Sharbīnī, 2000). As per Ḥanbalīs, Waqf continues in its nature and does not return to the endower (Al Bahūfī, 1983).

4.5 Management of Waqf

The overseer is supposed to manage, repair, develop, and invest the Waqf asset. As per IIWL, the Waqf beneficiaries can make use of the Waqf asset through its income or usufruct by retaining the Waqf asset. However, if the Waqf asset cannot be of use by simply retaining it, then it should be deployed in business, and the revenue generated will be used.

4.5.1 Loan facilities

As per IIWL, the overseer cannot take a loan on behalf of the Waqf even if it was in the interest of the Waqf. In case the loan was availed, then the overseer is individually liable for the settlement of the loan amount. As per AAOIFI, for a Waqf of physical properties, the debt can be availed by the Waqf either in the form of a permissible loan, credit sale, or obtaining Shari'ah compliant financing provided this debt was taken for: a) something which is needed for the base of the Waqf and its sustainability (like debt to maintain or construct the Waqf), b) settlement of financial obligations due on the Waqf (e.g., payment of electricity bills or salaries of the staff). However, if the debt was taken for a purpose that serves an additional interest but not the main one, then taking such a debt is not permissible for the Waqf unless the endower stipulated availing such kind of debts provided the proceeds of the Waqf can service the financing and settle them. In the case of the investment funds, it is permissible to enter into debt facilities provided it was as per the commercial norms and observing the interest.

As per AAOIFI, the Waqf property cannot be given on loan, and the Waqf cannot be the guarantor of other's debts unless a) it was stipulated to do so by the endower, b) it was among the purposes of the Waqf (e.g., cash waqf), or c) it achieves the interest of the Waqf with the permission from the relevant authorities.

4.5.2 Pledge of the Waqf asset

As per AAOIFI and IIWL, for physical property Waqf, it is not permissible to pledge the Waqf asset even if it was permissible to enter into debt by the Waqf. Further, as per AAOIFI, in the investment Waqf, it is permissible to pledge the Waqf assets for the purpose of issuing the bank guarantee or letters of credit.

4.5.3 Sale of the Waqf asset

As per IIWL, the Waqf property cannot be subject to the sale, bailment, or substituting it with another pledge. This comes in line with the principle that the Waqf asset is no longer owned by the endower.

4.5.4 Lease of the Waqf asset

As per AAOIFI and IIWL, when the Waqf property is leased so it should be, at least, against the market rent of it, unless there was an evident. In case the rent was considerably lower than the market rate, then the overseer remains liable for the shortfall. Further, as per AAOIFI, the overseer may ask the lessee to terminate the lease unless agreed for the increase also, if the market rate has increased, so the overseer should have the right to terminate the lease.

As per IIWL, if the lessee made use of the Waqf asset or retained its possession, despite the lease turning void, so he is obliged to pay the market rent for the period he retained the property. The same treatment applies if the Waqf property was retained by a usurper for a period of time.

As per IIWL, the overseer has to abide by a period of lease as specified by the endower while leasing the property or the land. In case no period of lease was specified, then the Waqf asset cannot be leased for a period longer than a year. As per AAOIFI, the lease cannot be for a period that is considered long as per the customs of the people.

Despite the restriction on a long period of lease. However, both the laws were permitted to lease for a long period. As per IIWL, if the lessee cannot benefit from the Waqf asset within a year, then based on the ruling of Shari'ah-judge, the lease could be for a period of up to three years. The overseer may extend the lease of the land by a time when the crops can be harvested, provided the rent paid to the Waqf is equal to market rate. Further, it can be extended provided the ownership of the Waqf is not compromised due to the longevity of the lease period. This also includes not giving permission to the lessee to construct. Similarly, AAOIFI permitted

a long lease period if there was an evident, provided a) the lease is linked to a known and ascertained benchmark, b) the rent is not less than the market rate.

4.5.5 Substitution of Waqf asset

Substitution (*istibdāl*) of the Waqf asset, which is in the form of real estate, was permitted by AAOIFI and IIWL. As per IIWL, the subject asset must have become redundant or of no use for the beneficiary provided it was done after seeking permission of a Shari'ah-judge so as proceeds of the existing Waqf asset will be used in buying a similar real estate. Similarly, if the Waqf asset was the income generated from the real estate so the redundant real estate could be sold off. On the other hand, AAOIFI specified certain conditions for substitution which are a) substitution was permitted as per the stipulation made by the endower, b) if the utilities of Waqf are no longer functional or the usufruct cannot be used, c) if the grouping of the redundant Waqf assets will result in revitalizing them, d) if there is an evident Shari'ah interest which cannot be attained without substitution, e) the substitution is done pursuant to the approval from the relevant authorities or *Fatwa*, and f) if the Waqf asset is investment Waqf which is substituted as per the norms and customs.

As per AAOIFI, the Waqf asset should be substituted if the subject matter became non-Shari'ah compliant like permissible shares become non-Shari'ah compliant. In case the overseer demanded the Waqf asset, which is a common share of an indivisible asset, then the refusing party shall be forced to sell, and the proceeds of the sale will be deployed in a similar kind of Waqf assets.

As a result of selling off the Waqf asset, a substituting asset must be purchased out of the proceeds of the substituted asset. As per IIWL, substituting should be less costly with more returns. As per AAOIFI, the substituting asset should not be less valued than the substituted asset or generates less income. The action of purchasing the substituting asset should be immediate with no delay.

4.5.6 Income and expenses of Waqf asset

As per IIWL, the income generated from a property bought out of Waqf income should be spent on Waqf expenses. As per IIWL and AAOIFI, the income of Waqf should be spent on what protects and preserves the foundation of the Waqf asset. As per IIWL, the Waqf custodian or the Shari'ah-judge have the choice to decide whether repair of the Waqf asset is preferred over the expenses. AAOIFI further mentioned the sequence of spending as follows: a) honouring obligation of Waqf (i.e., expenses to the workers and relevant parties dealing with Waqf), and b) disbursement channel as per the endower's stipulation.

4.5.7 Investment and sale of Waqf income proceeds

As per AAOIFI and IIWL, Waqf income can be invested so it may not be part of income distribution to its beneficiaries provided a) it was allowed as per the stipulation by the endower, or b) it was made during the waiting period for income distribution. It should be ensured that efficient measures were taken into consideration while investing the income of Waqf. This was not referred to in IIWL but was permitted to sell a property that was bought out of the Waqf income provided the purposes of Waqf are taken into consideration.

4.5.8 Disbursement of Waqf income

As per AAOIFI and IIWL, the income generated should be as per the manner specified by the endower. As per IIWL, if the purpose is not existing from the inception of Waqf or ceased to exist, then the income shall be disbursed in the charity on the poor. Further, as per AAOIFI, if a surplus remained after distributing the Waqf income to its beneficiaries, then it will be subjected to the following: a) investment as given in 4.5.7, b) disbursed in welfare channels similar to the original ones, or c) disbursed in general welfare channels.

4.5.9 Use by the Waqf beneficiary

As per AAOIFI, the beneficiary may use the usufruct of the Waqf asset as he finds it suitable either by using it by himself, giving to others, or leasing it. However, if the endower restricted a particular usage, then the beneficiary cannot make such use.

5. Conclusion and Recommendation

Over several decades, Indian scholars made various scholarly contributions, in Urdu and Arabic, concerning the rulings on Waqf. Waqf Law by All India Muslim Personal Law Board was an effort to codify Waqf's rulings in accordance with Islamic jurisprudence. The study compared the rulings of IIWL with AAOIFI's Shari'ah Standard of Waqf on the five major areas: a) creation of Waqf, b) Waqf beneficiary, c) Waqf asset, d) governance of Waqf, and e) management of Waqf. The study highlighted 67 rulings of both AAOIFI and IIWL and found 21 instances of Shari'ah homogeneity. The areas which had the most instances of Shari'ah homogeneity were i) overseer's qualification, and ii) fee for the overseer and iii) lease of the Waqf asset. The study found 11 instances where AAOIFI had no rulings against IIWL's stand. Most of these rulings were found in the dismissal of the overseer. The study found there are 22 instances where IIWL had no stand against the revealed position of AAOIFI. Most of these rulings were in the area of i) Waqf beneficiaries and ii) Waqf assets.

Further, the study found five instances of Shari'ah heterogeneity, which were mostly related to the duration of Waqf, knowledge of the asset, type of Waqf asset, religion of the endower, and availing loan by the Waqf. Only in one case, IIWL stands more favourable for the Waqf institution wherein the endower may dismiss the overseer. By looking at the classical rulings, it is evident that IIWL restricts, up to a large extent, in applying rulings of Hanafi jurisprudence. However, AAOIFI takes into consideration various rulings which contribute positively to higher growth, better governance, and longer sustainability of the Waqf institution.

The study recommends that AIMPLB may reconsider the rulings which are not addressed in the Waqf Law. Further, it can consider the opinions of other jurists when it comes to temporary Waqf, Waqf of movable items, Waqf of cash, and Waqf by a non-Muslim.

References

- AAOIFI, A. (2019). *Al Miyār Al Sharī Raqam (60): Al Waqf*. Manama: AAOIFI. PDF.
- Abū Zahra, M. (2004). *Muḥāḍarāt fī Al Waqf*. Egypt: Dār Al Fikr Al Arabī.
- Aiyar, P. (1997). *Law Lexicon*. Agra: Wadhwa and Company Law Publishers.
- Al Bahūtī, M. (1983). *Kashshāf Al Qīnā An Matn Al Iqnā*. Beirut: Ālam Al Kutub.
- Al Bahūtī, M. (1993). *Sharḥ Muntahā Al Irādāt*. Beirut: Ālam Al Kutub.
- Al Bukhārī, M. (2017). *Ṣaḥīḥ Al Bukhārī*. Beirut: Resalah Publishers.
- Al Burhānpūrī, N. (2000). *Al Fatāwā Al Hindīya*. Beirut: Dār Al Kutub Al Ilmiyah.
- Al Dardīr, A. (2010). *Al Sharḥ Al Ṣaghīr Alā Aqrab Al Masālik ilā Madhhab Al Imām Mālik*. Cairo: Dār Al Faḍīla.
- Al Dasūqī, M. (2010). *Hāshiyā Al Dasūqī Alā Al Sharḥ Al Kabīr*. Beirut: Dār Al Kutub Al Ilmiyah.
- Al Ḥasnī, A. (2001). *Al Hind fī Al Ahd Al Islāmī*. Rae Bareli: Majma Al Imām Aḥmad bin Irfān.
- Al Ḥaṭṭāb, M. (2010). *Mawāhib Al Jalīl fī Sharḥ Mukhtaṣar Al Khalīl*. Nouakchott: Dār Al Riḍwān.
- Al Kāsānī, A. (1986). *Badā'ī Al Ṣanā'ī fī Tartīb Al Sharā'ī*. Beirut: Dār Al Kutub Al Ilmiyah.
- Al Mardāwī, A. (1956). *Al Inṣāf fī Marīfat Al Rājiḥ Min Al Khilāf Alā Madhhab Al Imām Mubajjal Aḥmad*. Cairo: Maṭbaa Al Sunnah Al Muḥammadiya.
- Al Nadwī, M. Al Waqf fī Al Hind: Niẓāmhu wa Waḍhu fī Ahd Al-Salāṭīn. *Al Waqf fī Al Hind Al Niẓām wa Al Qānūn*. New Delhi: IFA Publications.
- Al Nadwī, M. I. (2014). *Musāhamat Ulamā' Shibha Al Qāra Al Hindīya fī Tālīf Al Kutub Ḥawl Al Waqf fī Al Islām: Dirāsāt wa Istirād*. *Al Waqf fī Al Hind Al Niẓām wa Al Qānūn*. New Delhi: IFA Publications.
- Al Nadwī, S. Al Awqāf Al Islāmiya fī Wilāt Dilhī: Tārīkhāha wa Idārathā wa Waḍā Al Ḥālī. *Al Waqf fī Al Hind Al Niẓām wa Al Qānūn*. New Delhi: IFA Publications.
- Al Nawawī, Y. (1991). *Rawḍat Al Ṭalībīn wa Umdat Al Muftīn*. Beirut: Al Maktab Al Islāmī.
- Al Ramlī, M. (2003). *Mughnī Al Muḥtāj ilā Sharḥ Al Minhāj*. Beirut: Dār Al Kutub Al Ilmiyah.
- Al Sharbīnī, M. (2000). *Mughnī Al Muḥtāj ilā Marīfat Maānī Alfāz Al Mināj*. Beirut: Dār Al Kutub Al Ilmiyah.
- Al Ṭarābulsī, I. (1981). *Al Isāf fī Aḥkām Al Awqāf*. Beirut: Dār Al Rā'id Al Arabī.
- Al Zarfā, M. (2004). *Al Madkhal Al Fiḥī Al Ām*. Damascus: Dār Al Qalam.
- Al Zaylā, A. (2002). *Naṣab Al Rāya Li Aḥdīth Al Hidāya*. Jeddah: Dār Al Qibla.
- Barnī, Z. (2015). *Tarikh-i Firoz Shahi*. Delhi: Primus Books.
- Dihlawī, K. (2001). *Kifāt Al Muftī*. Karachi: Dār Al Ishāat.
- Hammād, N. (2008). *Mujam Al Muṣṭalahāt Al Mālīyah wa Al Iqtisādīyah*. Damascus: Dār Al Qalam.

- Ibn Nujaym, Z. (1997). *Al Baḥar Al Rā'iq Sharḥ Kanz Al Daqā'iq*. Beirut: Dār Al Kutub Al Ilmiyah.
- Ibn Qudāma, A. (1997). *Al Mughnī*. Beirut: Dār Ālam Al Kutub.
- Ibn Rushd, M. (2012). *Bidāyat Al Mujtahid wa Nihāyat Al Muqtaṣid*. Beirut: Dār Ibn Ḥazm.
- Ibn Ābidīn, M. (2003). *Radd Al Muḥtār Alā Al Darr Al Mukhtār*. Beirut: Ālam Al Kutub.
- IFA, Islamic Fiqh Academy India. (2002). *Islām kay Ā'li Qawānīn. Jādīd Fiqhī Mabāḥith*. Karachi: Idārat Al Qurān wa Al Ulūm Al Islāmiya.
- IFA, Islamic Fiqh Academy India. (2016). *Nay Masā'il Aur Fiqh AAcademykay Fayṣlay*. New Delhi: IFA Publications.
- Lājpurī, A. (2003). *Fatāwā Raḥīmiya*. Karachi: Dār Al Ishāat.
- MAIA, Ministry Awqaf and Islamic Affairs. (2006). *Al Mawsūa Al Fiqhiya Al Kūwaytiya*. Kuwait: MAIA.
- Majr, W. (2014). *Tārīkh Al Waqf. Al Waqf fi Al Hind Al Niẓām wa Al Qānūn*. New Delhi: IFA Publications.
- Nadwī, B. (2014/1430H). *Sawāniḥ Mufakkir Islam*. Rae Bareli: Sayyad Aḥmad Shahīd Academy.
- Oxford, U. (2015). *Dictionary of Law*. Oxford: Oxford University Press.
- Rafiq, S. (1982). *Musalmano ka Nizam-e-Taleem*. Karachi: All Pakistan Educational Conference.
- Raḥmānī, K. (2012). *Qāmūs Al Fiqh*. Karachi: Zamzam Publishers.
- Ṣalwat, S. (2009). *Milat Islāmiya kī Mukhtaṣar Tārīkh*. New Delhi: Markazī Maktaba Islāmī Publishers.
- Thānwī, A. (1428H). *Imdād Al Fatāwā*. Karachi: Maktabat Dār Al Ulūm Karachi.