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# From “protection” and “preservation” to “development” and “right”: A new approach of objective of shariah via *waqf muaqqat*

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**Abstract:** This paper analyses the main objectives of Shariah and its application in *waqf*. Having acknowledged the priority of the objectives, this paper seeks to expand the scope of the objective with justification to facilitate the *ijtihadi* basis in ensuring sustainability of *waqf*. It is argued that a new dimension of protection and preservation of *mal* as the objective of Shariah is necessary in re-levantisation of *waqf* locally and globally. This paper adopts a doctrinal analysis based the primary and secondary sources of Shariah and the Malaysian laws. It studies the new dimension of protection and preservation in the perspective of the importance of human development and property rights of *waqf* practices in Malaysia with special reference to *Waqf Muaqqat*. The findings show that the employment of *ijtihad* and *fatwa* would serve to make *waqf* stable, flexible and sustainable in developing the legal framework for *Waqf Muaqqat* in Malaysia

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## 1. Introduction

Waqf or Islamic endowment is a fast-growing area of Islamic social finance. It started as a platform to help others by protecting an endowed property from being transferred to others and use the produces from the property to assist those in needs adopting various means and channels. The traditional *waqf* was basically based on dedication of immovable properties especially land or buildings as the subject matter of *waqf* and the benefits are utilised to provide assistances to those in need. Given that the development of *waqf* takes place based on the needs hence the demands vary. *Waqf* of movable properties were introduced after a profound deliberation made by the jurists and later, a consensus is reached that *waqf* involving movable properties is necessary in meeting the developments taking place in the society.

Following this, it is learnt that earlier *waqf* only involved intangible property. As *waqf* activities progress, the principles that *waqf* has to be beneficial and has value led to another new principles recognising ‘tangible’ properties as the subject matter of *waqf*

(*mawquf*). As stated earlier, this recognition is also based on the needs of the society as long as it is not in contradiction to *hukm syarak*.

In Malaysia and other ASEAN countries, the majority of the Muslim population follows the Shafie school of law, the Indian sub-continent follows the Hanafi School of law while the middle eastern countries generally adopt the Maliki school of laws. The differences in determining the principles of *waqf* vary. There are different ways of explaining what is *waqf* and how to practice *waqf* according to the schools. While differences of opinions have sometimes been perceived as a '*rahmah*' or mercy to the Muslim in general, the interpretation and reflection of these variations in opinions among the jurists have led to legislating different laws or incorporating different legal provisions on *waqf*.

This paper closely analyses the differences of the opinion, how the differences have contributed to the variance of laws and practices on *waqf* in particular, *waqf muaqqat* and how the objectives of Shariah has or may become the basis for the justification of the law and contribute also to harmonise the differences of opinions and laws. In the context of Malaysia, the approach of the law and the basis of practices may be changed and appeared flexible by employing appropriate objectives of the Shariah. In achieving the extended objectives of Shariah, the authors look at the contemporary interpretation of the *Maqasid al Shariah* as propagated by the early as well as the contemporary jurists in the context of *waqf*.

The researcher employs content analysis approach involving past literatures and written works relating to the topics. It adopts also subjective and theoretical methods with focus on substance examination technique. Both inductive and deductive strategies are used to investigate the applicable literary works and assess the depth of needs (benefit) and Shariah compliances. Hence, this study utilises the content analysis method assessing the various opinions of the Muslim jurists on *waqf muaqqat*, the pro and the against and measure the objective of the law (Maqasid al-Shariah). The *maslahah* is used as the determining factor to recommend for the needs of accepting and legalise *waqf muaqqat*. The legal framework relating to *waqf* and *waqf muaqqat* in particular and the whole of Shariah system and instruments are evaluated in weighing the needs and the *maslahah* as well as the downside of the *mafsadah* (mischief). The outcomes, are the basis for the recommendation for the legality of *waqf muaqqat* in Malaysia.

## 2. Part 1: Waqf and Its Legal Framework in Malaysia

Malaysia is among the Muslim countries that places Islam at the highest position in its legal framework. Although the constitution, which is the supreme law is the product of the Parliament (Article 4), Article 3 of the Federal Constitution 1957 clearly declares that Islam is the religion of the Federation. Given that Malaysia is a Federation, hence, the Constitution provides that matters pertaining to Islam is exclusively placed under the State jurisdiction (List II, Ninth Schedule).

As a result, *waqf* falls under the purview of each state and each state has its own exclusive jurisdiction to determine what and how the matters concerning Islam, *adat* (customs) or personal laws should be. Consequently, there are different laws for different states and at present, seven states have enacted their *waqf* laws in Malaysia including Sabah, Terengganu, Perak, Selangor, Negeri Sembilan, Malacca and Johor.

Previous literatures have discussed about the position of *waqf* and its implication to the overall development of *waqf* (Mohamad Zaim.I., Muhammad Ikhlas,R. & Mohd. Anuar R (2015); Md Dahlan,S. & Mohamad N.A (2018), Cizacka, M.,2000). Many concluded that the segregation and classification of *waqf* as a state matter in Malaysia have raised many issues including the jurisdiction, the legal and institutional redundancy of

powers, the appearance of many authorities on waqf and have, to a certain extent, contributed to the slow-down of waqf development (Hisham, Y.,2013)

Previous literatures also deliberated in depth on the definition and concept of waqf as well as the conditions and pillars of waqf. Abbasi (2012) has attempted to analyse the classical Islamic law on waqf and concluded that among others, legal theory on the ownership of waqif as to the waqf property is inconsistent. He is of the view that law on waqf based on classical *fiqh* is incomplete as they did not include *qanun* or imperial decrees in their discussion. Having shared this, it supports the authors intention to seek for more justification for an extension of study on waqf. In this article, the objectives of Shariah are further explored as a basis to stretch the dynamism of waqf practices.

As it is understood and explained by the jurists, *hukm* or Islamic principles are developed to fulfil five main objectives; to protect the faith (deen), to protect the intellectual, life, lineage and property in order to provide the ‘*maslahah*’ to the ummah universally. Hence *fiqh* principles are developed and employed in order to achieve the above objectives. If the implementation of any *hukm* fails to realise the ‘*maslahah*’, hence, there is a duty to investigate further. In the case of *waqf muaqqat*, Imam Malik is in the opinion that waqf made with determination of period to end or withdraw is valid. Would the application of this principle contradict to the general principles of Shariah? Or would there be ‘*maslahah*’ for the ummah? This paper argues that *waqf muaqqat* is to be recognised and applied within the context of the Shafie jurists, if there are clear and justifiable reasons approved by the jurist through law, *ijtihad* or *fatwa*.

In a more focused context, the literatures on *waqf muaqqat* only provide a number of analytical overviews on waqf and what are the legal provisions on *waqf muaqqat* as well as the potential application of *waqf muaqqat*.(A.Rahman,F.,2017) There are also studies that look at how *maqasid of shariah* can be synergised with waqf.(M.Azmi A.S,2019; El Tebli, Laeba, Mohamad,2021).

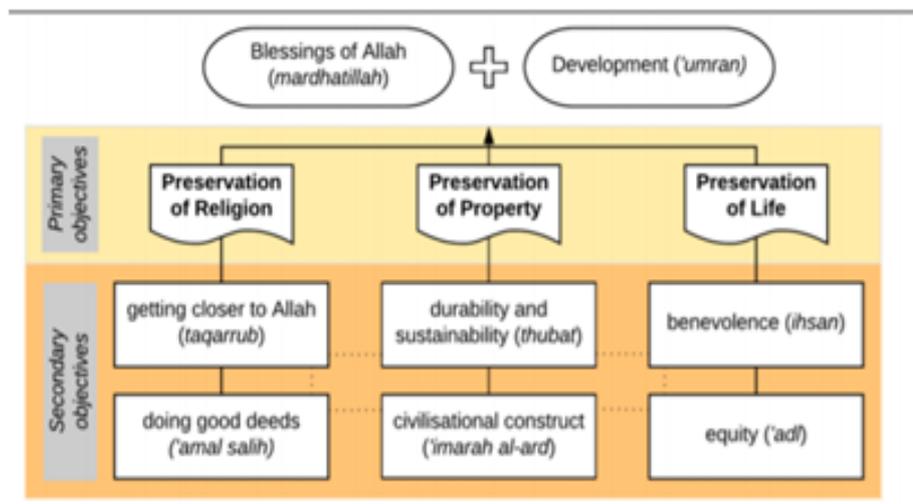


Figure 1: Development of Waqf Source: A Shazrin et al.(2019).

This article adopts doctrinal and comparative legal methodology. A doctrinal legal approach is employed to identify the laws which are applicable to waqf administration and regulatory in various states in Malaysia. Meanwhile, by comparing the laws with the Shariah in particular from the perspective of *maqasid al Shariah* will lay out in details the common thresholds of waqf in fulfilling the salient objects of Shariah. Most of the statutory documents and reports are obtained online. By reviewing the documents using comparative legal methodology, this article highlights the new approach of *maqasid* and its

application in developing the new flexible principles of waqf to benefit the *ummah* (Paris, 2016).

This article focuses on three main points. Firstly, understanding of the concept of waqf and their laws in Malaysia; Secondly, understanding the main rules governing *maqasid al shariah* and propagating for a new objective from “protection” and “preservation” to “development” and “right” as propagated by Jasser Audah (2014). Thirdly, analysing and assessing whether the enhancement and prioritisation of the objectives al shariah and its methodology is vital to develop a more contemporaneous principles of law governing waqf in particular *waqf muaqqat* in the Malaysian context.

After examining each of the objectives, this article concludes with a concrete justification on the needs of developing *waqf muaqqat* within the structure of waqf in Malaysia on the basis of sustainability and *maslahah* against the common generally accepted principles of perpetuity (*muabbad*) as advocated by the Shafie school of laws. Although it is strongly agreed that the element of perpetuity of waqf is the best method to achieve and preserve sustainability of waqf, the Muslim jurists must be more innovative in developing *hukm*, searching for *illah* and justification to expand the law so that application of *waqf muaqqat* shall not defeat the very purpose of waqf. Hence, the working of *waqf muaqqat* principles should not be looked in isolation with other principles of management and strategic planning in asset and property management. Recognising waqf as *ijtihadi* product of the Muslim jurists is also another mercy for *the ummah*. Objectives of Shariah for protection of *mal*, lineage and life require further deliberation in determining the priorities.

#### Part II: *Maqasid al Shariah*

This part discusses the meaning, scope and development of the *maqasid al Shariah* as the higher objective of Shariah as prescribed in the Quran and the Sunnah. The first term *maqasid* was used by Al Hakim at-Tirmidhi who examined the term outside *fiqh* and discussed it as *maqasid* of worship (Abdel Hay, 2015). Imam al Qaffal (365H) contributed in developing this concept by more *maqasid* or *mahasin* as Shariah (2014). This concept has developed from al Juwaini who discussed it as a discipline under Qiyas (analogical deduction) and al Ghazali system of *maslahah al mursalah* in his two famous books *al mustashfa* and *shifa' al ghalil*. Reliance on *maslahah* is among the features of the teaching of *usul fiqh* of the Maliki school. *Maslahah* refers to an act that leads to good, welfare or interest. Al Juwayni pioneered on the presentation of level of *maqasid* namely, necessities (*dharurah*), public needs (*al-hajah al ammah*), moral behaviour (*makrumat*), recommended (*al-mandubat*) and what cannot be attributed to specific reason. The tri-objectives of Shariah were the outcome of the combination of al Juwayni's third and fourth levels thus it further narrowed to: *dharurah*, *al hajah al ammah* and *makrumat*.

### 3. Conceptualization of The Objectives Of Shariah

Shariah refers to the divine law revealed by Allah SWT to the mankind through a messenger. The messages of Islam are clearly explained, reflected through the Prophet Muhammad SAW as the role model recognised not only by the Muslims but the non-Muslims who made research on his biography. Allah SWT makes it clear in the Al quran Surah Az Zariyat:73 that all that He creates, He has specific objectives, not without any purpose. Thus, al Shatibi in discussing *maqasid al shariah* has divided it into *maqasid* of the lawgiver and the *maqasid* of the oblige (Raissuni, A, 2006).

Muslim jurist such as Ibn Ashur, al Shatibi Maqasid al Shariah represents the philosophy of the Islamic law.(1437) The application of these objectives is sometimes considered as a requirement for deducing *ijtihad* and *fatwa*. These two processes of legal deduction are crucial in developing and legislating law relating to waqf.

#### 4. Results and Discussion

##### 4.1 Definition Of Waqf Muaqqat (Temporary Waqf)

*Waqf muaqqat* can be defined as follows: To make an endowment of a property or interest of a property (*manfaah*) for a specific time or identified duration so that the right of the owner is suspended throughout this period, and after its expiry, it returns to the owner. It has been explained in the Maliki school of waqf that the waqf may be on a temporary basis and it shall return to its owner after the expiry of the period, and it may also be perpetual if the owner of the endowment so desires (A Zahrah, 1971).

The permissibility of temporary endowment is continuously debated among the jurists of the four schools of law. The dispute in this matter stems from two statements:

The first group argues that the act of endowment must be perpetual or forever. It cannot be made on temporary basis. This is the view of the majority of jurists from the Hanafi, Shafie and Hanbali schools (An Nawawi,1991)

Ibn Qudamah said in Al-Mughni: "The condition that he sells it whenever he wants, gives it, or takes it back, neither the condition nor the endowment is valid. There is no dispute about it because it contradicts the requirement of the endowment." Perpetual is not temporary so that it returns to the owner "Al-Waqif"(Al-Maqdisi,1985).

They cited the hadith narrated by 'Abdullah ibn 'Umar RA (may Allah be pleased with him): 'Umar acquired a piece of land in Khaybar, so he came to the Prophet SAW to know what he should do with it. He said: "O Messenger of Allah, I have acquired a piece of land in Khaybar, and I have never acquired a property more precious to me than that. What do you command me to do with it?" He said: "If you wish you can keep its origin as an endowment, and give its yield in charity." So, 'Umar RA gave the land in charity (i.e as an endowment on the condition that the land would neither be sold nor given as a gift, nor bequeathed). He gave its yield as charity to the poor, the relatives, for emancipation of slaves, in Allah's cause, and for the travelers (Sahih Bukhari,1997).

The inference from this is that Omar RA endowed the land permanently, so it would be a permanent charity for the duration of the land's life and if the waqf was temporary, it would be permissible through sale and gift and transfer by inheritance. It is narrated on the authority of Imam Ahmad bin Hanbal that he said: "If there is any mention of sale in waqf, then it is not a valid endowment, and that is because the waqfs created by the companions are only perpetual, and the condition in it is that they are neither sold nor donated..." So, he believed that it was a consensus of the companions of the Prophet SAW since their waqfs are only permanent, and it was not reported from them that the waqf was specified for a period of time.

The second view belongs to the Malikis and those who agreed with them, such as Abu Yusuf from the Hanafi school, and Ibn Shurayj from the Shafie school. This group believed the waqf may be temporary, and it is not required that it has to be 'in perpetuity' for its validity. So, the endower may specify a specific period for the endowed asset (*mawquf*), and if this period expires it returns to the owner (*waqif*) (Al Mawardi,1999).

This group cited the previous hadith of Ibn Omar RA, in the saying of the Prophet SAW to Saydina Omar RA, the sentence "If you wish," there is evidence that the matter is left to the choice of those who want to make waqf and is not limited to a specific thing. They also inferred that the endowment is a type of charity that may be temporary and permanent, and there is no explicit evidence related to the endowment that prohibits it from being temporary.

#### 4.1.1 Analysis of the two views

After reviewing the statements of both arguments and stating their evidences, the research inclines for the second group's opinion including the statement of the Malikis and those who agreed with them - which says that perpetuity is not required in a waqf, and both, permanent and temporary waqf are allowed based on the following:

- The statement that a temporary waqf is permissible corresponds to the requirements and Maqasid of Shariah. Sheikh Abu Zahra says: "We observe that the majority viewed perpetuity is part of the meaning and concept of waqf, but a few jurists are of the view that perpetuity is not part of the meaning of waqf, so it is permissible both temporarily and permanently. And they derive their opinions from the meanings and significance of the Shariah.(Abu Zahrah,1991).
- There is nothing in Shariah which prevents or goes against the permissibility of temporary waqf. The Prophet Muhammad SAW and the honourable companions did not expressly stipulate perpetuity in creation of the waqf. As for the claim of actual consensus from the companions, there is an anecdote about the issuance of the endowment from them for life, and there is no evidence that perpetuity is a condition for validity of a waqf.
- Even in the opinion of the Shafie school, there is a minority view such as Ibn Shuraij and al Nawawi which do not oppose *waqf muaqqat*.

In addition, rules on *waqf muaqqat* may be derived from the above discussion as well as reference to the law as practiced in some of the Muslim countries. *Waqf muaqqat* is clearly stated in the Egyptian Law No. 48 of 1946 under the provisions of waqf in Article No. (5). The law which is similar to most of the Arab countries adopts that only waqf for waqf of mosque is permanent and waqf may be for other good deeds temporary or permanent, and if it is general, it is permanent. As for the general waqf or waqf for good deeds, it is only temporary, and it is not permissible for more than two generations. Thus, development of *waqf muaqqat* must consider certain elements such as the nature or type of *marwquf*, the ability of the *mutawalli* in managing the waqf, the needs of the people and circumstances in addition to the terms or conditions determined by the *waqif* and the relevant law. The basis of the rules must always for the 'maslahah' of the people and for the sustainability of waqf (Rahardjo, 2004).

*Waqf muaqqat* also is incorporated clearly in the UU No 41 (2004) that it is permissible, a provision which is generally against the common belief of the biggest followers of the Shafie school in the world. Certainly, the incorporation and making it permissible under the law was the result of legal due process and consideration of Shariah and *maslahah*.

In Malaysia, many rules are also developed based on *ijtihad* endorsed by the Fatwa Council as the law on waqf is not comprehensive and some states have no specific laws on waqf. For example, there are two dissenting fatwas regarding the period of waqf. Several states' muftis have given *fatwa* that waqf must be made in perpetuity while other states' fatwa held that it can be made subject to a specific period of time. For example, section 2(1) of the Enakmen Majlis Agama Islam dan Adat Istiadat Melayu Kelantan 1994 provides that waqf must be made in perpetuity for both types of waqf property whether it *manqul* (moveable) or *iqar* (immoveable). This provision is in line with the Kelantan's fatwa which also emphasized on the perpetuity of waqf. This fatwa is in fact in accordance with Mazhab Hanafi, Syafie and Hanbali in legalizing waqf for *manqul* or *iqar* if it has perpetual characteristic (ta'bid).

However, the National Fatwa Council (NFC) has recognized waqf property that does not have perpetual characteristic. For example, the NFC has decided that waqf for leasehold property is valid under *hukum syarak*. This view is in line with the fatwa of Wilayah Persekutuan, Perak, Pulau Pinang, Terengganu and Selangor. Therefore, it can be said

that these fatwas are in fact follow the opinion of Maliki Mazhab in enabling waqf with temporal period. Certainly, a deviation from the majority view is carried out on the basis of *maslahah* for the *ummah*.

Some Wakaf Enactments in the states in Malaysia has mentioned the word “waqf muaqqat” in their enactments while others are silent.

#### 4.2 Classification of Objectives of Shariah

Traditional classification of *maqasid* is divided into *ad dharuriyyah* (necessities) al *hajiyyat* (needs) and *at tahsiniyyat* (luxuries). The *ad-dharuriyyat* is further divided into five main objectives i.e. to protect the religion (ad-deen), to protect life, to protect property, to protect intellectual or mind and to protect lineage. Among the five essential values, the preservation and protection of religion has preference over the preservation and protection of life: life has higher priority than lineage; lineage is prior to intellect and intellect is preferred over property. *Waqf muaqqat* is presented and mooted in this paper as the practice which fulfils almost all the objectives; religion, life, lineage and mal. It is importance that it falls within the *dharuriyyat* as well as the *hajiyyat* which are also in line with the contemporary approach of objective al Shariah as promoted by Ibn Ashur (2006).

Furthermore, the debates about the position of *waqf muaqqat* may be associated to the differences in the definition of waqf among the Muslim jurists. The discussion arises as there is no direct use of word ‘waqf’ in the Quran. According to the Hanafiyyah, *habs* refers to an act to prevent the claim of the waqif on his property in any form and to give out the benefits (*manfaah*) for any philanthropic purposes. The Hanafiyyah holds that there is no a total disclaim by the owner. He is still the owner but once a waqf is created, the *waqif* will become a trustee to distribute the *manfaah* according to the *sighah* (terms) of the waqf. His ownership remains but subject to the terms of *sighah*. He can withdraw, revoke or end the waqf. According to the Hanafi school, the waqf is only permissible and not obligatory.

#### 4.3 Alignment of Objectives Of Shariah to Waqf Muaqqat

The term ‘right’ refers to the ways human beings make use of, and benefit from, what Allah has created for them. (*Al Mulk:15; Ar Raad:3; al Baqarah:29; Ibrahim 32-34; Al A’raaf:10; Al Waqi’ah: 32-34*). Human being enjoys the *manfaah* in this world as a matter of right and interest as Allah SWT the Creator has clearly determined the permissible and the ‘prohibited’ of His creation. There are many Qur’anic verses in which Allah SWT clearly mentioned that He is the owner of everything in this world, but the creations are for the benefits of mankind and all God creations (*Al Baqarah:29*). The rules determined by Allah SWT in His books and through His Messengers set as the divine guidance or the law known as “Shariah”. The general objectives of Shariah are derived from the verse of the Quran that emphasises the Prophet Muhammad SAW as the *Rahmatan lil A’lamin* or blessing to all universe i.e., to the whole *ummah*, Muslim or non-Muslim and even to the flora and fauna. Hence, according to Ibn Qayyim, the aim of Shariah is to provide benefit to the people in this world and in the world afterlife (Laldin,2006). There are many benefits that are consensually recognised by many people in this world. The important of shelter, food, money or transportation are generally approved by all, Muslim or non-Muslim. Nonetheless, the Messenger of Allah SAW has the role to explain and remind us of the existence of life after this world. It relates to many others. The existing rights and duties are designed to test us. It assesses who is the best and the most god-fearing people. The working of the five main objectives of Shariah is not a key performance index in this world only, but what matter most, is the result on the day of judgement.

Hence, waqf is generally recognised as a part of *sadaqah jariah* in which the *manfaah* rolls to the general and specific members of the society. As such, most of the jurists agree

that waqf for mosque and cemetery must be made 'perpetual' or it shall defeat the objectives and the *maslahah* as promoted by the Shariah. Nonetheless, the general rule of perpetuity as a condition of waqf may appear as an obstacle to the development of waqf in the current circumstances. Having mentioned that, it is not the intention of this paper to change the position of 'perpetuity' as a condition for waqf but to propose for a generally accepted rule that *waqf muaqqat* is also made permissible. Hence, there should be a clear legal provision invoking either through the principles of Shariah or by having a clear written law providing as such. This study refers to *waqf muaqqat* as an instrument to be employed as a mean to achieve the higher objective of Shariah and at the same time to sustain the practice of waqf in order to fulfil the intention of the waqif and benefitting the beneficiaries.

The validity of *waqf muaqqat* is endorsed by many Muslim jurists (Al Karshi,1997). Nonetheless, the differences of stances on *waqf muaqqat* is due to differences in adopting the principles of perpetuity of waqf. All schools of *fiqh* except the Malikis are of the view that waqf must be *muabbad* or perpetual.

#### 4.4 Temporary Waqf Under the Waqf Enactments In Malaysia

In Malaysia, the provision for *waqf muaqqat* based on various Administration of Islamic Law enactments or even under the Waqf Enactments is rather restrictive or ambiguous. Majority of the Enactments are silent on the position of *waqf muaqqat* (see Selangor and Pahang). Some states have either defined the term *waqf muaqqat* such as in Terengganu or Kedah or the existence of *waqf muaqqat* has to be interpreted indirectly from other provisions relating to the permissibility of *waqf khas*. Nevertheless, in contrast to Kedah, Johor Waqf Rules 1983 has spelt out under Section 17 that all waqf relating to mosque or waqf of mosques are *waqf muabbad* or permanent waqf. It is stated that *waqf ahli* or family waqf is either *waqf muaqqat* for the maximum of 60 years from the date of the death of the *waqif* or for two generations excluding the *waqif's* period. In Federal Territory, Malaysia, the understanding about the permissibility of *waqf muaqqat* can be inferred from the provision on *waqf khas*. The section spells out that "wakaf khas" means a dedication in perpetuity or for a limited period (author emphasis) of the capital of property for religious or charitable purposes recognized by Islamic Law, and the property so dedicated, the income of the property being paid to persons or for purposes prescribed in the waqf. A similar interpretation also exists under the Majlis Islam Sarawak Ordinance, 2001 and the Administration of Islamic Law Enactment (Sabah) 1992. Section 2 of the law provides that "wakaf khas" means a dedication in perpetuity, or for a limited period, of the capital of property for religious or charitable purposes recognized by Islamic Law and the property so dedicated, the benefit and income of the property being given to specified persons or for purposes prescribed in the *waqf*.

It can be generally inferred that *waqf muaqqat* is only allowed for the creation of *waqf khas* while *waqf am* or *khairi* has to be in perpetuity.

Although some states law may not have clear provision on *waqf muaqqat*, there is no restriction on its application. Most of the laws relating to the administration of Islam define *hukm* as *hukm* according to Mazhab Shafie, as such a need for a provision providing for *waqf muaqqat* is necessary so that the majority views on the duration of waqf and the term 'perpetuity' may not be seen as contradictory.

The rule may be validated or legislated through *ijtihad* of the Muslim jurist or court and endorsed by an authoritative body such as the National Fatwa Council or Council of Fatwa in every state. This legal process may sometimes appear as a challenge to those who wants to make *waqf muaqqat* as well a burden to the Majlis or Waqf authority who wants to allow for *waqf muaqqat*. It is timely for waqf laws to be flexible and accommodative to the needs of the society within the Shariah parameter.

## 5. Conclusions

From the foregoing discussions, it can be concluded that *waqf muaqqat* is valid and relevant in the context of Malaysia though the Shafie school does not permit *waqf muaqqat*. It is mooted in this paper that the basis for the adoption of the minority view of the Shafie school and the main view of the Maliki school is *maslahah*. Upholding the *maslahah* and prioritising the rights and needs of the ummah on the basis of *maqasid al shariah* are vital. Attaining the *maslahah* or public good is among the main objectives of Shariah in protecting property or religion of Islam. So long as the view does not contradict to any principles of Islamic law, hence, it should be permitted.

The view and approach of the contemporary society on the concept of mal, the concept of *mawquf* for waqf which has moved from tangible to intangible, immovable to also include movable and the recognition of *manfaah* or usufruct as the *mawquf* must be welcomed and promoted. Wealth is measured not only on how big is the size of land or building but also the value of shares or intellectual properties, thus, the temporary nature of an asset should also be considered as valuable for waqf so long as the beneficiaries can enjoy the benefit.

It can be concluded that a proper understanding on the objectives of Shariah is crucial in developing the principles of law relating to *waqf muaqqat*. Moreover, the objectives of Shariah itself must be applied beyond the general application. Islam grows with the people for the people.

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