

## **Maslahah Mursalah As The Istinbath of The Law of Ibn Taimiyah in Conditional Waqf**

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### **Abstract:**

*Many cases of waqf occur in the community, where waqif provides conditions that are not in accordance with the object of the waqf object. If someone wants to donate enough with the intention of endowments only. The research method that I use is library research, which is the object of research regarding Ibn Taimiyah's opinion in conditional waqf. In the research method, the author uses analytical content. in this case Ibn Taimiyah's opinion about the conditional and istinbath of Ibn Taimiyah's law will be explained about reservations and its participation in waqf contracts. The author conducts research on conditional waqf in Ibn Taimiyah's perspective, finally, the author concludes that Ibn Taimiyah's opinion on conditional waqf is the inclusion of conditions on waqf must realize the meaning of taqarrub (self approach to God). if waqif requires for certain fields that have no merit, then the effort is a futile both in the world and the hereafter. In short, such conditions are deemed null and void, but the endowments remain valid. in applying the istinbath of law, Ibn Taimiyah applied maslahah mursalah as his legal approach. Maslahah mursalah is a benefit that is considered to bring benefits to humans and is not found basically in syara '.*

**Keywords:** *The Istinbath of the Law, Maslahah Mursalah, Conditional Waqf, Ibn Taimiyah*

### **INTRODUCTION**

Waqf is a kind of gift which is carried out by way of holding back the possession (tahbisu ashli), then it makes the benefits to be generally accepted as meant by tahbisu ashli is to hold the goods that are represented so that they are not inherited, sold, donated, mortgaged, leased, and etc, while the way to use is to use it in accordance with the will of the waqf (wakif) without any reward. However, fiqh experts in the level of understanding of waqf are more detailed in their opinions. Therefore, they are different in looking at the true of waqf, both in terms of the continuous aspects of time (pledges), assets that are represented (objects of waqf), patterns of empowerment and utilization of waqf assets.

In its implementation, waqf must fulfill several pillars and from these pillars also have several requirements that have been regulated by shari'ah law. As for the pillars are the presence of someone who represents (al-waqif), the object that is represented (al-mauquf), the purpose of waqf (al-mauquf 'alaih), and pledges / statements of waqf (sighat). the majority of fuqaha have their own views on conditions that may be accompanied by a contract or act (implementation) of waqf. Hanafiyah Fuqaha argues that all conditions that are contrary to the nature of waqf cause the cancellation of waqf and cannot be

implemented. Among these conditions are conditions that are contrary to waqf obligations or "enduring" conditions of waqf (Al-Kabisi, 2004: 181). the conditions of this can be canceled if waqf leads to not being allowed to carry out maintenance on waqf and if he does not want to provide conditions for the supply of spare parts if one day the waqf is damaged. Waqf conditions can also be canceled if the waqif does not allow replacing clear nazhir. The cancellation of the conditions mentioned above are because all of these conditions in conflict with the origin of waqf or the basic purposes (Qahaf, 2005: 113-114).

According to the Syafi'iyah jurisprudence that the terms of the wakif were permissible as long as they did not conflict with the provisions of the waqf. So if it does not conflict with the provisions of waqf and for its sake, it is obligatory to fulfill it. if he endorses it with the certain condition that he may sell and take the results when he needs them, then this is a null and void. This is based on the words of the Prophet Muhammad, "detained his property and distributed the proceeds" (Al-Kabisi, 2004: 182). a condition that violates the rules in the contract, it will make the contract null and void if stated, as in other contracts.

While the Malikiyah jurisprudences allow the waqif to provide permissible requirements, and according to them is obliged to fulfill the permissible conditions. Whereas if the waqif gives conditions that are not allowed, then it must not be fulfilled (Al-Kabisi, 2004: 183). Hanabilah scholars agree with the opinion of Syafi'iyah, Hanafiyah, and Malikiyah not to ratify the conditions that are contrary to the provisions of waqf, such as the waqif requires that he is allowed to sell, grant or withdraw their property at any time (Al-Kabisi, 2004: 184).

These conditions are contrary to the terms of the contract, therefore they are not legal. As well as someone requires to sell al-mauquf at any time, because waqf is to give ownership rights to Allah SWT and because waqf is not a contract of exchange of goods.

Based on the author's explanation above, the majority of scholars argue that conditions that are contrary to legal texts are a null condition. However, this opinion cannot be absolutely accepted by the majority of the jurists. because each school has its own view of the conditions which may be accompanied by the contract and action (implementation).

Ibn Taimiyah explained the differences between the jurists on the problem of the contract and the terms allowed and prohibited, as well as validating and damaging, he limited the differences in 2 points. First, basically in the contract and the conditions are prohibited, unless there is a legal argument that allows it. this was the opinion of followers of al-Zahir, as well as the majority of the Hanafiyah and Syafi'iyah fuqaha and a group of followers of Imam Malik and Imam Ahmad. second, that the origin of the contract is permissible and valid and not prohibited and not declared null, unless there is a proposition that shows the prohibition in the form of texts or qiyas for those who use it (Taimiyah, 1980: 326).

As the author explained earlier, that the conditions that contradict the legal texts are null conditions, based on the rule that the origin of lawa is worship. However, the author finds that some fuqaha disagree with the reservations of the waqif. based on the fact that the origin of waqf is taqarrub (self-approach to Allah), then the conditions are not permitted except conditions that can realize the meaning of taqarrub .

This has been explained in Fatawa Ibn Taimiyah, that the line required in waqf, which is in contact with religion, such as waqf to the priests, muadzin or for other worship.

Ibn Taimiyah divided the line into three. first, the line that draws closer to Allah SWT, that is, the lines recommended by the prophet SAW to be implemented, then the conditions like this must be fulfilled. Second, the line which is prohibited by the Messenger of Allah SAW or that makruh. So, based on the agreement of the scholars the terms like this are not legal. third, charity that is not corrupt and is not sanctified according to the law, but is permissible. Some scholars must fulfill this requirement. as for the majority of scholars, this condition is null and void if it requires this except the conditions that contain the meaning of qurbah (self-approach to God) (Taimiyah, 1980: 326).

## DISCUSSION

### The definition and the conditions of Wakaf

Discussing about Wakaf, many terms or definitions that discuss, reveal, explore, regarding waqf both etymologically (language) and terminologically (terms). whether it is found in classical, contemporary books, translation books and so on, the following will explain the definition of waqf according to the jurisprudence and applicable laws.

The word waqf which becomes wakaf in Indonesian are derived from Arabic, namely "وقف يقف وقفا". which means, stands, prevents, or detains (Yunus, 2011: 2). The word al-waqf in Arabic contains several meanings:

الوقف بمعنى التحسيس والتسبيل

Meaning: "holding property to be represented and not transferred to belong".

From the description above it can be seen that the word waqafa is identical to the word habasa, this is because the fiqh experts in interpreting waqf terminologically they use two words are habs and waqf (Qahaf, 2005: 44). in the al-Wasith dictionary it is said that al-habsu means al-man'u (preventing or prohibiting) and al-imsak (holding). the same thing was also expressed by Zubaidi in the Taj Al-Arus dictionary as quoted by Mundzir Qahaf where the word al-habsu means al-man'u and al-imsak which means holding back (Qahaf, 2005: 45).

To sum up, the words al-habsu and al-waqfu contain the meaning of al-imsak (holding), al-man'u (preventing or prohibiting). It is called restraining because waqf are held from damage, sales and all actions that are not in accordance with the purpose of the waqf. whereas this is said to be holding back, because the benefits and results are detained and prohibited for anyone other than those who are entitled to the waqf.

### The scholars' views about Conditional Waqf

The majority of jurists have their own views about the conditions that may be allowed in the contract or the act (implementation) of waqf. These conditions consist of conditions that cause the loss of the origin of waqf and contrary to its provisions (Al-Kabisi, 2004: 189-190).

Below, the author describes some of the opinions of the scholars about conditional waqf, they are:

#### *Hanafiyah scholars*

Hanafiyah scholars argue that all conditions that are contrary to the origin of waqf cause the cancellation of waqf and cannot be implemented. Among the conditions are

conditions that are contrary to waqf obligations or "enduring" conditions of waqf (Al-Kabisi, 2004: 181).

### ***Ulama Syafi'iyah***

Syafi'iyah scholars argue that the terms of the wakif are permissible as long as they do not conflict with the provisions of the waqf. So if it does not conflict with the provisions of waqf and for its sake, it is obligatory to fulfill it. If he endorses it with the condition that he may sell and take the results when he needs them, then this is a null and void. This is based on the words of the Prophet Muhammad, "detained his property and distributed the proceeds" (Al-Kabisi, 2004: 182). A condition that violates the rules in the contract, it will make the contract null and void if stated, as in other contracts.

### ***Ulama Malikiyah***

Malikiyah scholars allow the wakif to provide permissible conditions, and according to them are obliged to fulfill the permissible conditions. As for if the wakif provide conditions that are not allowed, then it must not be fulfilled (Al-Kabisi, 2004: 183).

### ***Ulama Hanabilah***

Hanabilah scholars agree with the opinion of Syafi'iyah, Hanafiyah, and Malikiyah not to ratify the conditions that are contrary to the provisions of waqf, such as the waqif requires that they may sell, grant or withdraw their property at any time. However, the Hanabilah Ulama strengthens the opinion of canceling waqf and the conditions at once (Al-Kabisi, 2004: 184). The Hambali school as quoted by Mundzir Qahaf that makes it easier to cancel wakif conditions for a particular interest compared to others, as well as in the matter of substitution of waqf (Qahaf, 2005: 90).

### ***Ulama Zahiriyah***

Zahiriyah scholars relate all waqf issues to their perception that waqf comes out of the possession of the wakif to Allah SWT based on waqf statements from wakif, and the property will not be returned to wakif for any reason. Therefore, the form of any conditions and the level of their opposition to the waqf provisions will not affect the validity of the waqf. However, waqf are considered legitimate and the conditions are canceled (Al-Kabisi, 2004: 184).

Based on the explanation above, the jurists have agreed that conditions that contradict legal texts are a null condition. However, they disagree afterwards on the prohibition of these conditions and their effect on transactions or legal actions.

### **The biography of Ibn Taimiyah**

His name is Ahmad Bin Abdil Halim Bin Abdissalam Bin Abdillah Bin Al-Khadr Bin Muhammad Bin Al-Khadr Bin Ali Bin Abdillah Bin Taimiyah An-Namiri Al-Harrani Ad-Dimasyqi Abu Abbas Taqiyuddin Syaikh Al-Islam, well known as Ibn Taimiyah and has the title Taqiyuddin.

As for the Taimiyah name, Ibn Al-Mutawaffi in the *Tarikh Irbil* said, "I asked Al-Hafizh Abu Abdirrahman bin Umar Al-Harrani about the meaning of Taimiyah, he said: "When Ibn Taimiyah's mother became pregnant, her father made a trip. Ibn Nashiruddin Ad-Dimasyqi in the book *At-Tibyan* said, "Indeed the mother of Muhammad bin al-Khadr

(his grandfather) was a preacher, his name was Taimiyah. From here Ibn Taimiyah's name is attributed (Farid, 2006: 783).

Ibn Taimiyah was born on the 10th of Rabiul Awal 661 H or January 22, 1263 AD, in the City of Harran northeast of the State of Turkey. Ibn Taymiyyah grew up in this city, until he was 16 years old. In 677 H Ibn Taimiyah moved with his father and two brothers to Damascus, coinciding with the arrival of the Tartars in Sham. In Damascus, Ibn Taimiyah became more free to explore science. Damascus at that time was a country of science (Sucipto, 2011: 52).

Ibn Taimiyah came from a respected family and had a basis in Islamic knowledge (Duriana, 2015: 187). Ibn Taimiyah's father, Syihabuddin Abul Mahasin Abdul Halim bin Taimiyah, was born in Harran in 627 H. He still lives when his son reaches the peak of success. He also played many roles in the success of Ibn Taimiyah's life. When Ibn Taimiyah was in Egypt he wrote a letter to his mother which was filled with devotion, love, sincerity and faith (al-Jamal, 2005: 203-204).

Ibn Taimiyah's grandfather named Syaikhul Islam Majduddin Abul Barakat Abdussalam ibn Abdullah bin Taimiyah al-Harrani, was a Hambali School of Jurisprudence, imam, hadith expert, interpreter, expert on ushul, nahwu expert, and one of al-hafizh, (hafal al -Qur'an). He was born in Harran in 590 AH and migrated to study in Baghdad in 603 H (Azhim, 2005: 16).

From here it can be seen that both Ibn Taimiyah's father and grandfather were well-known Muslim leaders and scholars. Both have significant contributions in shaping the life of Syaikhul Islam Ibn Taimiyah.

Ibn Taimiyah belongs to the group of multi-talented scholars. He not only became an orator, author of a book, but also involved acting in the political field and providing public services. Ibn Taimiyah is also known as a figure who has an independent Islamic view (Hilal, 2014: 18).

Ibnul Abdil Hadi mentioned in Mukhtashar Thabaqat Ulama 'Al-Hadith, that the teachers of Syaikhul Islam which he had studied from, more than two hundred. Following this, the author will describe the teachers from Ibn Taimiyah, they are: Ahmad bin Abdudda' 'im al-Maqdisi, Ibnu Abi al-Yusr, Al-Kamal bin Abd, Syamsudin bin Abu Umar al-Hanbali, Syamsudin bin Atha' al-Hanafi, Jamaluddin Yahya bin ash-Shairafi, Majduddin bin Asakir, An-Najib al-Miqdad, Ahmad bin Abul Khair al-Haddad, Al-Muslim bin Allan, Abu Bakar al-Harrawi, Ibnu Syaiban, Ibn Daqiq al-Id, Ibnu an-Nahhas, Al-Kasim al-Irbili, Abdul Halim Ibnu Abdus Salam, Jamaludin al-Baghdadi, Ali bin Balban, Taqiyudin bin Maziz, Jamaluddin Ahmad bin Abu Bakar al-Hawawi, and etc (Taimiyah, 2008: 20).

### **Analysis of Ibn Taimiyah's Opinion regarding the Provision of Terms in Wakaf** ***Ibn Taimiyah's opinion about the Provision of Terms on Wakaf***

Ibn Taimiyah is a scholar who adheres to the Hanabilah School. Many of Ibn Taimiyah's studies examined, as in the field of aqeedah, including: Bughyah Al-Apostate Fi Ar-Radd Al-Falasifah Wa Al-Qaramithah Wa Al-Batiniyah, Al-Jam 'Baina Al-Aql Wa An-Naql Au Dar' Ta 'Al-Aql Wa An-Naql Sah Muwafaqah Shahih Al-Manqul Sharih Al-Ma'qul, and Al-Aqidahal-Wasatiyah. In the field of Jurisprudence, including: Al-Fatawa al-Kubra ', Majmu' al-Fatawa '. The fields of the Qur'an and hadith include: Syarh Hadith an-Nuzul, Al-Iklil fi Al-Mutasyabih Wa At-Ta'wil, Muqaddimah fi Usul At-Tafsir, and many more studies discussed by Ibn Taimiyah.

As for the issue of waqf, there are several things discussed by Ibn Taimiyah, including exchanging or selling waqf assets, giving conditions to waqf, but the author only focuses this study on Ibn Taimiyah's opinion about the provision of waqf.

The ulama of the School of Islam differed on the conditions which may be accompanied by a contract or action (implementation). Some of them make it difficult, others allow freely and some take the middle way.

Ibn Taimiyah explained the differences between the jurists on the problem of the contract and the conditions which are permissible and prohibited, as well as those which ratify and which are destructive. as quoted by Al-Kabisi in Majmu 'Fatawa Ibn Taimiyah, Ibn Taimiyah limited the differences of the jurists to two points: first, basically in the contract and the conditions are prohibitions, unless there is a legal argument that allows it. this was the opinion of Imam Al-Zahir, as well as the majority of Hanafiyah and Syaf'iyah fuqaha and a group of followers of Imam Malik and Imam Ahmad. second, that the origin of the contract is permissible and valid, and is not prohibited and is not declared null, unless there is an argument that shows the prohibition in the form of texts or qiyas for those who use it. The principle of Imam Ahmad acknowledges the majority of this opinion, as does Imam Malik. but Imam Ahmad gave more freedom in giving conditions (Al-Kabisi, 2008: 186) .

The provision of waqf was discussed by Ibn Taimiyah in the book Majmu 'Fatawa. In this book Ibn Taimiyah argues that the line required in waqf, which is related to the religion, such as waqf to the priests, muazzin or for other worship. ibn Taimiyah divided the line into three, they are:

عمل يتقرب به الى الله تعالى وهو الواجبات والمستحبات التي وغب رسول الله صلى  
الله عليه وسلم فيها وحض على تحصيلها فمثل هذا الشرط يجب الوفاء به ويقف  
استحقاق الوقف على جحة حصوله في الجملة

*“Practice that draws closer to Allah SWT is obligatory deeds, the practice of circumcision that is accustomed to the Prophet Muhammad who was recommended to do so, then examples of reservations like this must be fulfilled” (Al-Kabisi, 2008: 389).*

On the first line it is clear that the line required in waqf is to draw closer to God like waqf to the priest. Muazin and people who teach the Qur'an, hadith, fiqh and so on. then these conditions are recommended and required by the Prophet.

عمل نهى النبي ﷺ عنه نهى تحريم أو نهى تنزيه فاشترط مثل هذا العمل باطل  
باتفاق العلماء لما قد استفاض عن النبي ﷺ انه خطب على منبره فقال: ما بال أقوام  
يشترطون شروط ليست في كتاب الله من اشترط شرطا ليس في كتاب الله فهو باطل  
وان كان ما ثمة شرط كتاب الله أحق وشرط الله أتق. وهذا الحديث وان خرج بسبب  
شرط الولاء لغير المعتق فان العبرة بعموم اللفظ لا بخصوص السبب

*"lines that are prohibited by the Prophet Muhammad or makruh, then based on the agreement of the scholars, such reservations are invalid. based on the hadits of the Messenger of Allāh that he preached on the pulpit: "why do humans provide conditions that are not found in the book of God, then any conditions not found in the book of God were prohibited, even though there are 100 conditions, because the book of God is more accurate". this hadith, even though it came to the problem of wala 'conditions (guardianship) for other than the master slave, but according to ulama ibrah (substantial) it was based on the general labfdz rather than the specificity of cause."*

On this second line, the requirements prohibited by the Prophet. This is based on the hadith quoted by Ibn Taimiyah in the book Majmu 'Fatawa which reads:

ما بال أقوام يشترطون شروط ليست في كتاب الله من اشترط شرطاً ليس في كتاب الله فهو باطل وإن كان ما تمة شرط كتاب الله أحق وشرط الله أتق

*"Why do humans provide conditions that are not found in the book of God, so any conditions not found in the book of God are prohibited, even though there are 100 conditions, because the book of God is more accurate".*

Even though the hadith came on the issue of wala '(guardianship) other than slaves, the scholars made the waqf case included in the hadith. The hadith is also used as a proposition in his opinion. while the followers of Zahiriyah do not ratify contracts or conditions unless there is a nash or ijma that allows. A contract or condition that does not have a legal order to make it happen, then the condition is canceled.

عمل ليس عكروه في الشرع ولا مستحب بل هو مباح مستوى الط رفين فهذا قال بعض العلماء بوجود الو فاء به والجمهور من العلماء من أهل المذا هب المشهورة وغير هم على ان شر طه باطل فلا يصح عند هم أن يشترط الا ما كان قربة الى الله تعالى وذلك لان الانسان ليس له أن يبذل ماله الا لما له فيه منفعة في الدين أو الدنيا فما دام الانسان حيا فله أن يبذل ماله في تحصيل الا غيراض المباحة لانه ينتفع بذلك فاما الميت فما بقى بعد الموت ينتفع من اعمال الاحياء الا بعمل صالح قد أمر به أو أعان عليه أو أهدى اليه ونحو ذلك فاما الا اعمال ليست طاعة لله ورسوله فلا ينتفع بها الميت مجال فاذا اشترط الموصى أو الواقف عملاً أو صفة لا ثواب فيها كان السعى في تحصيلها سعياً فيها لا ينتفع به في دنياه ولا في آحرنه ومثل هذا لا يجوز وهذا انما مقصوده بالوقف التقرب والله أعلم

*"Charity that is not makruh and is not also sanctified according to law, but is permissible. Some scholars say this must be fulfilled. while the number of scholars is null and void, according to them there is no legal reservation unless the conditions are something that draws closer to Allah, because*

*human beings are unlikely to want to put all the assets they have except lines that contain benefits for religion and the world .therefore, as long as humans live they should exert their wealth in achieving the goals that are permissible, because it will bring benefits to themselves. as for if he has died, then there is no benefit that can be achieved except with the good deeds that he does or which are given to him and so forth. As for deeds that are not oriented to obedience to Allah and His Messenger will be in vain and do not benefit the minor. if wakif requires for certain fields that have no merit, then the effort is a futile effort both in the world and in the hereafter and conditions like this should not be. Because, the purpose of waqf is takarrub to Allah SWT.”*

On this line , according to Ibn Taimiyah that charity is not makruh and not also sanctified according to law, but it is permissible. The scholars agree that there is no legal requirement except the conditions that draw closer to Allah. Similar things were also conveyed by ulema Syafi'iyah, Hanafiyah, and Malikiyah, not to ratify conditions that were contrary to the provisions of waqf.

Different from Ibn Taimiyah and other scholars, that the Zahiriyah argued that the form of any conditions and the degree of their opposition to the provisions of waqf would not affect the validity of the waqf. However, waqf is considered valid and the terms are canceled. Zahiriyah scholars tend to narrow the acquisition of conditions in contracts and legal actions. This is because they do not authorize all conditions as long as there are no permissible texts.

From the explanation above, it can be understood that Ibn Taimiyah allowed the inclusion of conditions on waqf. However, Ibn Taimiyah made taqarrub as a benchmark in waqf. So, if there are conditions that do not contain taqarrub meanings must not be fulfilled.

Ibn Taimiyah made taqarrub (self-approach to Allah) as a standard requirement in waqf. Thus, Ibn Taimiyah is in accordance with the opinion of Al-Syathibi that all forms of conditions that are not in accordance with the meaning of worship are not required to be fulfilled.

From the overall description of the opinion, the author can conclude that the inclusion of the terms of the waqf is permissible. However, the conditions that realize the meaning of takarrub, because it shows that there are strong benefit.

As for the description, as follows, in the midst of the social problems of Indonesian society lately, the existence of waqf institutions has become very strategic. besides being one aspect of Islamic teachings that has a spiritual dimension, waqf is also a teaching that emphasizes the importance of economic prosperity. Thus the opinion of Ibn Taimiyah is very relevant if applied in the life of society, nation and state in the present era. because of the large number of cases that occur in the community, where wakif states the conditions in his waqf pledge.

### ***Ibn Taimiyah's Law of Istinbath Method Regarding the Provision of Terms on waqf***

Ibn Taymiyyah in performing ijtihad using the Qur'an and Hadith as the main guidelines. ibn Taimiyah expressly rejects the ability to abolish (the law) the Qur'an with the hadith, which is held by most scholars, seems to further clarify his position Hadith with the Qur'an is not equal (Amin, 1991: 76).



After speaking at length about the legal istinbath used by Ibn Taimiyah in previous fiqh sciences, if it is associated with the legal istinbath method which he uses in giving conditions to the waqf then the legal istinbath method used is *maslahah mursalah*.

*Maslahah mursalah*, according to Ibn Taimiyah, is a benefit that is not found in the essence of *syara'*, both those who support it and those who reject it. In other words, *Maslahah Mursalah* is a benefit that is considered to bring benefits to humans and is not found basically in *syara'* (Mursi, 2007: 92).

According to Ibn Taimiyah, what is reason believed is a benefit and no explanation is found in *syara'*, so that benefit will not come out of two things. First, it may be that *syara'* has shown this benefit, but it is not known by those who study it. Secondly, it could be that it is not a benefit, only assuming that it is a benefit. Because what is called benefit is the amount of benefits obtained from it. The legal basis used by Ibn Taimiyah in taking his *ijtihad* in this matter was the words of the Prophet who once preached on the pulpit. The specific proposition in the school is *Al-Masalihul Mursalah*, a proposition or legal reason regarding general benefit.

Among those agreed upon by the majority of scholars that Allah SWT does not declare a law but for the benefit of His servants. In fact this benefit is sometimes in the form of attracting benefits for them and sometimes refusing difficulties. So that encourages the formation of the *syara'* law; is interesting benefits for humans. Like, realizing the meaning of *taqarrub* in the inclusion of the conditions in this waqf, the lesson is to reject *musyaqoh* (difficulties).

## CONCLUSION

After the author discusses in depth about the conditional waqf in Ibn Taimiyah's perspective, conclusions can be drawn as follows:

Ibn Taimiyah argued that the inclusion of conditions on waqf must realize the meaning of *taqarrub* (self-approach) to Allah. Ibn Taimiyah allows the inclusion of conditions on waqf, provided that these conditions do not contradict with the purpose of the waqf. Which is the purpose of waqf is *taqarrub* to Allah SWT. Ibn Taimiyah in using the *istinbath* law regarding the inclusion of conditions on waqf is based on the hadith of the Prophet narrated by 'Aisha. Although the hadith came on the issue of *wala'*, but Ibn Taimiyah made the hadith as a proposition in the reservations on waqf based on pronunciation general rather than specificity of cause.

Finally, Ibn Taimiyah's opinion is very relevant if applied in the life of society, nation and state in the present era. There is no longer a wakif that arbitrarily includes the conditions when having representation. If someone wants to represent enough with the intention of waqf without any conditions that accompany the contract.

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