Exploring the Evolution of Waqf Laws and Contemporary Practices in Muslim Countries

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Abstract

This study aimed to provide valuable insight into the legal framework and practice of waqf in Muslim countries. Throughout Islamic history's trajectory, waqf has served as a crucial element in the advancement of Islamic civilization. It has substantially contributed to religious, social, educational, economic, and community progress. To ensure the effective preservation and management of waqf assets, the presence of a robust waqf law that serves as a guiding framework is indispensable. In modern times, the legislation pertaining to waqf in Muslim countries has undergone significant evolution and enhancement. However, waqf laws in Muslim countries are subject to change. This paper employed a qualitative research method using secondary data to analyze the evolution and contemporary practices of waqf laws in Muslim countries. The result of this study found that waqf laws in Muslim countries have experienced multiple reforms, with the number of changes varying across different nations. Reforms in waqf laws across Muslim countries demonstrate ongoing efforts to enhance the legal frameworks governing waqf management and administration, addressing the evolving needs and challenges associated with waqf properties. These reforms aim to ensure efficient utilization and management of waqf assets for the betterment of society.

Keywords: Waqf Development, Evolution of Waqf Law, Legal Framework, Muslim Countries

Abstrak

Penelitian ini bertujuan untuk memberikan wawasan tentang kerangka hukum dan praktik wakaf di negara-negara Muslim.Sepanjang perjalanan sejarah Islam, wakaf telah berperan sebagai elemen penting dalam kemajuan peradaban Islam. Ini telah membuat kontribusi besar untuk kemajuan agama, sosial, pendidikan, ekonomi, dan masyarakat. Untuk memastikan pelestarian dan pengelolaan aset wakaf yang efektif, keberadaan undang-undang wakaf yang kuat yang berfungsi sebagai kerangka panduan sangat diperlukan. Di zaman modern, undang-undang yang berkaitan dengan wakaf di negara-negara Muslim telah mengalami evolusi dan peningkatan yang signifikan. Walaubagaimanapun, undang-undang wakaf di negara muslim telah mengalami perubahan. Penelitian ini menggunakan metode kualitatif dengan menggunakan data sekunder untuk menganalisis evolusi historis dan praktik hukum wakaf kontemporer di negara-negara Muslim. Hasil penelitian ini menemukan bahwa hukum wakaf di negara-negara Muslim telah mengalami banyak reformasi, dengan jumlah perubahan yang berbeda-beda di berbagai negara. Reformasi undang-undang wakaf di seluruh negara Muslim menunjukkan upaya berkelanjutan untuk menyempurnakan kerangka hukum yang mengatur pengelolaan dan administrasi wakaf, mengatasi kebutuhan dan tantangan yang terus berkembang terkait dengan properti wakaf. Reformasi ini bertujuan untuk memastikan pemanfaatan dan pengelolaan aset wakaf secara efisien untuk kemajuan masyarakat.

Kata Kunci: *Perkembangan Wakaf, Evolusi Undang-Undang Wakaf, Kerangka Hukum, Negara Muslim*

Background

Waqf has become an Islamic foundation that contributes to Muslim society. It has also become a tradition among the people since the Prophet Muhammad (Peace be upon Him, PBUH) recommended waqf practice to His Companion; Umar ibn Khattab . Waqf involves the dedication of land or other assets to protect the public interest, encompassing several areas such as

education, healthcare, social activities, and religion. Over centuries, waqf has experienced continuous growth, transforming into a vital source of financing for Islamic organizations and institutions that work towards the betterment of society. Numerous Muslim countries worldwide are witnessing the ongoing expansion of waqf practices, which have assumed a crucial role in financing societal development and welfare.

Waqf laws are necessary to protect the waqf assets, and the parties related to waqfs, such as waqf donors, waqf managers, and waqf beneficiaries, are protected by law. This protection prevents theft, misappropriation, or violation of rights that can harm the parties involved. In this modern era, a waqf law is necessary to ensure the sustainability of the waqf asset itself. The existence of a waqf law can serve as a guideline on how to maintain the sustainability of waqf, including how to manage and benefit from waqf. This effort prevents the occurrence of poor or ineffective waqf management that can reduce the benefits of waqf for society.[1]

Today, waqf laws in Muslim countries are typically enacted by national legislatures and are designed to ensure the proper management and administration of waqf properties. These laws outline the procedures for establishing and registering waqf properties, as well as the duties and responsibilities of waqf trustees and administrators. They also address issues such as the distribution of waqf revenues, the maintenance of waqf properties, and the resolution of disputes related to waqf.

The development of waqf laws in Muslim countries has been driven by the desire to promote social justice, alleviate poverty, and provide for the needs of the community.[2] Waqf, as a mechanism for charitable giving and social welfare, has historically played a vital role in addressing societal needs and fostering equitable distribution of resources. The establishment of waqf laws has been instrumental in ensuring that these resources are effectively managed and distributed transparently and accountable.

Waqf laws serve as a framework that safeguards the integrity and effectiveness of waqf assets. By providing guidelines for managing, utilizing, and allocating waqf resources. These laws contribute to promoting social and economic development within Muslim societies. Through the establishment of regulations and oversight mechanisms, waqf laws help prevent misuse, corruption, or mismanagement of waqf assets, thereby upholding the principles of justice and fairness.[3]

Moreover, waqf laws contribute to the strengthening of civil society institutions. By providing a legal structure for waqf management and governance, these laws facilitate the participation of various stakeholders, including trustees, beneficiaries, and community members.[4] This involvement fosters a sense of collective responsibility and active engagement in administering and utilizing waqf resources, promoting community cohesion and property empowerment.

As Muslim societies continue evolving, the development of waqf laws will remain pivotal in addressing emerging challenges and opportunities. These laws can adapt to changing social, economic, and cultural contexts, ensuring that waqf remains a relevant and effective instrument for social justice and community welfare.

The research on the evolution of waqf laws and contemporary practices in Muslim countries holds significant importance for several reasons. First, the existence of waqf laws in the early

[1] Zati Ilham Abdul Manaf, 'Resolution of Waqf Land Disputes: The Relevance of a Waqf Tribunal', *International Conference on Dispute Resolution 2017*, November, 2017.

[2] M. Kabir Hassan, Mohd Fazlul Karim, and M. Sydul Karim, 'Experiences and Lessons of Cash Waqf in Bangladesh and Other Countries', in *Revitalization of Waqf for Socio-Economic Development* (Palgrave Macmillan, Cham, 2019).

[3] Zati Ilham and others, 'Optimising Waqf Law for Effective Administration: A Comparative Analysis of the Trustee Act 1949 and State Waqf Enactments', *IIUM LAW JOURNAL*, 31.1 (2023), 235–60.

[4] Hussein Elasrag, 'Towards a New Role of the Institution of Waqf', *SSRN Electronic Journal*, 2017, 1–27 <https://doi.org/10.2139/ssrn.3011290>.

Muslim countries was still influenced by the laws applied by the colonial government at that time, so the waqf law still only regulated the ownership and use of the waqf assets. Secondly, the passage of time has caused waqf assets to develop as well. So, this development is likely to require regulations that can accommodate and ensure that waqf assets are maintained and developed effectively. Third, the study of waqf law has become significant to promote transparency, accountability, and proper supervision of waqf assets. These reasons have encouraged the author to investigate how waqf law in Muslim countries, whether the waqf law has been able to protect waqf assets and can be developed optimally. These questions will be addressed in this research.

The method employed in this research is qualitative research using secondary data to analyze and investigate the evolution and contemporary practices of waqf laws in Muslim countries. The Muslim countries used as case studies in this research are Iran, Egypt, Pakistan, Kuwait, Saudi Arabia, Malaysia, and Indonesia. The selected countries in this research are considered to have strong Islamic cultural roots. Therefore,waqf, as one of the Islamic cultures, has become a practice of Islamic society in these countries. The analytical approach adopted is a case study approach to gain comprehensive insights into the development and implementation of waqf laws in specific Muslim countries. The case study approach allows for an in-depth exploration of the interplay between legal frameworks, social factors, and institutional arrangements, shedding light on the complexities and nuances surrounding waqf practices.

This research aims to provide valuable insight into the legal framework of waqf in Muslim countries. In addition, this research is conducted to determine whether waqf laws in Muslim countries have safeguarded waqf assets and provided sufficient space to develop waqf assets more effectively.

The Evolution of Waqf Laws in Muslim Countries

In general, waqf has been practiced in most Muslim countries in line with the introduction of Islamic teachings to those countries. In the early days, waqf in Muslim countries was largely practiced in the form of land and building. The significant benefits of waqf assets have led Muslims, particularly the trustees, to have a strong desire to manage waqf effectively. There has been a development in the kinds of waqf assets, particularly in movable waqf assets such as cash (money), securities (stocks), or other movable assets.

At present, waqf has become very popular and is one of the main focuses of Muslim countries to develop waqf assets and provide benefits to the community. In the early 20th century, waqf assets in Muslim countries began to play a very important role in the social and economic development of the Muslim community. Waqf has rapidly developed, not only in worship facilities but also in agriculture, education, apartments, hospitals, money, securities, and others. The following paragraphs explain some experiences of several Muslim countries regarding the implementation of waqf

Iran

The history of waqf in Iran can be traced back to the introduction of Islam into the country. Scholarly sources suggested that the development of waqf in Iran can be dated back to the reign of Shah Ṭahmāsb (1524-1576), who instituted the nāzir (manager of waqf property) shift to manage the assets of the ummah.[5] Additionally, historical records indicate that a mosque (Masjed-e Rig) connected to shops was constructed in Tabriz in 1368-1369, which was part of the waqf property.[6] The existence of waqf

[5] Robert D McChesney, 'Waqf in Central Asia', in *Waqf in Central Asia*, Four Hundred Years in the History of a Muslim Shrine, 1480-1889 (Princeton University Press, 1991), pp. 325–42 <http://www.jstor.org/stable/j.ctt7zvwv1.22>.

[6] M. E. Bonine, 'Islam and Commerce: Waqf and the Bazaar of Yazd, Iran', *Erdkunde*, 41.3 (1987), 182–96 <https://doi.org/10.3112/erdkunde.1987.03.02>.

in various forms, including mosques, shops, and bazaars, in the city of Yazd in central Iran further confirms the longstanding tradition of waqf in the country.

Although there is a paucity of literature discussing waqf in Iran, it has highlighted the significance of waqf documents in revealing that one-third of Iran's land is waqf. Similarly, the Iranian Waqf Institute has reported that there are currently 127 waqf items throughout Iran and that one-third of the country's area is waqf land. Moreover, the institution has overseen 8,051 sacred historical sites. During a meeting of the Planning Council for the International Public Relations Symposium at the Eram Hotel in Tehran, Ali Rabei, Head of Public Relations for International Waqf Affairs, disclosed that Iran currently has 60,000 mosques and plans to construct an additional 20,000 mosques as part of its development program.[7] This program will also result in a 20% increase in Ulum al-Quran faculties.

Based on this explanation, it is evident that waqf in Iran has undergone significant development over time. While limited literature on waqf exists in Iran, the country has embraced innovative forms of waqf, such as movable property waqf, including stock waqf or Sukuk. For example, waqf institutions in Iran have invested in the Bazaar project by purchasing shares, with the proceeds benefiting the community.[8]

The law of waqf in Iran is primarily governed by the Iranian Civil Code adopted in 1928, and other related legal statutes and regulations. Under Iranian law, a waqf is a type of legal institution whereby an individual or entity (the waqif) donates specific property or assets to be held in trust and managed by a trustee (nazir) for the benefit of a particular purpose or community.[9] Although waqf laws have accommodated the application of waqf to society, according to Shaghaghi, waqf laws in Iran are still less modern.

Iran's waqf regulations were transformed in 1979 after the Islamic Revolution. Ayatullah Khomeini issued a fatwa that all previously privatized endowment properties should be restored to their original status. Consequently, the Revolutionary Council approved the first law on the revival of endowment properties in 1979, the first year of the establishment of the new Islamic state. The new law specified not only the ownership rights of endowment properties but also the type of organizations that should manage or supervise them.[10]

The law has provided detailed rules and procedures for creating, administering, and terminating waqfs practices in Iran. For example, a waqf must be established by a formal declaration by the waqif, and the waqf property must be registered with the appropriate authorities. In addition, the Iranian government has established various institutions to regulate and oversee waqf activities in the country, including the Iranian Waqf Organization and the Central Waqf Council. These institutions are responsible for managing and supervising waqfs, as well as resolving disputes and ensuring compliance with legal requirements.

Egypt

The development of waqf in Egypt is inherited from previous empires such as Mamluk and Ottoman empires. An example of the history of waqf in Egypt continuing to develop is the preservation of 250 waqf assets that had been established during the Mamluk kingdom in

[7] Bonine.

[8] Abdul Hamid Mar Iman and Mohammad Tahir Sabit Haji Mohammad, 'Waqf as a Framework for Entrepreneurship', *Humanomics*, 33.4 (2017), 419–40 <https://doi.org/10.1108/H-01-2017-0015>.

[9] Kayhan Jafar-Shaghaghi, 'The Development of the Legal Parameters of the Waqf Institution in Contemporary Iran and Its Socioeconomic Impact.' (The University of St Andrews, 2014).

[10] Seyed Kazem Sadr and Amirhossein Karbalaei, 'A Comparative Study of Waqf Properties Development in Iran and Malaysia', in *MUKTAMAR WAQF IQLIMI III* (Central Mosque, Songla, Thailand, 2016), pp. 1–27.

Egypt.[11] Another example is the establishment of Al-Azhar University in Cairo in 972 which was also financed using waqf assets.[12] The government managed the waqf assets in Egypt during the Ottoman Empire. A survey conducted in 1812-1813 revealed that there were around 600,000 feddans (= 0.95 hectares) of waqf land.[13] However, the management of waqf assets in Egypt became disorganized after the collapse of the Ottoman Empire and the subsequent colonial rule.

Egypt has made several attempts to redevelop its waqf properties by enacting waqf laws. The first attempt was made in the early 1900s that was initiated by intellectuals as well as board members. The second attempt occurred in 1926 resulted in the approval of a Ministry of Justice Memorandum. The 1927 regulations related to family waqf (waqf al-z̲urrī) were established based on the recommendations of a committee of senior clergy and jurists. In its development, this waqf continues to experience pros and cons from various parties who think this regulation has not accommodated waqf in Egypt.[14] In 1946, the Egyptian waqf law No. 48 of 1946 was introduced to regulate waqf institutions in Egypt, but it did not fully generate waqf.[15]

In 1952, Egypt began to reform its government system, and in 1953, a new waqf law was issued, followed by Law No. 44 of 1962. The new government system returned waqf assets to their main objective of providing goods and benefits to the ummah. In 1971, the President of Egypt issued Law No. 80 of 1971, which established the Egyptian Waqf Authority as an independent legal entity under the Ministry of Waqf, governed by a Board of Directors.[16] The waqf management authority in Egypt has managed all forms of waqf assets, including cash waqf.

The Egyptian Ministry of Waqf has invested its cash waqf properties in gaining profits that can be used for people in need. The investment sector includes investing waqf money in banks, forming an Islamic bank, forming state-owned enterprises (SOEs) such as Delta (Sugar Company), International Hospital as-Salam, Housing and Development Bank, Sajad Damanhur Factory, and Zues Cement Company, and buying stocks of important companies such as the Iron Company of Egypt and Edfina Food Company.[17]

Al-Azhar University is a prominent waqf property in Egypt that has played a significant role in developing the ummah. It provides education to students from various countries, offers scholarships, and finances its operational activities through its assets. Al-Azhar's main waqf assets include 60,700 hectares of agricultural land spread across Egypt, which were initially handed over to the Egyptian government in 1961 within the framework of Agrarian Reform. Additionally, Al-Azhar manages hospitals, hotels, plantations, and several companies.[18]

Pakistan

Regulations about waqf in Pakistan were initiated by Muhammad Ali Jinnah between 1867 and 1948. The issue of waqf was debated by Sayyid Ahmad Khan in 1877, and Shibbi Mu'mani raised it again to garner the attention of the

[11] Adam Sabra, *Poverty and Charity in Medieval Islam: Mamluk Egypt, 1250-1517* (Cambridge University Press, 2000).

[12] M. Kahf, 'The Role of Waqf in Improving the Ummah Welfare', in *The International Seminar on "Waqf as a Private Legal Body"*, 2003 <https://doi.org/10.1108/IMEFM-08-2013-0094>.

[13] Kahf.

[14] Ahmad Suwaidi, 'Wakaf Dan Penerapannya Di Negara Muslim', *Economic: Jurnal Ekonomi Dan Hukum Islam*, 1.2 (2011), 367–68.

[15] Ibrahim Ahmed Khalil, Yunus Ali, and Mohammad Shaiban, 'Waqf Fund Management in Kuwait And Egypt: Can Malaysia Learns from Their Experiences', in *International Conference on Masjid, Zakat and Waqf (IMAF 2014)*, 2014, pp. 69–83 <http://www.kuis.edu.my/i-maf2014/eproceedings/wakaf/W07 Ibrahim Khalil Waqaf 69-83.pdf>.

[16] Khalil, Ali, and Shaiban.

[17] Taufik Faturohman and others, 'The Potential Role of Islamic Social Finance in the Time of COVID-19 Pandemic', *Review of Integrative Business and Economics Research*, 10.1 (2021), 95–105 <http://buscompress.com/uploads/3/4/9/8/34980536/riber_10-s1_10_u20-063_95-105.pdf>.

[18] Faturohman and others.

British Indian government at that time. In 1911, he succeeded in pressing other members of the Parliament to allow waqf property to be returned to private property. The Waqf Validating Act (Mussalman Wakf Validating Act) was subsequently passed in 1913. Jinnah's success was a significant development for the community, as it enabled the management of waqf assets by individuals. However, this law limited the function of waqf only to assets for worship according to Islamic teachings.[19]

Several scholars questioned the Mussalman Wakf Validating Act at that time for not accommodating the needs of the people. In 1923, the colonial government enacted a law that regulated waqf. The Waqf Law of 1923 (Mussalman Wakf Act, 1923) stipulates that waqf assets require better management to ensure survival. The law also requires the mutawali, the waqf manager, to provide a written report six months after the establishment of the waqf.[20] In 1945, the Islamic Waqf Law was introduced, which only applied to the province of Malahulpur.[21]

After the independence of Pakistan in 1947, a new waqf law was issued by the government, known as The Punjab Muslim Awqaf Act 1951. The purpose of this law was to improve the administration of waqf management for Muslims in the Punjab region. The law established a Council with limited oversight powers over waqf, whose main functions were to register waqf, carry out investigations on waqf administration, and appoint nazir.[22] In 1959, an amendment was made to the waqf regulations, consolidating all regulations under a single legal umbrella for all provinces, known as The Musalman Waqf (Sind Amendment) law.[23]

In 1976, the government introduced the Waqf Federal Control Act, centralizing all waqf management under the Federal Waqf Department. However, this centralization policy was short-lived. In 1979, the Federal Waqf Revocation Ordinance was enacted, returning the authority to manage waqf assets to the respective provinces. The ordinance gave the Waqf Administrator of a province the power to fully control the waqf and expropriate any endowment without legal liability.[24]

Due to strict regulations surrounding its use, the development of waqf in Pakistan is mainly limited to religious institutions such as mosques, shrines, and cemeteries. Modern organizations such as trust units, NGOs, cooperatives, social foundations, and guarantee-limited companies have replaced waqf for the provision of welfare services. According to Zubair, the general perception of Pakistani society regarding waqf is that it is still limited to assets in the form of mosques, plantation land, agricultural land, and burial places.

The government of Pakistan continues to expand waqf to provide benefits to society. Based on data from the Department of Awqaf and Religious Affairs of Punjab, waqf benefits have been provided in 10 districts with 73 madrasas, two public schools, one hospital, 15 pharmacies, four tourist information centers, and two training centers.[25]

In addition, the waqf institutions managed by private waqf institutions such as Hamdard Waqf and Ihsan Waqf have shown significant potential by providing a range of community services and integrating waqf assets into modern institutions.[26] For example, Hamdard Waqf has provided endowments through Hamdard Laboratories, the

[19] S. Jamal Malik, 'Waqf in Pakistan: Change in Traditional Institutions', *Die Welt Des Islams*, 1.4 (1990), 64–65.

[20] Andrew White, 'The Role of the Islamic Waqf in Strengthening South Asian Civil Society: Pakistan as Case Study', *Internationall Journal of Civil. Society Law*, 4.2 (2006), 26–27.

[21] Suwaidi.

[22] Zubair Abbasi, 'Waqf in Pakistan: Rebirth of a Traditional Institution', *Available at SSRN 3327092*, 2019.

[23] Suwaidi.

[24] Abbasi.

[25] Auqaf and Religious Affairs Government of the Punjab, 'Social and Services', *Punjab Information Technology Board*, 2023 <https://auqaf.punjab.gov.pk/services> [accessed 8 June 2023].

[26] Abbasi.

Hamdard Industrial Complex (Hamdard Sanaat Abad), and research institutes (Hamdard Islamicus).[27] Meanwhile, Ihsan Waqf has collaborated with several modern institutions, such as Meezan Bank Limited, Islamic Banks & Islamic Financial Institutions, Al-Meezan Investment Management Limited, and NBP National Fullerton Asset Management Limited (NAFA).[28]

Kuwait

The development of waqf in Kuwait can be traced back to the emergence of the state in ancient times, around 1695 AD.[29] The people of Kuwait at that time began building mosques and donating them. This mosque is known as the Ibn Bahr Mosque, built in 1108 H/1695 AD. Siska mentioned in her paper that in the early days, the government regulated the management of waqf in Kuwait at that time through a recording by the Qadhi/judge.[30] The first recorded waqf asset was managed by Sheikh Muhammad Ibn Abdullah al-Adsani, who served as a judge for 60 years.

In the early 20th century, the Kuwaiti government established a department to manage waqf issues and ensure their development. The Religious Waqf Council was also established by community leaders to oversee waqf management. One of the government's concerns at that time was the establishment of a department that specifically handled waqf issues in Kuwait in 1921. This department had a specific role in designing and overseeing the waqf system, ensuring its growth and all associated aspects during that period. In 1948, the department was also tasked with managing places of worship and aiding the sick. Concurrently, the community leaders established the Religious Waqf Council, with Sheikh Abdullah Jabir Al-Shobah as its first chairperson. The council was initially created in January 1949 and underwent three upgrades in 1951, 1956, and 1957.[31]

In 1951, the government issued regulations unifying the waqf regulations of the Maliki school of thought to standardize waqf management. Before this regulation was issued, waqf regulations in Kuwait referred to the four major schools of thought in Islam. In this situation, differencess emerged between waqf bodies in Kuwait, especially privateoness. With the unification of madhhab rules, it is hoped that it will facilitate the arrangement of waqf in that country. These regulations eventually became the waqf law that is still in effect today.

Kuwait's waqf continued to grow and underwent renewal after the country gained independence in 1961. After the country's independence on June 19, 1961, waqf in Küweit underwent a renewal; namely, a special department was formed to manage waqf assets. In 1965 a ministry was formed to manage waqf assets, which later became the Ministry of Endowments and Islamic Affairs.

In 1962, the Kuwaiti government established the Ministry of Awqaf as one of the transformations in the administration of waqf. The establishment of this ministry has strengthened the administration of waqf in the country. The Ministry of Awqaf and Islamic Affairs had many responsibilities, including the responsibility of waqf. The administration of waqf was transferred to the deputy assistant for administrative and financial affairs and remained within the organizational structure of the ministry until 1982 when an independent sector of awqaf was established in the ministry headed by a deputy assistant of the ministry. This period was characterized by a decline in the participation of citizens in the affairs of waqf and its administration.[32]

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[27] Susumu Nejima, 'Evolution of a Waqf-Based NGO Hamdard Foundation in Pakistan', in *NGOs in the Muslim World*, ed. by Susumu Nejima, 1st edn (London: Routledge, 2015), pp. 29–46 <https://doi.org/10.4324/9781315690582>.

[28] Abbasi.

[29] Khalil, Ali, and Shaiban.

[30] Siska, (2019)

[31] Siska.

[32] KAPF, 'Development of Waqf', *Kuwait Awqaf Public Foundation*, 2023 <https://www.awqaf.org.kw/EN/Pages/DevelopmentOfWaqf.aspx> [accessed 6 June 2023].

In 1993, the Emir of Kuwait issued Amire Ordinance No. 257 and established an institution named *al-Amanah lil-'ammah*, or Kuwait Awqaf Public Foundation (KAPF) to carry out activities in the field of Islamic Waqf. KAPF operates in two directions: firstly, investing in existing waqf and sharing the investment returns, and secondly, establishing the correct direction of waqf management to find new waqf, encouraging waqf education, and promoting the development of waqf assets.[33] The decree also transferred all Waqf functions of the Ministry of Waqf and Islamic Affairs to KAPF.[34] This law provides the necessary platform for transparency of fund management and investment of funds according to the terms and conditions set by the waqf founders.[35]

KAPF is considered successful in managing waqf assets, managing various forms of waqf, including waqf for mosques, food, public facilities, health, students, water, al-Quran, funerals, and cash waqf for investment. KAPF has also made efforts to encourage people to donate waqf, resulting in the registration of 540 new waqf institutions in 2005, up from 90 in 1993[36]. Abdul-Karim noted that KAPF's investment in 2006 diversified across the financial, real estate, and services sectors, with 13% of its investments outside Kuwait.[37] This diversification and capital preservation focus has contributed to the success of KAPF's entire waqf asset investment portfolio.

Saudi Arabia

The management of waqf assets in Saudi Arabia has evolved since the time of the Prophet and subsequent Muslim empires. The management of waqf assets at that time was still carried out by individuals and the descendants of the waqif.

In the early days of Sultan Abdul Aziz's reign, policies were implemented to organize the government system, including those related to religion. Still, it was not until 1966 that regulations specifically concerning waqf were issued under policies No. 574 of 1966.[38] Since the regulation issuance, there has been no significant change in waqf administration. It was only in 1973 that the Higher Council of Awqāf implemented the regulation by implementing some points of the regulation.

The Waqf High Council is an institution under the Ministry of Hajj and Waqf, whose members consist of representatives from the Ministry of Hajj and Waqf, Islamic law experts from the Ministry of Justice, representatives from the Ministry of Economy and Finance, the Director of Antiquities and three members from scholars and journalists. In this regulation, it was stated that the Waqf High Council has the authority, among other things: to collect data on waqf assets and to know their condition and determine management techniques; determine development steps, including in investing and increasing waqf assets; distribute waqf assets by the demands of the shari'ah; determine the annual budget in the management of waqf and prepare and make reports on waqf management.[39]

The development of waqf in Saudi Arabia has taken various forms, such as hotels, land, apartments, shops, plantations, educational institutions, and mosques. The High Council of Waqf manages all waqf assets. It utilizes the proceeds for various purposes, including the maintenance of the Grand Mosque and the Nabawi Mosque, the construction of facilities for pilgrims, and the financing of educational facilities and social activities.

The Saudi Arabian government is committed to developing and mobilizing waqf by the conditions set by the waqif. Meanwhile, the

[33] Faturohman and others.

[34] Mahadi Ahmad and others, 'The Legal and Regulatory Framework for Zakah and Waqf Administration in Kuwait : Lessons for Nigerian Zakah and Waqf Institutions', *International Journal of Business, Economics, and Law*, 7.4 (2015), 114–27.

[35] Khalil, Ali, and Shaiban.

[36] Siska.

[37] Abdul-Karim, (2010)

[38] Suwaidi.

[39] Suwaidi.

government established the Waqf Superior Council to oversee waqf policies. This assembly has the authority to develop waqf, distribute waqf proceeds to productive sectors, give them to those in need, and determine steps in developing waqf based on the conditions set by waqif and waqf management.

The 2020 Waqf report indicates that the waqf management authority continues to study and evaluate existing waqf practices, strengthens the role of waqf, and increases its contribution to the development of programs that have a significant impact on society, both locally and internationally, to achieve the 2030 vision.[40]

The development of waqf in Saudi Arabia has a clear goal and direction, and its management is constantly evolving to improve its impact on society. However, outdated waqf regulations, which have not been revised for more than 50 years, can optimally hinder the waqf sector's development.

These outdated waqf regulations can be seen from the regulations issued in the development of waqf assets, such as: The regulation on the creation of waqf investment portfolios, the reform of the waqf organization system, the Guidelines on the approval of the establishment of endowment investment funds, and other derivative regulations.[41]

Malaysia

As a legal development, waqf in Malaysia was regulated under the Terengganu Islamic Management Law in 1955, before independence. This law, namely Article 59, explains that the 'Majlis is the sole fiduciary holder of general and special waqf. Then the regulations in the 1956 Civil Law Act article 25 stated that the administration of Muslim property must be by Islamic law. There are 14 State Islamic Religious Institutions, one for each of the 13 states and one for the Federal Territory.[42] Following Malaysia's independence in 1957, the government recognized the importance of Islamic law and implemented a legal framework to regulate waqf based on Islamic principles. The administration of waqf was placed under the jurisdiction of state Islamic religious councils, and new laws were enacted to govern waqf management and administration. The National Land Code was also amended to allow for the registration of waqf properties.

If we look at in more depth, each country in Malaysia has the authority to manage waqf assets independently. Thus, in practice, the management of waqf in each country may vary depending on the waqf laws in that country. For example, waqf in the state of Selangor before 1952 did not have a good management system. Then in 1952, under Article 5 No. 3 the management of waqf assets was adequately regulated, so until 1999, waqf in Selangor was managed by a particular institution, namely the Selangor Waqf Agency, which had better management standards.[43]

Likewise in the Federal Territory, in the 1993 Federal Territory Islamic Administration Law, articles 61 and 62 have granted permission to establish an Islamic Religious Council for the Federal Territory (MAIWP) and become the sole trustee for waqf assets. In the state of Pulau Pinang, in the 1993 Law on Administration of Islamic Affairs in the State of Pulau Pinang, article 92 states that the Pulau Pinang State Islamic Religious Council (MAINPP) is the sole trustee and is responsible for developing waqf assets for

[40] General Authority Awqf, *Laporan Tahunan 2020*, 2020 <https://www.awqaf.gov.sa/index.php/en/media-center/yearly-reports>.

[41] General Authority of Awqaf Saudi Arabia, 'Rules and Regulations', *General Authority of Awqaf Saudi Arabia*, 2023 <https://www.awqaf.gov.sa/en/Regulations?field_category_target_id=35> [accessed 8 June 2023].

[42] Zurina Shafii, Zamir Iqbal, and Mustafa Tasdemir, 'Governance Regulatory Framework for Waqf in Selected Countries', *World Bank Global Islamic Finance Development Centre, Borsa Istanbul* (Istanbul, 2015), pp. 1–41 <http://www.tkbb.org.tr/Documents/Yonetmelikler/Governance-Regulatory-Framework-for-Waqf-in-Selected-Countries-Zurina-Shafii-Zamir-Iqbal-Mustafa-Tasdemir-2015.pdf>.

[43] Soliha Sanusi and Muhammad Hakimi Mohd Shafiai, 'The Management of Cash Waqf: Toward Socio-Economic Development of Muslims in Malaysia', *Jurnal Pengurusan*, 43.June (2015), 3–12 <https://doi.org/10.17576/2015-43-01>.

the benefit of Muslims.[44]

The development of waqf in Malaysia, both in terms of law and management at the institutional level, shows an effort to build waqf in a better direction. Various breakthroughs continue to be made to ensure that waqf assets can positively impact the Muslim community. To help make this happen, the government established a Department of Waqf, Zakat, and Pilgrimage in 2004, and the name of this department was JAWHAR. The establishment of JAWHAR is aimed at ensuring that the administration of waqf assets, zakat, malls, and pilgrimage throughout the country is more systematic, structured, and effective.[45]

Currently, the management of waqf in Malaysia has become an example for other countries. In terms of the form of waqf assets, Malaysia has also implemented several models of waqf management in collaboration with several Islamic financial institutions and corporations. One form of waqf that is very popular in Malaysia is corporate waqf, cash waqf, and stock waqf.

Indonesia

The practice of waqf in Indonesia dates back to the 7th century when Islam was first introduced to the archipelago through Aceh. Initially, waqf was in the form of land and buildings, similar to the general practice at that time. However, during the colonial period, waqf was limited to religious practices carried out by individuals to worship Allah. In subsequent periods, the pattern of waqf utilization continued to expand to include social services related to health, such as clinics and orphanages.

At the beginning of independence, waqf issues were handled personally by Muslims with no specific management or government intervention. Initially, the government did not regulate the procedures for people who endowed their assets or the maintenance and management of waqf objects. However, several regulations were left behind by the Dutch colonial government, which required anyone who made a waqf to notify the local district head. The Regent resolved disputes or problems that arose with waqf if individuals could not resolve the dispute.[46]

Despite the absence of formal government regulations, various Islamic organizations managed waqf assets. These organizations were responsible for overseeing the utilization and management of waqf assets for the benefit of the community. Nevertheless, challenges remain in managing and administrating waqf assets, including a lack of transparency and accountability, mismanagement, and misappropriation of waqf assets. To address these challenges, some efforts have been made to improve waqf management and administration by establishing a centralized management system, introducing new regulations, and promoting public awareness and understanding of the significance of waqf.

Over time, the number of waqf assets in Indonesia has been increasing. As a result, several issues have arisen which require government intervention. In response, the Indonesian government has enacted several regulations about waqf, which serve as a legal basis for the implementation of waqf in the country. The first such regulation was Government Regulations No. 9 and No. 10 of 1952, issued by the Minister of Religion. These regulations mandate that the Bureau of Religious Affairs, along with its vertical channel offices at the Central KUA, Regency KUA, and Sub-District KUA levels, is responsible for investigating, determining, registering, and supervising or organizing waqf elections. Another relevant regulation is Government Regulation No. 28 of 1977, which pertains to the waqf of landed property.

The practice and legal framework of waqf in Indonesia continue to experience positive developments. This is attributable to the growing

[44] Asmak Ab Rahman, 'Peranan Wakaf Dalam Pembangunan Ekonomi Umat Islam Dan Aplikasinya Di Malaysia', *Shariah Journal*, 17.1 (2009), 113–52.

[45] Jabatan Wakaf Zakat dan Haji, *Laporan Tahunan JAWHAR 2007* (Malaysia, 2008).

[46] Itang Itang and Iik Syakhabyatin, 'Sejarah Wakaf Di Indonesia', *Tazkiya*, 18.02 (2017), 220–37.

public awareness and enthusiasm for waqf, which allows for the sharing of benefits derived from donated assets. The latest regulation related to waqf in Indonesia is Government Regulation No. 42 of 2006, which serves as the implementing regulation of Law No. 41 of 2004[47].

The implementation of waqf in Indonesia has increased since the establishment of waqf law no. 41. The government has even promoted the practice of waqf by launching the cash waqf movement. In addition, the government also issued Cash Waqf Linked Sukuk (CWLS), the returns of which are used to finance social programs and economic empowerment of the ummah.[48]

Analysis of Waqf Laws and Current Practices in Muslim Countries

As explained above, waqf laws and regulations in Muslim countries have been through many changes. These changes have been made under the conditions of society and culture at the time. Changes in regulations were initiated by community leaders or the government's will. In addition, changes in waqf laws were also influenced by political will in the creation of waqf laws such as what happened in Pakistan.

In the context of law, waqf laws in most Muslim countries have undergone a great deal of evolution. The evolution or amendment of waqf laws occurs three to six times depending on the country's cultural, social, and political conditions. However, some countries such as Iran and Saudi Arabia barely changed their waqf laws.

The findings indicate that waqf has a long history in Iran, Egypt, Pakistan, Kuwait, Saudi Arabia, Malaysia, and Indonesia. Historically, Muslim governments and societies have presented waqf laws that can protect, preserve, and develop waqf assets more effectively and efficiently.

The analysis reveals that Pakistan is the country that has experienced the highest number of changes in waqf laws, which is seven times. However, the number of changes in waqf is not the measurement of a better waqf law in that country. What is essential in waqf law is that waqf assets can be preserved, accommodate every aspect of implementation in its development, and provide substantial benefits to the beneficiaries. The table below shows the laws adopted in Muslim countries and the number of times they have been amended.

Table 1. Evolution of Waqf Laws in Muslim Countries

Country	Current Waqf Laws	Year of Reform
Iran	Iranian Civil Code	1928, 1979
Egypt	Law No. 80 of 1971	1927, 1946, 1953, 1962, 1971
Pakistan	Waqf Properties Ordinance, 1979	1913, 1923, 1945, 1951,1959, 1976, 1979
Kuwait	Amire Ordinance No. 257 of 1993	1921, 1951, 1956, 1957, 1993
Saudi Arabia	Law No. 574 of 1966	1966
Malaysia	Federal Territory Islamic Administration Law, 1993	1955, 1956, 1993
Indonesia	Law No. 41 of 2004	1952, 1977, 2004

Source: Secondary data processed, 2023

The table above provides an overview of the evolution of waqf laws in various Muslim countries, along with the current laws in place and the years of significant reforms. In Iran, the current waqf laws are governed by the Iranian Civil Code, followed by the fatwa issued by the government. The reform in waqf laws took place in 1979, which likely led to the establishment of new regulations and frameworks for managing and administrating waqf properties in the country.

In Egypt, the current waqf laws are defined by Law No. 80 of 1971. However, before that, several reforms were implemented in different years, including 1927, 1946, 1953, and 1962, and the final major reform in 1971. These reforms likely aimed to update and modernize Egypt's legal framework governing waqf management.

[47] Heru Susanto, 'Sejarah Perkembangan Perundang-Undangan Wakaf Di Indonesia', *Bilancia: Jurnal Studi Ilmu Syariah Dan Hukum*, 10.2 (2016), 59–90.

[48] Siti Fathonah, 'Praktik Wakaf Produktif Untuk Masyarakat', *Badan Wakaf Indonesia*, 2021, p. 1 <https://www.bwi.go.id/6014/2021/02/17/praktik-wakaf-produktif-untuk-masyarakat/> [accessed 8 June 2023].

In Pakistan, the current waqf laws are regulated by the Waqf Properties Ordinance of 1979. However, the evolution of waqf laws in Pakistan has been gradual, with significant reforms taking place in 1913, 1923, 1945, 1951, 1959, 1976, and finally, 1979. These reforms aimed to establish a legal framework for managing and administrating waqf properties in the country. Kuwait's current waqf laws are governed by Amire Ordinance No. 257 of 1993. The evolution of waqf laws in Kuwait involved reforms in 1921, 1951, and the most recent one in 1993. These reforms likely aimed to improve and update the legal framework governing waqf management and ensure efficient administration of waqf assets. In Saudi Arabia, the current waqf laws are defined by Regulation No. 574 of 1966. This regulation, introduced in 1966, likely aimed to establish a legal framework for managing and administrating waqf properties in the country.

In Malaysia, the current waqf laws are regulated by the Federal Territory Islamic Administration Law of 1993. Prior to that, significant reforms were implemented in 1955, 1956, and finally, a major reform took place in 1993. These reforms aimed to update the legal framework governing waqf management in Malaysia. In Indonesia, the current waqf laws are defined by Law No. 41 of 2004. However, before that, significant reforms were carried out in 1952, 1977, and the final reform in 2004. These reforms likely aimed to modernize and improve Indonesia's legal framework governing waqf management.

The historical reforms in waqf laws in various Muslim countries indicate the efforts made to update and improve the legal frameworks governing waqf management and administration. These reforms aimed to address the changing needs and challenges related to waqf properties in each respective country, ensuring effective management and utilization of waqf assets for the benefit of society.

Conclusion

The evolution of waqf laws in Muslim countries has been influenced by the social, cultural, and political conditions of each nation. The changes in regulations have been driven by community leaders or the government's initiatives, aiming to adapt to the needs of society and ensure effective management of waqf assets. While some countries have experienced multiple reforms, such as Pakistan with seven changes in waqf laws, the number of reforms does not necessarily indicate the superiority of a particular law. The key focus should be on preserving waqf assets, accommodating various aspects of implementation, and providing substantial benefits to beneficiaries.

Iran and Saudi Arabia have maintained their waqf laws without significant reforms. On the other hand, countries like Egypt, Pakistan, Kuwait, Malaysia, and Indonesia have undergone multiple reforms, indicating a continuous effort to modernize and improve their legal frameworks. These reforms aimed to protect, preserve, and develop waqf assets more effectively and efficiently. The experiences of these countries can serve as valuable models for other Islamic nations seeking to enhance their waqf laws.

The rapid development of the times and technology has made many changes in the social order and community activities. These changes have influenced the implementation of waqf in Muslim countries. To respond to these changes, waqf laws in Muslim countries need several amendments, such as updating administrative processes that are easier and more directed, increasing the transparency and accountability of waqf institutions, and developing innovative waqf models.

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