WAKAF REGULATIONS AND POLICIES BETWEEN INDONESIA AND MALAYSIA: COMPARISON AND IMPLICATIONS

Muhammad Amin Qodri1, Rafiqi2, Umar[3], Afi Parnawi[4]

rafiqi@unja.ac.id

Islamic Economics Program, University of Jambi

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Abstract

This study examines the comparative regulation and implementation of waqf policies between Indonesia and Malaysia, focusing on the analysis of differences in the legal framework, asset management, legal certainty, transparency, technology adoption, resource support, and socialization and education. The main objective of this study is to understand the fundamental differences in waqf regulations and practices in the two countries and identify the implications of these differences on the effectiveness and efficiency of waqf management. Methods This study will use a normative legal approach with a comparative analysis approach. This method will involve several well-structured stages to ensure that the data obtained is valid, reliable, and relevant. The data used include laws and regulations, policy documents, and literature related to waqf in Indonesia and Malaysia. The results of the study show that Malaysia has advantages in terms of effective waqf asset management, better legal certainty, high transparency, and the adoption of sophisticated technology and innovation. In contrast, Indonesia faces challenges in terms of complex regulations, managerial capacity of nadzir, and limited technical and financial support. The implications of these findings point to the need for reform in the legal framework and increased capacity of nadzir in Indonesia. Adoption of technology and increased financial support and public education are also important to improve the effectiveness of waqf management in Indonesia. With these steps, it is hoped that waqf management can become more efficient, productive, and provide a greater positive impact on society.

Keywords: Waqf , Regulation , Policy , Implications

1. Introduction

Waqf, as a form of social worship that has been going on since the time of the Prophet Muhammad SAW, has a very strategic role in community development. The waqf institution not only plays a role in the distribution of wealth, but also has great potential

in driving economic growth and community welfare. In the context of countries with Muslim majorities such as Indonesia and Malaysia, waqf is of particular concern because it has broad implications for social, economic, and religious life.

The differences in geography, history, and governance systems between Indonesia and Malaysia also shape the differences in regulations and policies for waqf management. On the one hand, both countries have similarities in understanding the importance of waqf as a development instrument. However, on the other hand, there are significant differences in terms of the legal framework, management institutions, and mechanisms for managing waqf assets.

In Indonesia and Malaysia, countries with significant Muslim populations, waqf plays a very vital role. However, despite similarities in beliefs and practices, regulations and policies related to waqf in the two countries show striking differences. These differences include legal, administrative, and policy implementation aspects, which have an impact on the effectiveness and efficiency of waqf utilization.In Indonesia, waqf regulations are regulated through Law No. 41 of 2004 concerning Waqf and various other implementing regulations. This law regulates waqf administration, the rights and obligations of nadzir, and the management of waqf assets. Although there have been efforts to improve regulations and improve waqf management, its implementation still faces various challenges, including in terms of coordination between institutions and public understanding of waqf.In contrast, Malaysia has a different waqf regulatory system, regulated under state laws and implemented by government agencies such as the Majlis Agama Islam Negeri (MAIS). This system emphasizes the management and utilization of waqf with a more centralized and coordinated approach. Waqf policy in Malaysia also includes the development of productive waqf aimed at increasing the economic value of waqf assets.The *State of Art* (Newness) on the comparison of waqf regulations and policies between Indonesia and Malaysia has not been comprehensively studied, especially in the context of how these differences affect the effectiveness and impact of waqf in society. This study aims to fill the gap in the literature by analyzing waqf regulations and policies in both countries, and identifying their implications for waqf management and utilization.The novelty of this study lies in its systematic comparative approach to waqf regulation and policy, as well as an in-depth evaluation of its impact in both countries. This study will not only assess the effectiveness of each system, but will also provide recommendations for improvement based on empirical findings and policy analysis.In Indonesia, many previous studies have discussed certain aspects of waqf, such as the management and utilization of waqf assets. However, there has been no study that integrates comparative analysis with waqf regulatory systems and policies in other countries. For example, research by Syamsul Maarif (2021) which examines the challenges in implementing waqf laws in Indonesia, still focuses on the domestic context and has not compared it with practices in other countries (Maarif, S. (2021).Likewise in Malaysia, although there are a number of studies on the management of productive waqf and the role of religious institutions in waqf administration, as explained in the work by Abdul Rashid (2020), research comparing policies between the two countries has not been widely conducted (Abdul Rashid, A. (2020).

This study will also examine innovative approaches in waqf management implemented in Malaysia, such as the use of information technology in waqf administration, which may not have been widely implemented in Indonesia. This includes an analysis of the digital waqf management system introduced in Malaysia, as discussed in the report by Othman and Shafie (2022) (Othman, M., & Shafie, M. (2022). *Digital Wakaf Management in Malaysia: Innovations and Challenges* . International Journal of Islamic Finance).approach between Indonesia and Malaysia regarding waqf regulations and policies is very relevant to be carried out. Through this comparison, it is expected to identify the best practices that have been implemented by both countries, as well as identify the challenges and obstacles faced in waqf management. In addition, this study is also expected to contribute to the development of more effective and efficient waqf policies in the future.

2. Research Method

To achieve the stated research objectives, this research method will use a normative legal approach with a comparative analysis approach. This method will involve several well-structured stages to ensure that the data obtained is valid, reliable, and relevant. The data used include laws and regulations, policy documents, and literature related to waqf in Indonesia and Malaysia.The comparative approach in this study will compare the regulations and policies of waqf between Indonesia and Malaysia. This approach allows for an in-depth analysis of the differences and similarities between the two countries. While the qualitative approach is by analyzing case studies, and document analysis to understand the context and implications of waqf policies comprehensively. Although there are differences in the waqf management system between Indonesia and Malaysia, both countries have the same goal, which is to maximize the benefits of waqf for the community. Through a comparative approach, it is hoped that best practices can be found that can be adopted by both countries to improve the effectiveness of waqf management.The data sources in this study include primary data sources obtained through interviews with related parties such as government officials, waqf managers, and Islamic law experts in both countries. Then the second data source is secondary data which includes literature studies, policy documents, laws, annual reports of waqf institutions, and relevant previous research.The data collection technique is by collecting and analyzing legal documents, policies, and official reports regarding waqf from both countries. Meanwhile Data analysis techniques include, *first* by using thematic analysis techniques to identify patterns and themes in interview data and case studies. *Second,* analyzing regulations and policies using a legal and policy approach to understand the differences and similarities between the two systems. And *third* by comparing the results of the analysis from Indonesia and Malaysia to identify differences in regulations and policies and their impact on waqf management.

3. Results And Discussion

The results of this study present a comparative analysis of waqf regulations and policies between Indonesia and Malaysia. Based on the literature review and data obtained, the following are the main findings regarding the comparison and implications of waqf policies in both countries:

1. Comparison Waqf Regulations and Policies

In Indonesia, waqf regulations are regulated by Law No. 41 of 2004 concerning Waqf, which is followed by various implementing regulations such as Government Regulation No. 42 of 2006 concerning the Implementation of the Waqf Law, and Regulation of the Minister of

Religion No. 1 of 2009 concerning the Implementation of Waqf. This law regulates the administration, management, and utilization of waqf assets, as well as the rights and obligations of nadzir (waqf managers) (Kurniawan, 2020; Ramli, 2021).

The following is a comparative table between waqf regulations and policies in Indonesia and Malaysia along with their explanations:

Aspect	Indonesia	Malaysia
Legal Framework	• Law no. 41 of 2004 concerning Waqf • Government Regulation No. 42 of 2006 • Minister of Religion Regulation no. 1 of 2009	• Waqf Law (States) and Deed 30 • Arrangements by the State Islamic Religious Council (MAIS)
Management Authority	• Indonesian Waqf Board (BWI) • Ministry of Religion • Local zakat and waqf institutions	• State Islamic Religious Council (MAIS) • Position of Waqf, Zakat and Hajj (JAWHAR)
Asset Registration	• Long and bureaucratic registration process • Registration must be through a notary and land office	Registration through MAIS or the state waqf agency with a more integrated and centralized process
Asset Management	• Management by nadzir with varying capacities • There are still many non-productive assets	• Management by MAIS or designated agency • Focus on productive and innovative management
Transparency and Accountability Regulation	• Mandatory annual report by nadzir • Supervision by BWI and the Ministry of Religion • Problems in implementation	• Supervision by MAIS and JAWHAR • Use of digital management systems for transparency and reporting
Technology Approach	• -Limited in the adoption of information technology in waqf management • The policy has not been fully implemented	• Use of digital waqf management system • Utilization of technology for monitoring and evaluation
Funding and Resources	• Limited resources for many nadzirs • Limited financial and technical support	• Adequate resources through MAIS and related agencies • Better technical and financial support
Socialization and Education	• Lack of socialization and education to the community about waqf • Increasing public understanding is necessary	• Structured socialization and education program • Training program for nadzir and community
Legal certainty	• Legal uncertainty regarding ownership and use of assets • Legal disputes often occur	• Better legal certainty through clear and centralized regulations • More efficient dispute resolution mechanisms

Innovation in Management	• Lack of innovation in waqf asset management • Many assets are still empty land	• Focus on productive waqf, such as property development and investment • Implementation of innovative social and economic projects

Based on the table above, it can be explained that in general, a comparison of waqf regulations and policies between Indonesia and Malaysia reveals several key differences that influence the effectiveness of waqf management in both countries as explained below:

1. **Legal Framework:** Indonesia applies Law No. 41 of 2004 and its implementing regulations, with more separate and diverse arrangements, including the involvement of many local institutions. Malaysia, on the other hand, **uses** more centralized laws and acts, with regulation by the State Islamic Religious Council (MAIS) and a more integrated system.
2. **Management Authority:** in Indonesia, waqf management is carried out by the Indonesian Waqf Board (BWI), the Ministry of Religious Affairs, and local institutions, which can result in less efficient coordination. Whereas in Malaysia waqf management is controlled by MAIS and the Department of Waqf, Zakat, and Hajj (JAWHAR), which provides a more centralized and coordinated management structure.
3. **Asset Registration and Certification:** The process of registering waqf assets in Indonesia is often complicated and bureaucratic, resulting in many assets not being clearly registered. Meanwhile in Malaysia **:** The registration process is more integrated and efficient, carried out through MAIS or the state waqf agency.
4. **Asset Management:** Many waqf assets in Indonesia are not managed optimally and productively, often due to limited capacity of the nadzir. This is in contrast to Malaysia where asset management focuses on productivity and innovation, with support from MAIS for asset development.
5. **Transparency and Accountability:** Transparency and accountability in Indonesia can be disrupted by inconsistent implementation of regulations and reporting that is not always effective. Whereas Malaysia has a digital management system that supports better transparency and accountability.
6. **Technological Approach:** The use of information technology in Indonesia is still limited in waqf management. Different from the use of information technology in Malaysia which **adopts** digital technology to increase efficiency and transparency in waqf management.
7. **Funding and Resources:** Many waqf administrators in Indonesia face limited financial and technical resources. In Malaysia, MAIS and related institutions provide adequate support, enabling more effective asset management.
8. **Socialization and Education:** Socialization about waqf in Indonesia is not intensive enough, reducing public understanding and participation. Meanwhile Malaysia have a structured socialization and education program, increasing public understanding and involvement.
9. **Legal Certainty:** Legal uncertainty regarding waqf in Indonesia often causes disputes regarding ownership and allocation of waqf assets. Meanwhile, Malaysia has better legal certainty with clear regulations and efficient dispute resolution mechanisms.

10. **Innovation in Management:** in Indonesia innovation and management are limited to innovation, with many assets still unproductive. While in Malaysia the focus is on productive and innovative waqf management, with more advanced social and economic projects.

Based on the explanation above, in general, Malaysia shows a more integrated, efficient, and innovative system in waqf management compared to Indonesia, which still faces challenges in terms of registration, management, transparency, and technology adoption.

The comparison above shows that in general, the comparison of waqf regulations and policies between Indonesia and Malaysia reveals several key differences that affect the effectiveness of waqf management in both countries. Malaysia shows a more integrated, efficient, and innovative system in waqf management compared to Indonesia, which still faces challenges in terms of registration, management, transparency, and technology adoption.

Indonesian society often lacks understanding of the concept of waqf and its benefits. This affects community participation in providing waqf and reduces the potential for collecting waqf assets. Research by Kurniawan (2020) shows that socialization and education about waqf need to be improved to increase public understanding and participation. The implementation of the Waqf Law in Indonesia still faces various challenges, including the lack of public understanding of waqf and suboptimal coordination between institutions that manage waqf. In addition, law enforcement and regulations related to waqf are often inconsistent in various regions (Kurniawan, 2020).

In contrast, Malaysia has a more centralized and coordinated waqf regulatory system. Waqf regulation in Malaysia is regulated under state law and administered by the Majlis Agama Islam Negeri (MAIS) or similar bodies in each state. This system is more integrated with an approach that emphasizes productive waqf management and innovation in waqf administration (Jamil, 2019; Ahmad, 2022).

Jamil (2019) noted that Malaysia has successfully implemented a waqf management system that uses information technology to simplify administration and increase transparency. This approach includes a digital waqf management system that assists in real-time monitoring and evaluation of waqf assets (Jamil, 2019).

2. Comparison **of Implementation of Waqf Policy**

In Indonesia, waqf management is often hampered by administrative problems and a lack of integration between waqf management institutions. For example, a study by Ramli (2021) shows that many waqf assets are not managed optimally, and most waqf are still non-productive. In contrast, Malaysia has implemented a more productive waqf management model, focusing on investment and development of waqf assets, as expressed by Ahmad (2022).

Malaysia utilizes information technology in waqf management, which has been proven to increase efficiency and transparency. The digital waqf management system implemented allows online asset monitoring and optimizes waqf utilization (Jamil, 2019). In Indonesia, the adoption of technology in waqf management is still limited and requires improvement to follow in Malaysia's footsteps.

The following table compares the implementation of Waqf policies in Indonesia and Malaysia.

Aspect	Indonesia	Malaysia

Supervisory Body	Indonesian Waqf Board (BWI)	State Islamic Religious Council (MAIN) in each state
Asset Management	Nazhir (individual, organization, legal entity)	MAIN or a body appointed by MAIN
Types of Waqf	Waqf of movable and immovable property, including money, securities and intellectual property rights	Focus on land and building endowments, starting to develop cash and stock endowments
Registration of Waqf	Waqf Information System (SIWAK)	Recording system in each MAIN
Certification of Waqf Assets	Mandatory for waqf land	Under development in several states
Development of Waqf	Encouraging productive waqf and investment	Focus on property development and asset commercialization
Waqf Innovation	Cash waqf and waqf through money	Corporate endowments and stock endowments
Reporting	It is obligatory for nazhir to BWI	Reporting to MAIN
Socialization	National program by BWI and Ministry of Religion	Program by MAIN and JAWHAR
Utilization of Technology	Development of waqf fintech	Still limited
International Cooperation	Active in international waqf forums	Focus on regional cooperation

Based on a comparison of the implementation of waqf policies in Indonesia and Malaysia, several broad conclusions can be drawn:

1. **Management Structure** : Indonesia has a more centralized system with the Indonesian Waqf Board (BWI) as the national institution, while Malaysia uses a more decentralized approach through the State Islamic Religious Council (MAIN) in each state.
2. **Coverage of Waqf** : Indonesia has a broader definition of waqf, covering movable and immovable property, including money and securities. Malaysia still focuses more on traditional waqf such as land and buildings, although it is starting to develop new forms of waqf.
3. **Innovation** : Both countries demonstrate innovation efforts, with Indonesia emphasizing cash waqf and waqf through money, while Malaysia is developing the concept of corporate waqf and stock waqf.
4. **Recording System** : Indonesia has developed a centralized information system (SIWAK), while Malaysia still relies on the recording system in each MAIN.
5. **Asset Development** : Indonesia tends to encourage productive waqf and investment, while Malaysia focuses more on property development and commercialization of waqf assets.
6. **Utilization of Technology** : Indonesia appears to be more advanced in the utilization of technology, especially in the development of fintech waqf, while Malaysia is still limited in this aspect.
7. **International Cooperation** : Indonesia is more active in international waqf forums, while Malaysia focuses more on regional cooperation.

Overall, although both countries have similar cultural and religious roots in waqf, their policy implementations show differences that reflect their respective governance structures and development priorities. Indonesia tends to have a more centralized and innovative approach, while Malaysia is more decentralized and traditional in its approach. However, both countries demonstrate a commitment to developing and maximizing the potential of waqf as an instrument of socio-economic development.

3. Policy **Implications**

A comparison of waqf regulations and policy implementation between Indonesia and Malaysia reveals a number of important implications that affect the effectiveness and efficiency of waqf management in both countries. An in-depth analysis of these differences provides insights into how the regulations and practices implemented may impact the socio-economic outcomes and impacts of waqf.

A comparison between the regulation and implementation of waqf policies in Indonesia and Malaysia shows that Malaysia has a more structured, integrated and innovative system compared to Indonesia. The implications of these differences include:

In terms of Management Effectiveness : Malaysia has been more successful in managing waqf assets productively thanks to its centralized regulatory structure and strong technical support. In contrast, Indonesia faces major challenges in asset management that is often suboptimal.

In terms of **Legal Certainty :** Malaysia is better, with an efficient dispute resolution mechanism, while Indonesia still faces problems with legal uncertainty and asset disputes. Meanwhile, in terms of **Transparency and Accountability,** Malaysia is higher because it is supported by a digital management system, while Indonesia needs to improve its reporting and monitoring system.

Meanwhile, from the Technology and Innovation Approach side : The use of advanced technology in Malaysia supports efficiency and innovation in waqf management, while Indonesia still needs to develop technological capacity to improve asset management. Likewise, from the side of **Funding and adequate financial and technical support** in Malaysia so as to be able to increase the effectiveness of waqf management, while Indonesia still faces limited funding and support. And finally, from the side of the socialization and education program, it shows that Malaysia is better where Malaysia is able to increase community participation, while Indonesia needs to strengthen efforts in this regard.

Although Indonesia and Malaysia share similar cultural and religious roots when it comes to waqf, their regulatory and policy approaches show significant differences. Indonesia tends to have a more centralized and comprehensive legal framework, while Malaysia has a more decentralized system in line with its federal government structure.

Both countries show efforts to modernize and optimize waqf, but with different approaches. Indonesia seems more progressive in terms of innovation and use of technology, while Malaysia focuses more on developing traditional waqf by slowly adopting new concepts. The challenges for both countries lie in the effective implementation of existing regulations, increasing waqf literacy in society, and developing waqf as an instrument of sustainable socio-economic development.

Thus, in order to improve waqf management in Indonesia, reforms are needed in the legal framework, increased technical and financial support, adoption of technology, and more

intensive socialization programs. With these steps, it is hoped that waqf management can become more efficient and have a positive impact on society.

There needs to be reform in waqf regulations and policies in Indonesia to improve coordination and integration between waqf management institutions. This is in accordance with the results of Kurniawan's research (2020), which shows that increasing public understanding and strengthening law enforcement are important steps to increase the effectiveness of waqf management.

In addition, Indonesia needs to adopt information technology in waqf administration to increase transparency and efficiency. Research by Ramli (2021) shows that digital technology can be used to monitor and manage waqf assets more effectively.

The waqf management model in Malaysia that focuses on productive waqf can be an example for other countries. According to Ahmad (2022), investment and development of waqf assets can increase the contribution of waqf to the economy and society. The use of technology in waqf administration, such as a digital waqf management system, is a best practice that can be adapted in other countries, including Indonesia (Jamil, 2019).

4. Conclusion

Overall, Malaysia demonstrates a more effective and efficient approach in waqf regulation and policy implementation compared to Indonesia. The centralized system, strong support, use of advanced technology, and high transparency in Malaysia contribute to more productive and innovative waqf asset management. On the other hand, Indonesia faces major challenges in terms of a complex legal framework, limited management capacity, lack of transparency, and limited technical and financial support.

To improve waqf management in Indonesia, reforms are needed in the legal framework, increased capacity of nadzir, adoption of technology, and better support from the government and related institutions. With these steps, it is hoped that waqf management can become more efficient, productive, and have a positive impact on society.

The results of this study are expected to provide in-depth insights into the differences and similarities in waqf regulations and policies in Indonesia and Malaysia, as well as identify best practices and recommendations for improving waqf management in both countries.

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