



ENHANCING THE REGULATORY FRAMEWORK FOR WAQF IN THE MALDIVES

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ABSTRACT

This paper delves into the historical significance of the classical Waqf concept in the Maldives, tracing its roots to embracing Islam in 1153 AD. However, the prominence of Waqf waned over time due to various social, political, and economic factors. The absence of a formalised legal and regulatory framework further contributed to this decline. Recent efforts by the Government have revitalised the Waqf institution despite the need for a specific regulatory structure. This study examines the existing regulatory framework for Waqf operations in the Maldives, focusing on its legal aspect. Through a qualitative approach involving semi-structured interviews with relevant officials, this research sheds light on the Maldivian Waqf industry and its regulatory framework, offering insights to facilitate the systemisation of its Waqf regulatory framework. This research's findings anticipate assisting policymakers in further enhancing the Waqf legal framework in the Maldives.

Keywords: Waqf, Maldives, Regulatory Framework, Sustainability, Governance

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INTRODUCTION

While not directly mentioned in the Quran, the legal basis for Waqf is derived from Islamic jurisprudence, including the Quran, Sunnah, and other Islamic Law sources (Muneeza, 2021). Historically, Waqf has played a crucial role in Islamic philanthropy and societal welfare, acting as a dynamic source of public funding (Sari Pertiwi et al., 2019). Classical definitions, such as Abu Hanifah's perspective, describe Waqf as a specific property separated by the waqif (founder) from their ownership, with its earnings directed towards charitable purposes (Mohsin, 2019). In the Maldives, Waqf's presence dates to 1153 AD, when Islam was embraced, with historical manuscripts reflecting its extensive practice (Feener, 2020). Waqf was not merely a private arrangement; it included Vuzaarath Al-Awqaf, akin to the Ministry





of Awqaf today (Feener, n.d.). Despite its historical significance, challenges emerged, leading to a decline in Waqf's prominence.

Nevertheless, recent revitalisation efforts in the Maldives have reignited interest in Waqf. Initiatives by the Ministry of Islamic Affairs include the establishment of cash Waqf Funds, such as the Mosque Waqf Fund in 2012 and the Religious Awareness Waqf Fund in 2013 (Ministry of Islamic Affairs, 2012; 2013). The Maldivian Community, a non-governmental organisation, also operates a cash Waqf fund (Maldivian Community Foundation 2020a). However, there needs to be a formalised regulatory framework for Waqf operations in the Maldives, with neither the Public Finance Act nor the Associations Act addressing Waqf-related requirements. Recent reports indicate the Islamic Ministry's intention to introduce a new Waqf bill, highlighting the need for a comprehensive regulatory framework.

In this context, the researcher aims to conduct an in-depth study to assess the current Waqf regulatory landscape in the Maldives. Furthermore, the study intends to propose the changes required to enhance the waqf regulatory framework specific to the Maldives through a comparative analysis with East Asian countries like Indonesia, Malaysia, and Singapore.

The structure of this research paper has six distinct sections. After this initial introduction, the second section provides a comprehensive literature review, while the third section elaborates on the research methodology employed. The fourth section encompasses the presentation and discussion of the research findings. Subsequently, the fifth section focuses on recommendations derived from the study's outcomes. Lastly, the paper concludes with its final section. The anticipated impact of this pioneering research is to offer valuable insights that can guide Maldives' policymakers in refining the administration of waqf within the country. It includes considering and implementing a comprehensive and appropriate legal framework for effectively managing waqf.

LITERATURE REVIEW

There needs to be more literature available specifically on the waqf framework of Maldives. The Waqf regulatory framework in the Maldives is characterised by the operation of three primary Waqfs managed by different entities. These Waqf funds are established and administered under distinct legal mechanisms. The Maldivian government oversees the operation of three Waqfs through trust accounts registered under the Public Finance Act 3-2006 (Muneeza, 2021). In a contrasting approach, a separate Waqf operates under the purview of a nongovernmental organisation, established and managed through standard bank accounts under the Maldives Associations Act (Ministry of Youth, Sports and Community Empowerment, 2019, Maldivian Community Foundation, 2020b).

Despite the existence of multiple Waqfs, the process of establishing these funds needs to be more uniform. Compounding the complexity, the Public Finance Act is the legislative backbone and must clearly define trust accounts (Ministry of Finance, n.d., pp. 35-38). This legislative deficiency is further compounded by the absence of explicit definitions for terms like "Public Funds," as outlined in section 18 (haa) of the Public Finance Act, leaving ambiguity in understanding the legal nature of these Waqf funds. Furthermore, the Association Act, designed for registering nongovernmental associations, does not address the oversight of Waqf funds or trust accounts (President's Office, 2022). This lack of specificity in relevant laws raises questions about these funds' legal classification and construct as Waqf within the Maldives' regulatory context.

Insightful observations emerge when comparing the Islamic concept of Waqf with the conventional notion of trust funds. According to Hunt (1902), trust involves a trustee holding legal title while beneficiaries have beneficial interests. However, this contrasts with Finet's





(2021) interpretation of a trust fund, which involves an independent legal entity holding assets for the benefit of designated parties. Both perspectives agree on the involvement of three key roles: the grantor, beneficiaries, and the trustee. However, nuances arise concerning ownership rights. The former suggests dual ownership shared between grantors, beneficiaries, and trust assets. In contrast, the latter perspective maintains that beneficiaries do not own the trust assets but possess rights to the returns.

The concept of dual ownership in trust funds has prompted discussions on inherent negligence in protecting beneficiaries' residual claims (Zhang, 2023). To address this, Zhang (2023) proposed a redefinition, asserting that "equitable title" does not confer ownership rights to beneficiaries over the trust itself but rather over the returns generated. Notably, there is a clear distinction between conventional and Shariah-compliant trust funds, with the latter aligning with Shariah principles and focusing on supporting charitable initiatives permissible under Shariah, such as Waqf, Zakat, and Sadaqat. This divergence underscores the importance of preserving the distinctiveness of Waqf within the regulatory framework and strengthening its conceptual identity within the Maldives' Waqf legislation.

The Maldivian Waqf landscape grapples with practical challenges, notably the absence of a precise legal definition of trust in the Public Finance Act, potentially hindering the adherence of Waqf practices to Shariah compliance requirements. A notable provision in the Public Finance Act, Section 29, empowers the Ministry of Finance to terminate trust accounts (Ministry of Finance, n.d., p. 23). While the prevailing juristic opinion underscores the irreversible and perpetual nature of Waqf as a perpetual charity, a minority viewpoint posits the potential for Waqf's temporary termination, originating from the Waqif (originator). This complex legal landscape underscores the need for a legal construct that aptly adheres to Shariah principles governing Waqf.

Some scholars advocate assigning a legal entity status to the Waqf concept to address these challenges. Sano (2021) argues that conferring such a status could incentivise founders, investors, and donors to engage more actively in Waqf practices. This move would also enhance legal protection, enforcing Waqf benefits for intended beneficiaries and preventing reliance solely on customary practices. Additionally, this approach could mitigate liabilities for Waqf founders, provide a framework for conflict resolution, safeguard stakeholder rights, and promote the continuation of Waqf practices (Sano, 2021).

The concept of a legal entity carries historical significance, dating back to the 17th century, and is synonymous with a legal person. It encapsulates a formless legal construct endowed with its own legally recognised will, rights, obligations, and juridical personality rooted in foundational laws (Waqas & Rehman, 2016; Adriano, 2015).

The Waqf governance regulatory framework falls within the Ministry of Islamic Affairs' ambit, as Muneeza (2021) indicates. Nevertheless, whether this responsibility emanates from the Public Finance Act or other governmental mandates remains ambiguous. While the mandate of the Ministry encompasses Zakat management, no specific reference to Waqf management is provided, despite two Waqf funds operating under its purview (Ministry of Islamic Affairs, 2021, pp. 12-13). This uncertainty raises questions about the entity vested with the legal capacity to regulate Waqf funds. Furthermore, the operation of a Waqf fund by the Maldivian Community Foundation invokes jurisdiction issues under the Association Act, which does not encompass the regulation, supervision, or monitoring of Waqf-related matters.

The Waqf regulatory framework in the Maldives is multifaceted, characterised by diverse fund structures, legal intricacies, and governance challenges. The interplay between Islamic principles of Waqf and conventional trust concepts highlights conceptual nuances while underlining the need for clear legal definitions and alignment with Shariah principles.





The discussion underscores the significance of a cohesive regulatory approach to address these complexities, fortify Waqf's conceptual identity, and ensure its enduring charitable impact.

RESEARCH METHODOLOGY

This study employs a qualitative approach to investigate the Waqf regulatory framework in the Maldives comprehensively. The methodology encompasses primary data collection through direct interviews with key stakeholders engaged in various aspects of Waqf practices. These stakeholders include experts in regulatory mechanisms, Islamic finance scholars, Islamic jurisprudence practitioners, and individuals involved in policy administration and direct operation of Waqf funds. The study also incorporates secondary data sources, such as published literature, articles, books, historical documents, and legal frameworks from local and international contexts. By examining established Waqf regulatory models in reputable East Asian jurisdictions, including Indonesia, Malaysia, and Singapore, the research aims to identify potential enhancements for the Maldivian Waqf regulatory landscape.

The research integrates primary and secondary data sources to address the objectives. The secondary data collection is from reputable platforms, including Research Gate, Emerald, and JSTOR, as well as relevant authorities' websites, statutes, and historical documents. The primary data collection process involves interviews conducted for this study. Four interviewees, each with distinct expertise and experiences, participated in the interviews. These interviewees encompass individuals from different categories: experts in regulatory mechanisms, Shariah scholars, and private and public Waqf fund operators. The interviews are conducted through email and recorded with consent for further analysis.

Interviewee Profiles and Rationale

The study's interviewees are carefully selected based on their significant contributions and expertise in Waqf practices. The profiles of the interviewees include Islamic finance/regulatory experts, Shariah/policy experts, private Waqf fund operators, and public Waqf fund operators, details for which are in Table 1 (below). These interviews provide insights from various perspectives, covering regulatory, legal, operational, and practitioner viewpoints.

Table 1: List of Interviewers

No.	Expertise	Experience	Remarks
1.	Islamic finance/ Regulatory expert	Capital Market, Islamic Finance Practitioner, Academician and Researcher, published books in Islamic Finance and held a public office position.	Interviewee 1
2.	Shariah/Policy expert	Doctor of Philosophy in Islamic Economy, Licensed Lawyer, and a Politician. Played a significant role in critical Islamic finance developments in the Maldives and published articles and books on Religion.	Interviewee 2
3.	Private Waqf fund operator	A nongovernmental Organization, Founder and Manager of a Waqf fund in the Maldives since 2020	Interviewee 3





No.	Expertise	Experience	Remarks
4.	Public Waqf fund operator	A public institution, Founder and Manager of two Waqf funds in the Maldives, in 2012 and 2013, respectively and continuing.	Interviewee 4

FINDINGS AND DISCUSSIONS

The discussion in this section centres on the comprehensive analysis of the regulatory landscape surrounding Waqf operations in the Maldives. The study delves into crucial aspects, including the scope of legislation applied to Waqf, the legal structure of Waqf, and its compatibility with the conventional concept of trust. Examining the Public Finance Act 2006 and the Associations, Act 2022 reveals that the existing legislative frameworks in the Maldives need to acknowledge or recognise the concept of Waqf. Additionally, the investigation explores the absence of a designated Waqf regulator in the Maldives and compares this scenario with regulatory practices in neighbouring countries. Another critical dimension discussed is the lack of a formalised Waqf registration system, accompanied by insights from experts on the matter. The absence of established procedures for forming Waqf funds and examined the nuanced issue of Waqf ownership in detail. In comparison, the regulatory frameworks and practices in Indonesia, Malaysia, and Singapore offer valuable insights and solutions. This comprehensive exploration underscores the need for the Maldives to develop a dedicated and effective regulatory framework to systemise the functioning of Waqf, ensuring its proper governance, legal recognition, and adherence to Shariah principles.

Scope of the Legislation Applied to Waqf and Waqf Legal Structure

The scope of legislation applied to Waqf in the Maldives, as well as the legal structure of Waqf, was examined through a review of the Public Finance Act 2006 and the Associations Act 2022. The findings revealed that these legislative frameworks should have acknowledged or recognised the concept of Waqf in any manner. Consequently, the existing regulations in the Maldives needed to provide legal recognition of the Waqf concept.

Furthermore, the study delved into comparing the conventional concept of trust and the Islamic concept of Waqf to assess their compatibility. At the same time, having identified similarities between the two concepts, the fundamental distinctions, such as the ownership of Waqf assets belonging to Allah and the prohibition on inheriting Waqf assets, were highlighted. Consequently, it established the dissimilarities of Waqf and the conventional Trust concept, necessitating customisation to ensure compliance with Shariah requirements.

Despite the absence of specific provisions for Waqf, the mechanism outlined in the Public Finance Act for maintaining and operating Trust accounts demonstrated a facilitative approach toward proper governance. Noteworthy features included the Trust account statement overseen by the Minister of Finance, which resembles a Waqf fund deed. However, the legislative review also highlighted certain limitations on Trust fund monies, including withdrawal control and mandated investment returns. These limitations raised concerns about potential hindrances to the seamless functioning of Waqf funds, particularly given the recurrent nature of fund disbursements.

Interviewees provided valuable insights into the scope of legislation applied to Waqf in the Maldives:





- Interviewee 1: Interviewee 1 indicated that the Ministry of Islamic Affairs had pursued exemptions related to Trust accounts from the Ministry of Finance. Although these exemptions were unspecified, these allowances may have addressed a few earlier restrictions.
- Interviewee 2: Interviewee 2 highlighted that the Ministry of Islamic Affairs was fully cognizant of the absence of a dedicated Waqf regulatory framework in the Maldives. This awareness was particularly evident during the initiation of the Waqf revival, notably marked by the establishment of the Mosque Waqf Fund.
- Interviewee 3: Interviewee 3 emphasised that the Associations Act, under scrutiny, needed more reference to the Waqf concept. The absence of explicit provisions highlighted the lack of legal recognition for Waqf within this legislative framework.
- Interviewee 4: Interviewee 4 acknowledged the absence of specific Waqf-specific legislation in the Maldives. As a result, the Interviewee stated that, in the interim, utilising the Trust Account framework outlined in the Public Finance Act was considered the most practical alternative for operating Waqf funds. Despite potential conflicts between certain aspects of the Trust Account concept and Shariah principles, Interviewee 4 noted that the Ministry had consistently taken Shariah-compliant parameters into account to ensure the ongoing operations of the two Waqf funds.

A comparative analysis of Waqf-related legislation in selected countries - Indonesia, Malaysia, and Singapore - revealed specific legal recognition of Waqf concepts in these jurisdictions. While Indonesia and Malaysia had comprehensive regulatory frameworks for Waqf, challenges and contentions related to land-based Waqf were observed. In this regard, the study found that although the Waqf laws of Indonesia assign no particular legal structure, according to Purkon (2022), the Waqf laws of Indonesia cover several issues defining Waqf scope, except problems arising from conflicting roles of Waqf-related authorities concerning land-based Waqf (Islamiyati et al., 2021). Similarly, Abdul Kader (2015) opines that Federal and civil laws recognise the legitimacy and legality of Waqf in Malaysia. Although there is no assigned Waqf legal structure in Singapore, legally recognised entities manage Waqf properties based on the Trust concept (Abdul Karim, 2014). Singapore's unique approach included separating regulatory and management functions by forming a 100% owned company (Waqf Real Estate Investment Pte Ltd) for Waqf management and development, underscoring the adaptability of Trust-based structures.

Bodies Regulating Waqf

Examining existing legislation on Waqf fund operations in the Maldives exposed a notable absence of a designated Waqf regulator. However, Muneeza (2021) hinted at the Ministry of Islamic Affairs as a possible regulator; concrete evidence supporting this assertion still needs to be provided. This notion gains weight from the fact that the Ministry of Islamic Affairs' annual reports neither explicitly mention Waqf regulation nor include it within their scope of responsibilities. This observation is substantiated by the consensus of the private Waqf fund operator interviewee, which aligns with the absence of regulatory authority designated by the Association Act under the Ministry of Youth, Sports, and Community Empowerment. To address the question of a Waqf Regulatory Body in the Maldives:

- Interviewee 1: Interviewee 1 asserted that the Ministry of Islamic Affairs is the government agency responsible for regulating Waqf affairs.





- Interviewee 2: Interviewee 2 expressed that the Ministry of Islamic Affairs is well-suited to assume the role of the government institution entrusted with Waqf regulatory mandates.
- Interviewee 3: Interviewee 3 clarified that despite being within the mandate of the Ministry of Youth, Sports, and Community Empowerment, the Waqf fund they manage does not fall under the Youth Ministry's regulatory jurisdiction as per the Associations Act. However, it upholds certain financial reporting obligations stipulated in the Associations Act.
- Interviewee 4: Interviewee 4 emphasised that the current role of the Ministry concerning Waqf funds is predominantly managerial rather than regulatory. The interviewee also noted that due to the operation of Waqf funds through Trust Accounts established under the Public Finance Act, financial oversight and controls lie under the purview of the Finance Ministry, suggesting a regulatory role in financial matters.

Thus, it is evident from the insights shared that Maldivian law does not explicitly designate a specific Waqf Regulatory Body. Nonetheless, the regulatory landscape differs significantly in the selected countries for this study - Indonesia, Malaysia, and Singapore. In Indonesia, the regulatory mantle rests with Badan Wakaf Indonesia, an independent body empowered by Waqf laws and regulations (Haneef et al., 2017). This institution guides waqf managers locally and internationally, appoints and removes Nazir (trustees), and provides policy direction to the Government. However, the study identified conflicting roles between the regulatory body and other governmental entities. Similarly, Malaysia's Waqf regulatory framework follows a structure akin to Indonesia's. However, distinctions arise through a centralised National-level regulator and decentralised State-level institutions. Both the Department of Waqf, Zakat, and Hajj and the Malaysian Waqf Foundation share regulatory powers at the National level. Challenges arise due to these overlapping responsibilities in Malaysia's Waqf regulatory landscape (Abdul Kader, 2015). In contrast, Singapore's historical legislative body, the Muslim and Hindu Endowment Board, initially addressed endowment matters for both faith traditions. Subsequently, Singapore established the Majlis Ugama Islam Singapura, under the Administration of Muslims Law Act 1966, as a comprehensive Statutory Board responsible for Muslim faith matters, including robust oversight powers concerning Waqfs (Sari Pertiwi et al., 2019).

Waqf Registration Requirement

Given the absence of an established Waqf regulatory framework in the Maldives, it is unsurprising that the nation needs a recognised process for Waqf registration or a legal framework to register Waqf assets. Furthermore, the Maldives Land Act imposes constraints on creating land-based Waqf properties. Concerning Waqf registration in the Maldives, viewpoints from the study's interviewees shed light on the matter.

- Interviewee 1: - Interviewee 1 emphasised that the Maldives lacks a formal Waqf registration system. The Ministry of Islamic Affairs formed existing funds under the Public Finance Act, establishing Trust accounts through permission from the Ministry of Finance. However, there is currently no binding requirement for Waqf registration. The interviewee proposed collaboration between relevant Government Institutions, City, and Island Councils to create a consolidated Waqf registry.





- Interviewee 2: Interviewee 2 concurred that the absence of Waqf registration is due to the country's lack of a regulatory framework. They noted the historical prevalence of Waqf in the Maldives and expressed concerns about the loss of many Waqf properties, including those dedicated to Haramain Shareefain. Interviewee 2 stressed the importance of implementing a Waqf registration requirement to safeguard and perpetuate these properties.
- Interviewee 3: Interviewee 3 noted the absence of a recognised Waqf registration system under the Association Act or within the jurisdiction. Their organisation attempted to establish a Waqf fund, but the Ministry of Islamic Affairs showed reluctance, indicating that private Waqf operations were limited to the government.
- Interviewee 4: Interviewee 4 regarded the permission sought from the Finance Ministry as de facto registration under existing legislation. They mentioned a pending Waqf Law submission to the People's Majlis requiring registration of Waqf declarations with the Islamic Ministry. They also discussed ongoing discussions to include existing Waqf properties under the new Waqf Law.

In contrast, Indonesia, Malaysia, and Singapore have established Waqf registration mechanisms. The key finding is that registration of Waqf establishments is mandated in these countries' regulatory frameworks, although procedures vary. Indonesia stipulates timelines for Waqf registration to ensure legality and beneficiary rights (Purkon, 2022). Malaysia's multi-stage registration process faces hurdles in land-based Waqfs (Hasan, 2008; Ghazali et al., 2019b as cited by Omar, 2013; Abdul Kader, 2015; Ismail et al., 2015). Singapore's reformed Waqf regulatory framework includes precise time-bound requirements for Waqf registrations (Singapore Statutes Online, 2020).

Waqf Formation Procedures

The absence of a dedicated regulatory framework for Waqf in the Maldives requires established procedures for forming Waqf funds. The study revealed that apart from using the Trust account format for the Ministry of Islamic Affairs' Waqf funds, no specific guidelines exist in the Waqf formation legislation. Views from the study's interviewees further elucidate this scenario.

- Interviewee 1: Interviewee 1 clarified that the Minister of Finance holds the authority to establish Trust accounts under the Public Finance Act. The Ministry of Islamic Affairs obtained permission from the Minister of Finance to create the Trust Account for establishing Waqf Funds. The appointment of the Trust Fund Committee, as mentioned by Interviewee 1, lacks reference in both the Public Finance Act and its associated regulations. Additionally, there are no other processes to ensure Shariah compliance in forming a Waqf.
- Interviewee 2: Interviewee 2 suggested that the absence of a registration requirement in the law likely implies the lack of a formal registration process.
- Interviewee 3: Interviewee 3 confirmed that the absence of Waqf registration requirements in the Associations Act led them to follow an informal procedure for creating their Waqf fund. They allocated a portion of donations to the Waqf fund, invested it, and conducted charitable activities with the remaining funds. This interviewee also emphasised the need for a balanced and reasonable Waqf registration process.





- Interviewee 4: Interviewee 4 mentioned the forthcoming Waqf bill, which aims to establish a centralised nationwide Waqfs record, thereby introducing a detailed registration process for Waqf properties.

Contrary to the Maldivian practice, Indonesia, Malaysia, and Singapore have well-defined procedures for Waqf formation in their respective regulatory frameworks. For instance, Indonesia's process involves validation requirements, Waqf deed creation, officiation, application for Waqf certification, and issuance of certificate (Jannah et al., 2020). Malaysia follows a similar structure but omits the validation stage (Ghazali et al., 2019b). However, Malaysian land-based Waqfs face operational delays, procedural complexities, discrepancies in state-based legislation, and related challenges (Ghazali et al., 2019b). Singapore's Administration of Muslim Law Act outlines a comprehensive Waqf registration process, specifying the information required in the application, validity criteria for Waqf deeds, the registrar's authority to request additional information, procedures for authenticating Waqf declarations, and administrative responsibilities of the Majlis (Singapore Statutes Online, 2020). The Act also addresses the consequences of registration-related offences.

Waqf Ownership

The Ministry of Finance's scope in the Maldives encompasses State fund-related matters. However, the Trust fund descriptions in the Public Finance Act must more precisely align with the Islamic Shariah understanding of Waqf ownership. Islamic scholars widely assert that Waqf ownership belongs solely to Allah, and neither the founder nor beneficiaries can inherit the Waqf property. Waqf managers hold a custodial role to manage it following the Waqf deed. Below are the responses received in this regard from the experts.

- Interviewee 1: Interviewee 1 believed the Trust fund description in the Act sufficiently aligned with Islamic Shariah principles. However, ambiguity exists regarding which Trust fund description, recognised by the Act, applies to Waqf funds.
- Interviewee 2: Interviewee 2 acknowledged Waqf ownership belonging to Allah and proposed involving the court system in the Waqf regulatory framework to ensure the perpetual and genuine nature of Waqf ownership.
- Interviewee 3: Interviewee 3 raised concerns about Waqf's ownership in the dissolution of non-governmental organisations, according to the Maldives Associations Act. The fate of the funds under such organisations raises ownership issues.
- Interviewee 4: Interviewee 4 indicated the Ministry's consideration of Masajid infrastructures as Waqf properties. However, the land typically belongs to the State. A forthcoming Waqf Law includes a court validation process to ensure proper ownership transfer.

Existing Maldivian legislation needs more robust protection for Waqf ownership. However, Indonesia, Malaysia, and Singapore offer better solutions. In Indonesia, the regulatory framework appoints Nazir to manage Waqf's property as custodian. This framework defines Waqf's religious significance and purpose, securing its ownership (Islamiyati et al., 2021). Malaysia designates the State Islamic Religious Council as the trustee of all established waqfs, ensuring custodial responsibilities and legal protection (Ghazali et al., 2019b). In Singapore, the Administration of Muslim Law Act guarantees Waqf ownership security through the Trust concept (Abdul Karim, 2014; Sari Pertiwi et al., 2019). Majlis oversees, while





private and corporate entities serve as Trustees for Waqf management, strengthening ownership security.

RECOMMENDATIONS

To strengthen the Waqf framework in the Maldives and ensure its sustainability, several vital recommendations are proposed:

- **Introduction of a Comprehensive Waqf Law:** The Maldives should enact a dedicated Waqf-specific law that recognises and defines the concept of Waqf within the country's legislative landscape. Drawing inspiration from Singapore's Waqf Law, which is simple yet comprehensive, the Maldives should formulate a legal framework that encompasses Shariah principles while accommodating contemporary developments in Waqf practices.
- **Elements of Waqf's Legal Recognition:** The proposed Waqf Law should include essential elements for the legal recognition of Waqf, such as defining Waqif, Mawquf, Mawquf A'laihi, and the Mutawalli/Nazir/Board of Trustees. The law must outline clear criteria for Waqif/(s) eligibility, allowing individuals, organisations, institutions, and legal entities to participate. Additionally, the duration of Waqf's dedication, whether permanent or impermanent, should be specified along with provisions for preserving the value of Mawquf.
- **Sighah and Documentation Requirements:** The Waqf Law should emphasise the importance of a well-structured Sighah (Waqf deed/declaration) that includes comprehensive details about Waqif/(s), Mawquf, Mawquf A'laihi, and the intended duration. The Sighah should serve as a formal commitment to Waqf principles and must be documented appropriately to ensure transparency and accountability.
- **Regulatory Body Establishment:** Establishing a dedicated regulatory body for Waqf governance is crucial. While the Ministry of Islamic Affairs is a contender, considering the successful separation of regulatory and management functions in other countries like Singapore, the Capital Market Development Authority (CMDA) could be better suited. CMDA's existing regulatory expertise and experience could facilitate effective Waqf oversight.
- **Regulatory Expertise and Capacity Building:** To empower the selected regulatory body, comprehensive training and capacity-building initiatives are essential. The regulatory authority must gain expertise in Waqf-specific regulations, compliance mechanisms, and governance best practices. Collaborations with international organisations and experts in Waqf management can facilitate knowledge transfer.
- **Code of Conduct and Internal Controls:** A Waqf-specific code of conduct and internal control mechanism must be developed regardless of the chosen regulatory body. This framework will ensure ethical behaviour, transparent operations, and effective governance in managing Waqf assets.
- **Stakeholder Collaboration:** Collaboration between the regulatory body, Ministry of Islamic Affairs, and relevant stakeholders such as scholars, legal experts, and financial professionals is crucial. Their input can shape the Waqf framework, ensure Shariah compliance, and contribute to its effective implementation.





- Public Awareness and Education: Launching public awareness campaigns and educational initiatives about the Waqf system and its benefits can encourage greater participation from Waqif/(s) and beneficiaries. A well-informed society is more likely to support and contribute to the growth of Waqf assets.
- International Benchmarking and Adaptation: The Maldives should continuously benchmark its Waqf framework against successful models in other countries, adapting best practices to suit its unique context while maintaining alignment with Shariah principles.

Implementing these recommendations will help establish a robust and sustainable Waqf framework in the Maldives, ensuring effective governance, transparency, and fulfilling Waqf's philanthropic objectives.

CONCLUSION

This research has shed light on the current landscape, challenges, and potential solutions for enhancing Waqf practices in the country. The study addressed several critical aspects through a thorough analysis of existing legislation, insights from expert interviews, and a comparison of regulatory frameworks in other countries. The research has illuminated the deficiencies in the current Maldivian legislative landscape regarding Waqf. The absence of a dedicated Waqf-specific law and a recognised legal framework for Waqf recognition has hindered the country's proper development and governance of Waqf assets. While the Trust account mechanism outlined in the Public Finance Act exhibited certain facilitative aspects, it also posed limitations on withdrawals and investment returns, raising concerns about its compatibility with Shariah principles.

The study has also highlighted the need for a regulatory body to oversee Waqf affairs. The absence of a designated regulatory authority has led to uncertainty about the responsible entity for governing Waqf operations. While interviewees offered perspectives on potential regulators, the study suggested that the Capital Market Development Authority (CMDA) could be more suitable, given its existing regulatory expertise. Furthermore, the research addressed issues related to Waqf registration, formation procedures, ownership, and its alignment with Islamic principles. It became evident that the Maldives needs more transparent systems for Waqf registration and formation due to the absence of a regulatory framework. Thus, it contrasts with countries like Indonesia, Malaysia, and Singapore, which have established Waqf formation procedures, ensuring proper legal recognition and governance.

Addressing the concept of Waqf ownership revealed that the Trust fund descriptions in Maldivian legislation only partially align with the Islamic concept of Waqf ownership. It emphasised the need for explicit legal provisions that reflect the divine ownership of Waqf assets, securing their perpetuity and intended philanthropic purposes. The study proposes recommendations to address these shortcomings and foster a conducive environment for Waqf's growth. These recommendations advocate for introducing a comprehensive Waqf Law that embodies Shariah principles while accommodating modern developments. Key aspects include defining essential elements of Waqf's legal recognition, establishing clear Sighah and documentation requirements, and creating a dedicated regulatory body with the required expertise and capacity. Additionally, the study emphasises collaboration among stakeholders, public awareness campaigns, and benchmarking against successful international models. Implementing these recommendations will contribute to the establishment of a robust and sustainable Waqf framework in the Maldives, ensuring effective governance, transparency, and the realisation of Waqf's charitable objectives. This research provides a roadmap for





systemising the Maldivian Waqf regulatory framework, addressing challenges, and proposing solutions that will guide the country toward a more effective, Shariah-compliant, and inclusive Waqf system that benefits both the society and the philanthropic aspirations of individuals and organisations.

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