

**ISSUES ON *WAQF* AND ROLES OF *WAQF*  
AUTHORITIES: EVIDENCE FROM INDONESIA  
AND SINGAPORE**

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Received on: 24-01-23

Accepted on: 06-03-24

<https://doi.org/10.57144/hi.v47i1.720>

**Abstract**

The *Waqf* sector is acknowledged for its huge potential, especially to provide welfare and economic upliftment in contemporary society. To unlock the potential of *waqf* institutions, a supportive enabling environment is necessary. Hence, the issues of a conducive environment faced by the *waqf* stakeholders in Indonesia and Singapore need to be explored. Dual authorities' roles are examined in addressing the issues. 22 in-depth interviews, 3 focus group discussions, observations, and reviews of relevant documents (regulations, reports, news, etc.) are conducted in Indonesia – a majority Muslim, and Singapore – a minority Muslim country. Collected data are then analysed thematically employing the lens of organisational legitimacy theory. This study shows that institutional challenges confound *waqf* developments as well as *waqf* stakeholders' interest in the two countries under study. While the challenges faced by *waqf* institutions are prevalent in the existing regulatory environment, they also bring embedded consequences to *waqf* administration and policies. In Indonesia, the multiple conflicting roles of the Indonesian *Waqf* Board (Badan Wakaf Indonesia/BWI) and dual *waqf* authorities between the

Ministry of Religious Authorities (Kementrian Agama/Kemenag) and BWI present institutional challenges that cause ineffective governing functions of *waqf* authorities. In Singapore, institutional challenges in the form of multiple roles of MUIS along with their government-affiliated policy direction raised concerns on conflict of roles and centralized administration, which caused national policy vis a vis social inclusion trade-off for the *waqf*. From the organizational legitimacy perspective, *waqf* authorities need to embrace the stakeholders' expectations to focus on and enhance their roles as regulators and supervisors of the *waqf* sector.

**Keywords:** *Institutional Challenge, Waqf, Waqf Authorities, Legitimacy*

## 1. Introduction

*Waqf* is acknowledged for its significant contribution in the past. Çizakça<sup>1</sup> elaborated that health, education, welfare services were held without any cost to government during Ottoman period. In his other work he emphasized that *waqf* is “one of the foremost institutional contributions of Muslims to humanity”.<sup>2</sup> Illustration of its significance for human being during Ottoman period is well written by Baskan<sup>3</sup> as cited by Nasir<sup>4</sup> “A person would have been born in a *waqf* house, slept in a *waqf* cradle, eaten and drunk from *waqf* properties, read *waqf* books, been taught in a *waqf* school, received his salary from a *waqf* administration, and when he died, placed in a *waqf* coffin and buried in a *waqf* cemetery”. However, its significance started to deteriorate in many parts of Islamic world since colonial era and centralization of *waqf* system.<sup>5</sup>

Several efforts including *waqf* blockchain, *waqf* core principle, *waqf* governance, *waqf* law template, *waqf* accounting standard have been initiated to revive the *waqf* sector in last two decades.<sup>6</sup> In academia sphere, specific conferences held, and research centre institutions on *waqf* have been established in some countries. Despite these efforts, its roles in the society have yet to be significant and impactful as it was proven in the past.

In *waqf* ecosystem, at least four main stakeholders can be identified. These includes *waqf* authorities, *waqf* institutions (ناظر/متولى) (*nāẓir/mutawallī*), *waqf* founders (واقف) (*wāqif*), and *waqf* beneficiaries (موقوف عليه) (*mawqūf ‘alayh*). Çizakça<sup>7</sup> elaborated that throughout history, *waqf* authorities who own power were able to influence the *waqf* sector with their policy or decision. In current era, many countries establish *waqf* authorities to handle any policy and supervisory matters related to *waqf*. Therefore, the current study will focus on the *waqf* authorities due to their ability to lead and set policy direction on the *waqf* role and contributions of the other various stakeholders.

Previous studies on *waqf* mostly focus on the development of *waqf* model and intention on making *waqf*. Majority of previous studies which put keywords “issues/challenges/problems and *waqf/awqaf/wakaf*” are conducted in single country or part of a country and involved informants within the same group. Indonesia as a Muslim majority country is acknowledged for the huge potential of cash *waqf* up to IDR 180 trillion annually. In addition, it is considered as the country which lead the regulatory framework on *waqf*<sup>8</sup>. However, up to end of 2023, less than 1,5% of annual potential is accumulatively collected and reported.<sup>9</sup> On the other hand, Singapore as a Muslim minority country is considered to have a good initiative in funding the *waqf* development.<sup>10</sup>

Current research is conducted to achieve two objectives. First, it identifies the contemporary issues faced by *waqf* stakeholders in developing *waqf* sector. Second, it explores the roles that need to be played by *waqf* authorities to address the identified issues. To date, the debate on the extent of *waqf* authorities’ involvement in *waqf* sector remains. Novelty of this study lies on the focus on *waqf* authorities’ roles, coverage in two jurisdictions with various background of informants, and the usage of legitimacy theory in the context of *waqf*. As trust based institutions, *waqf* sector need an adequate legitimacy to maintain good governance and good reputation.

To this end, current study is conducted in a comparative setting of Muslim majority country and Muslim minority country with hybrid/mix *waqf* system. Both Indonesia and Singapore represent two countries with hybrid/mix *waqf* system. In those countries, there are existence of *waqf* authorities and private *waqf* institutions at the same time. Furthermore, in both countries the *waqf* authorities play multiple roles as regulator, supervisor, and operator at the same time. This means while both share several commonalities, at the same time each of them represents different jurisdiction with different characteristics. It involves *waqf* stakeholders in those two countries accordingly. This paper is divided into five sections to identify the issues faced by the *waqf* stakeholders and to explore authorities’ role in addressing these issues in both countries under study.

## 2. Literature Review

Literally, *waqf* (in plural *awqāf* اوقاف ) means “to stop” or “to preserve”. According to *Shari‘ah* standard of AAOIFI<sup>11</sup>, *waqf* is defined as “making a property invulnerable to any disposition that leads to transfer of ownership and donating the usufruct of that property to the beneficiaries/ *mawqūf ‘alayh*”. Based on this definition, at least two characteristics of *waqf* can be identified. First is about the sustainability of the *waqf* asset/principal. And second is about continuity of its benefit. Al-Jazairy<sup>12</sup> noted that the principal

of *waqf* should not be inherited, sold, or given away as a gift or used as security collateral. Terminology of “*waqf*” is not specifically mentioned as a term in the holy Qur’ān. However, its practice is being recommended in *Shari’ah* as *Sunnah*.<sup>13</sup>

In the past, *waqf* was normally established by altruistic and wealthy individual.<sup>14</sup> It can be noted that most of the time the assets were in form of tangible properties such as land and building. It was a requirement that the assets should be privately owned by the *wāqif*. The *waqf* need to be registered in a local court and the *wāqif* can appoint himself or other people to manage the *waqf* assets. Significance of *waqf* can be traced back throughout history. Sadeq<sup>15</sup> noted from various literatures that endowed agricultural land in Algeria, Tunisia, Egypt, and Ottoman are significant. Çizakça<sup>16</sup> noted that *waqf* was able to finance the important social services such as health and education without any cost to the state. Due to the perpetuity of its benefits, *waqf* is mentioned as “*the most visible evidence of charity*” for historians.<sup>17</sup>

Since colonialism and centralization of *waqf* system in the past, *waqf* prominence in social funding has declined in some countries like Malaysia, Indonesia, India, Nigeria which were colonized by Western countries.<sup>18</sup> During colonialization period, majority of *waqf* assets status were changed into private ownership, were demolished, or were taken over like those happened in Turkey and Algeria. In many cases, family *waqf* was no longer allowed. Policies that were imposed in a way discouraged the establishment of new *waqf*. Similarly, centralization of *waqf* system took similar effect, as it happened in many Muslim countries like Malaysia, Turkiye, Egypt, etc. Consequently, all *waqf* matters are taken over by the government. In some other countries like Indonesia and Singapore, *waqf* system left as hybrid/mix system. In this system, government which is represented by *waqf* authority has power in certain matters on *waqf*. In parallel, the private *mutawallī/nāzir* are still around to manage the *waqf* assets.

Indonesia has specific *waqf* law in the country since 2004. It also initiated the establishment of *Waqf Core Principles and Cash Waqf Linked Sukuk*. With the existing *waqf* land in more than 440 thousand locations and potential cash *waqf* collection up to IDR 180 trillion annually, *waqf* sector is being acknowledged for its unlock potential. However, there are ongoing issues regarding the governance and management on *waqf*. Supervisory role of *waqf* authorities in Indonesia is not effective<sup>19</sup>. The function of *nāzir* is not optimal in spreading the awareness on *waqf* and mobilizing the *waqf* assets<sup>20</sup>. Transparency of *waqf* institutions and adequate monitoring by the *waqf* authorities need to be strengthen.<sup>21</sup> Governance,

supervision, and risk management are among the identified areas for improvement in developing the *waqf* policies.<sup>22</sup>

In Singapore, *waqf* assets contributes to the Muslim community<sup>23</sup>. In this country, *waqf* assets which managed under Majelis Ugama Islam Singapura (MUIS) is adopting corporate *waqf* concept<sup>24</sup>. While several studies highlighted the innovative financing mechanism to develop the old *waqf* assets in the country, there is limited new *waqf* creation. Singaporeans also tends to create *waqf* overseas to avoid intervention in *waqf* matters<sup>25</sup>.

Several efforts to revive the institutions of *waqf* can be observed. *Waqf* blockchain was introduced to address the issue of accountability and transparency<sup>26</sup>. *Waqf* Core Principles were launched on 2018 to be guidance in managing and governing *waqf* sector<sup>27</sup>. In addition to that, *waqf* law template was prepared by IRTI/IDB in collaboration with KAPF to benefit Islamic world<sup>28</sup>. Financial products such as cash *waqf* linked sukuk<sup>29</sup>, *waqf* based microfinance<sup>30</sup>, and usage of sukuk *mushārah* (مشاركه) and *I-REITs*<sup>31</sup> for *waqf* development has begun.

However, it is interesting to note that scholars adopt different perspectives on the roles of state on *waqf* sector. Malik<sup>32</sup> and Çizakça<sup>33</sup> are among those who argue that there should not be any state/government intervention on *waqf*. Some others argue that state/government should only govern the *waqf* sector and let the private trustee/*mutawallī* manages the *waqf* assets<sup>34</sup>. In addition, Rashid<sup>35</sup> opinion that state-based authority is needed to develop the *waqf* sector.

Most of previous studies which put keywords “issues/challenges/problems and *waqf/awqaf/wakaf*” are conducted in single country or part of a country<sup>36</sup>. In addition, all studies which employed interview in their data collection conduct interview with informants within similar group. For instance, in Malaysian context, the informants are officers of Islamic Religious Councils in selected states. In many cases, those which employed library-based research propose alternative solutions. However, the proposed solutions are given based on authors’ own perspective without considering the perspectives of the relevant stakeholders in the field.

Previous studies also tend to focus on a specific issue, for example accountability, administration, reporting, temporary *waqf*<sup>37</sup>. Some focus on the existing *waqf* assets, which mostly are in the form of properties and land. To address this research gap, current study attempts to open the gate in exploring issues faced by *waqf* stakeholders from different positions/groups. Representatives of *waqf* authorities and other *waqf* stakeholders are involved to accommodate different perspectives and complement the information. Perspectives of relevant stakeholders are important to capture the real issues at the

grassroots' level for the proposed eventual recommendation which is sensitised towards these stakeholders.

Legitimacy theory is used as lens in analysing the findings, especially on the expected roles of *waqf* authorities. Deephouse et al.<sup>38</sup> defined legitimacy as “*the perceived appropriateness of an organization to a social system*” and categorized it into regulatory, pragmatic, and moral. Moral legitimacy can be assessed from performance, structure, procedure, and people. According to this theory, social acceptance matters for an institution to sustain. Alignment between characteristics and efforts by an institution and applied rules, values, and norms in the society is important to increase the level of organizational legitimacy.<sup>39</sup> Since *waqf* is voluntary in nature, having acceptable or proper legitimacy may useful to encourage more new *waqf* creation and increase the cash *waqf* collection. Moreover in the context of *waqf* authorities, organizational legitimacy is important due to their ability to issue policies and influence other *waqf* stakeholders.

### **3. Methodology**

This paper aims to explore the real issues faced by *waqf* stakeholders and how *waqf* authorities shall play their roles in addressing those issues and developing *waqf* sector in contemporary era. To this end, qualitative approach is considered as the most suitable to explore and understand social or human problem.<sup>40</sup> Multi-method qualitative study through multiple ways of collecting data are employed<sup>41</sup> as this forms part of triangulation process at the later stage.<sup>42</sup>

Primary data is collected through one-on-one in-depth interviews and Focus Group Discussion (FGD) with representative of *waqf* stakeholders in two countries under study. Informants are selected based on their exposure with *waqf* activities and represent different hierarchical positions, backgrounds, and groups. This is to ensure that those who involve in this research are people with most information about *waqf*, and yet able to accommodate different perspectives. Observation is conducted by visiting offices of *waqf* authorities and attending several events hosted by the *waqf* authorities. In addition, review of published reports and relevant documents complements the collected primary data.

Data collections were conducted during March-October 2019 period involving 23 key informants from Indonesia and 9 key informants from Singapore who are representative of *waqf* authorities, private *waqf* institutions, and *waqf* experts in both countries under study. 22 one-on-one in-depth interviews sessions and 3 FGD sessions which range from 27 minutes to 138 minutes

were recorded and then manually transcribed. Verbatim transcription is then analysed using thematic analysis with the assistance of Atlas.ti software version 8. Thematic analysis is a process to identify patterns and themes based on codes and their categorization emerged from the verbatim transcription/narrative materials<sup>43</sup>.

#### 4. Findings and Discussion

##### 4.1 Regulatory Framework and Waqf Landscape in Indonesia and Singapore

In Indonesia, there are two *waqf* authorities in the country, namely Ministry of Religious Affairs (Kemenag) and Indonesian *Waqf* Board (BWI). Kemenag has a specific directorate to deal with *waqf* matters, called directorate of zakat and *waqf* empowerment. According to the Kemenag Regulation 42/2016, this directorate has the responsibility to develop and issue policy, standard, technical documents and to do evaluation on zakat and *waqf* matter. Indonesian *Waqf* Board (BWI) which was established in 2007 has responsibility to develop and assist *nāzīr* in managing *waqf* assets, to manage *waqf* assets in national and international scale, to grant any change of objective and status of *waqf* assets, to withdraw license and replace *nāzīr*, to grant any change of *waqf* asset, to provide any advice on policy related to *waqf* as stated in the article 49 of *Waqf* Act 41/2004.

*Waqf* Act 41/2004 represents the highest law to regulate specific matters relating to *waqf* in Indonesia. Under this act, there is Government Regulation 42/2006 which has been revised by Government Regulation 25/2018, Ministry Regulations, Directorate Regulations and Decrees, BWI Regulations and Decrees, and manual/handbooks. As of November 2023, there are 407 registered cash *waqf* institutions and 45 cash *waqf* receiver institutions in the country<sup>44</sup>. In addition, there are around 572,64 km<sup>2</sup> *waqf* land in 440.512 locations<sup>45</sup>. While most of the existing *waqf* assets are in form of land, more *waqf* in other forms are collected by the registered *waqf* institutions since issuance of *Waqf* Act 41/2004.

On other hand, 14% Muslim population in Singapore is governed by Administration of Muslim Law Act (AMLA). AMLA starts to be applied on 1<sup>st</sup> July 1968 and covers law on *waqf*, zakat, management of mosques, the creation of funds, *halāl* certification, *Hajj* administration and matrimonial and inheritance rulings. According to this act, MUIS is a statutory board which plays role as *waqf* authority in the country. As *waqf* governing body, MUIS has authority to administer *waqf* assets, to issue guidelines and internal policies related to *waqf*, to decide any matters on *waqf*, and to appoint and replace *mutawallī*. Within MUIS, there is zakat and *waqf* unit which deals with daily administration and operational on *waqf* matters. It is MUIS council which has the authority to decide strategic policy or decision on *waqf*.

As of 2017, there are 84 registered *waqf* accounts with 140 *waqf* properties with investment value around \$751million and annual gross income up to \$15.2 million.<sup>46</sup> 76 of these *waqf* properties are managed by private *mutawalli* while 64 are managed by MUIS through its 100% subsidiary company called Wakaf Real Estate (Warees) Investment Pte Ltd. In addition to this, \$14.3 million *waqf* ilmu in form of cash was collected up to 2018.<sup>47</sup> As of December 2021, *waqf* assets in form of properties and cash are worth more than \$900 million.<sup>48</sup>

## 4.2 Causes and Consequences of Institutional Challenges

According to the elicited information, it can be noted that institutional challenges lie as the main challenge in both countries under study. While the existing regulations trigger the main issue, several consequences arise from the existence the institutional challenge.

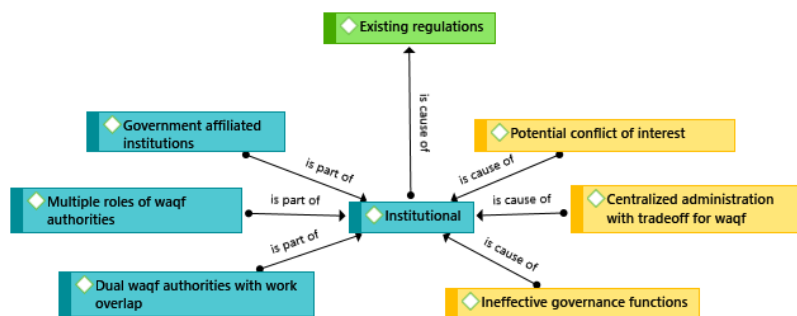


Figure 1: Identified Main Challenge, Cause, and Consequences

*Source: Author Own*

### 4.2.1 Existing Regulations: Causes of Main Challenge

Many previous studies highlighted the necessity of having special enactment on *waqf*<sup>49</sup>. That kind of expectation may be true for some countries. However current study reveals that the content of the regulation is as important as the existence of regulation itself. Regulatory, especially the highest act, set the whole ecosystem. The issue arises when *waqf* act was enacted without long term vision nor any room to accommodate the flexibility and dynamics of *waqf*. With passage of time, the regulations may become less relevant with current context and became difficult to implement.

At the end of the day, we found many things are not practicable. The act is too rigid, we are not flexible, especially in current digital era (Vice chairman, nāzir forum)



In my view, the issue is lack of clarity and lack of relevancy on our regulations with current situation (Manager, cash *waqf* receiver institution)

As it is observed in Indonesia and Singapore, while the existence of specific regulations on *waqf*, provides legal justification for *waqf* activities and establishment of *waqf* authorities, it explicitly mentions the multiple roles of *waqf* authorities. From the perspective of their majority informants in this study, this is problematic and leads to institutional challenge.

In Indonesia, *Waqf* Act was issued in 2004 and followed by several derivative regulations. The *Waqf* Act 41/2004 and BWI Regulation 1/2007 on Organisation and Work of BWI explicitly mention that BWI has functions, among others, to conduct supervision to *nāzīr* in managing and developing *waqf* properties-as supervisor, to formulate policy/guidance on management and development of *waqf* properties-as regulator, to manage and develop national and international *waqf* properties-as operator. Similarly, the Administration of Muslim Law Act (AMLA) is the highest act related to *waqf* states that all *waqf* in Singapore are vested in MUIS and they have authority to administer all of them. This mandate locates MUIS to be regulator, supervisor, and administrator/operator for the *waqf* in the country.

In addition, in Singapore, the existing regulation mentions about the authority of government to appoint several key positions in MUIS. According to AMLA, at least 7 of council members are representative of community and not more than 7 are appointed by government. President and Chief Executive (in the past was secretary) of MUIS also appointed or nominated by the government. As statutory board, MUIS is positioned under the Ministry of Culture, Community and Youth-MCCY with direct supervision of minister who in charge for Muslim Affairs. With partial funding from government, it is required to fulfil the standard of state board in the country.

Specifically, in Indonesia, there are other regulations that are still valid to legitimize the existence and role of Kemenag on *waqf* matters. For instance, according to Government Regulation 33/1949 and Kemenag Regulation 5/1951, Kemenag has authority to investigate, decide, register, and supervise maintenance of *waqf* assets (k). Based on Government Regulation 83/2015 and Kemenag Regulation 42/2016, Kemenag has a directorate called as Directorate of Zakat and *Waqf* Empowerment to handle *waqf* matters in Indonesia. These regulations cause existence of dual *waqf* authorities in Indonesia, which also seen as problematic by their immediate stakeholders.

#### 4.2.2 Institutional Challenges and the Embedded Consequences

As elaborated in previous section, several clauses of existing regulations in Indonesia and Singapore lead to institutional challenge for proper governance of *waqf* sector. According to the elicited information, challenge on institutional aspect of *waqf* authorities represents the key issue faced by *waqf* stakeholders in contemporary era. Multiple roles of *waqf* authorities is the major issue when come to institutional. Both MUIS and BWI play regulatory, supervisory, and managerial roles on *waqf* matters. Multiple conflicting roles are seen by many informants as a deviation of good governance.

You are the regulator, you are also the operator, it should not happen. Because it is difficult (*Waqf* expert, former manager MUIS)

Our critics to BWI, please do not involve as operator in *waqf* sector... being supervisor and operator at the same time does not indicate good modern management... from whichever reference of governance theory, it is not right (Chairman, mass organisation)

Although being mandated to play those roles altogether, MUIS attempt to differentiate their supervisory and regulatory roles with managerial roles by establishing 100% subsidiary company called as Warees Investment Pte Ltd. As owner representative of MUIS, Warees Investment Pte Ltd handles all operational and managerial matters for MUIS managed *waqf*, such as tenancy, maintenance, repair, payment for the distribution, etc. The redevelopment towards *waqf* properties is executed on case-to-case basis, depending on their economic potential. Despite of this separation of duties, several informants still raise concern about potential conflict of interest that may arise from the multiple roles of MUIS. There are several statements from informants which indicate their doubt on whether *waqf* get the best interest with the current structure.

Warees is somehow to help the *waqf*, but sometimes they are making money... if a big *waqf*, good money, they want to manage... in a way MUIS get the benefit. But does it go to the *waqf* 100%? I am not sure (Private *mutawallī* A)

This concern is raised as in the past, especially during the initial years' establishment of MUIS, there was an issued regulation that enable government to acquire *waqf* assets. As authority affiliated to government, MUIS supported implementation of this regulation. Several informants asserted that, since majority takeover was executed before Rent Control Act was lifted, the amount compensated by government was not sufficient to buy the similar assets. This caused *waqf* to lose their strategic and historical value. Concern on

potential conflict of interest in Singapore is supported by the fact that the several key persons in MUIS are appointed by the government. Although there are some positions in MUIS council that are filled by representative of the community leaders, several informants opine that appointment of key positions by government does not really accommodate voice of the community.

*Now all MUIS is under government. The chairman, president, key positions are appointed and paid by the government. If that is the case, we know already (Private mutawallī C)*

In last few years, there was policy on asset migration for *waqf* properties. Technically, several non-profitable *waqf* properties are sold, and the cash is being collectively invested in a more prospective property. While in one hand the number of *waqf* properties decrease due to this policy, on other hand their cumulative value assessment increase. However, the increase of *waqf* value do not directly lead to distributed amount for the *mawqūf 'alayh*, which cause their *waqf* stakeholders to question. This comment is supported by the fact that, according to MUIS' annual reports during 2012-2018, while the value of *waqf* assets along with the annual income indicate increase trend, the provision and actual distributed amount for the *mawqūf 'alayh* is fluctuate.

As part of the consequence of MUIS' multiple roles, centralization in *waqf* administration can be observed. Since all *waqf* assets are vested in MUIS, all administrative matters must go back to MUIS. Prior executing any activity towards the *waqf* assets, both private *mutawallī* and Warees as owner representative need to seek approval from MUIS. In a way, centralized administration enables proper monitoring and check and balance mechanism. For example, the *waqf* authorities will have the existing *waqf* assets and possible to do the field visit. However, some informants raise concern with regards to the trade-off faced by the *waqf* properties to fulfil all those governance and bureaucracy requirements, including annual audit, periodic survey, waiting period for decision, etc. To them, centralization in *waqf* administration creates disadvantages and extra costs for the *waqf*.

*Being governed is good. But too rigid causes difficulty. In the past we were free to do anything towards waqf properties. Now we must report everything, even leak roof we must report...we need to wait for months to receive decision from the council... then there is periodic survey...these kinds of things disadvantage the waqf (Private mutawallī C)*

In case of BWI, doing multiple roles at the same time is seen by majority informants to hinder their focus and effectiveness. The part-time work mechanism, which involves meeting once a week, is

considered insufficient for effectively and properly executing their multiple roles. This is supported by the absence of new official regulations and policies by BWI during 2013-2019, the lack of public awareness on *waqf*, which indicates insufficient campaigns or socialization efforts, and inadequate supervision as evidenced by limited monitoring and the quality of private *nāzirs*. Some informants comment that promoting public awareness on *waqf* is part of roles that shall be played by the *waqf* authorities in the country. It is believed that when people know about significance of *waqf*, more of them will involve in *waqf* activities by becoming *wāqif* or other means possible. Currently in Indonesia, while the cash *waqf* is calculated to potentially reached IDR180 trillion, the actual collection up to 2020 is less than 1%.<sup>50</sup>

Regarding to monitoring, to date, BWI only manages to conduct monitoring to registered *waqf* institutions in form of cooperation/Islamic Microfinance Institutions (IMFIs). No monitoring conducted to the individual *nāzīr* or *waqf* institutions other than IMFIs. In Indonesia, according to the existing regulations, *nāzīr* can be either individual, institution, or legal body.

We only manage to conduct monitoring and evaluation to cooperation which collect cash *waqf*...no monitoring and evaluation to other types of *waqf* assets. We do not have time, the *waqf* assets are thousands in number (Commissioner, BWI headquarter)

On other hand, other forms of registered *waqf* institutions expect for proper supervision. They acknowledge that *nāzīr* has responsibility to maintain the value, to develop the *waqf* assets, and to find a way so that the *waqf* assets generate income. Their activities as *nāzīr* include collection, management over the collected *waqf* assets, and distribution of the produced benefits. To increase collection rate, they need adequate trust from public, in which proper supervision and empowerment from the authority are needed.

While the *waqf* institutions mobilize and manage the *waqf* assets, *waqf* authority should play their roles as supervisor to supervise our works (Chairman, *nāzīr* forum)

With the existing multiple roles, while BWI has conducted several supervision activities such as seminar or workshop for the registered *waqf* institutions, their programs are seen to be less effective. When BWI hosted an event for the *nāzīr*, the attendees feel that the programs lack preparation. In addition, there is no further follow up after the events, although there are pending issues. The observations in several programs conducted by them support this concern.

Other participants and I felt that previous workshop conducted by BWI lacked preparation. After training, there was no further follow up (Director, IMFIs association)

Specifically, in Indonesia, status of BWI is rather ambiguous with the existence of Kemenag. BWI is stated as an independent institution in the *Waqf* Act, yet 100% of their funding comes from Kemenag. Most of its scope of works are redundant with the works of *waqf* directorate in Kemenag. Existence of dual *waqf* authorities without clarity on their segregation of duties leads to work overlap, as part of institutional challenge.

There is overlap in our programs, both of us have mandate to develop *waqf* sector. Both of us do socialization, supervision, similar programs (Commissioner, BWI Regional)

In some cases, however, due to lack of clarity in the work distribution, each party tend to take for granted that the works have been covered by the other. As a result, it ends with situation where none covers such work. For instance, despite the existence of Kemenag and BWI, very few maintain full list of *waqf* assets along with their *waqf* deeds. This fact indicates the lack of proper monitoring procedure towards *waqf* assets. While Kemenag only maintain list of *waqf* land in an online platform, there is no kind of mechanism to validate the existence of those land. Informants from Kemenag mentioned that they do not have Standard Operating Procedure (SOP) to monitor *waqf* assets and their *nāzīr* as they expect that it is part of BWI's work. On other hand, while representative offices of BWI have been established in all 34 provinces and around 223 regencies, not many activities can be executed since there is no budget and no staff allocated to the BWI regional office.

#### **4.3 Roles of *Waqf* Authorities in Contemporary Era: A Way Forward**

It can be noted that institutional challenge along with the embedded consequences in two countries under study is originated from the issue in the existing regulations. Noting these issues, current section is going to elaborate the expected roles of *waqf* authorities. In both countries, *waqf* authorities have kind of multiple roles. In Singapore, it is explicitly stated that all *waqf* assets are vested in MUIS. Any *waqf* that is not properly managed by private *mutawallī* can be taken over by MUIS, like one was happened in case of *Waqf* Raja Siti Kraeng Chanda Pulih, thus MUIS plays managerial roles. In addition, MUIS has supervisory roles to appoint and replace *mutawallī* and to monitor the management and distribution of benefits of the existing *waqf* assets. In addition, it has regulatory roles whereby MUIS can issue any regulation, policy, and decision related to *waqf*. In Indonesia, similar multiple roles are played by BWI as regulator, supervisor, and operator of *waqf* assets.

Regarding to the multiple roles of *waqf* authorities, it is interesting to note that no informant from non-authority group of this study agree with the involvement of *waqf* authorities on managerial scope as *waqf* operator. To them, involvement of state affiliated as operator cause imbalance competition between state-based institutions with private *nāzir*. Multiple conflicting roles is seen to create potential conflict of interest and to cause lack of effectiveness. Concern of informants align with previous studies which asserted that multiple roles could threaten governance roles of *waqf* authorities<sup>51</sup>. Informants from private *waqf* institutions prefer *waqf* authorities to strengthen their supervisory and regulatory roles by establishing and promoting enabling environment for *waqf* development. For example, by providing technical policy regarding to *waqf* of intellectual right, movable property, etc.

This preference aligns with the message of Ibn Khaldun when come to the role of state on *waqf* sector. As Ibn Khaldun argued that there is no need for government's involvement in trade, production, and commercial affairs, it conveys message that the state shall not be involved in operational aspects of *waqf* sector.<sup>52</sup> This also aligns with the stance of scholars who argue for limited intervention by state/government to govern the *waqf* sector.<sup>53</sup> However, in reality such preference is challenging for implementation in some countries.

In a secular country with Muslim in minority like Singapore, where all religious matters are capped within scope of MUIS, there might be limited option for being operator or not. In this case, clarity of work scope and work delegation may become a way-out option. As currently implemented, in practice MUIS delegates managerial works of MUIS managed *waqf* assets to their 100% subsidiary company. As such, although not yet come to the ideal situation, attempts to reduce, and minimize state intervention on *waqf* matters shall be demonstrated.

This study finds that supervisory role is seen as necessary to protect the interest of *waqf* and to ensure that *waqf* get best income to be distributed for *mawqūf 'alayh*. It is expected that misuse and mismanagement of *waqf* assets can be minimized with the existence of effective supervision towards the *nāzir* and *waqf* assets. A.Z. Osman<sup>54</sup> noted that there is kind of transformation in *waqf* management, from initially simple "donor as manager" to more structured one. Donor as manager applied in the past because normally the *wāqif* and *mutawallī* was same person, thus there was no gap arise. The gap started to arise when the descendants or non-descendants, took over the *waqf* management. This situation, as what is currently happening in Indonesia and Singapore call for proper supervision.

In addition, proper supervision is needed to promote transparency and accountability of *waqf* institutions, which require to call public trust from potential *wāqif*. *Nāzir* and people in *waqf* institutions have acknowledged this requirement and they are expecting further guidance from *waqf* authorities as mentioned

It is a big challenge for all *waqf* institutions to provide accountability mechanism and to accumulate trust level from public (Commissioner, *waqf* institution)

We are happy to be open and transparent, but providing consolidated reports is really challenging for us (Chairman, *nāzir* forum)

On other hand, the dynamics and flexibility of *waqf* need supportive and progressive regulations and policies to support *waqf* development. As such regulatory role of *waqf* authorities is needed. Following Çizakça<sup>55</sup> and IRTI<sup>56</sup>, existence of *waqf* law is mentioned as prerequisite for effective *waqf* management. However current study reveals that existence of law without visionary content and space to accommodate nature of *waqf* can be problematic. This finding conveys a message that regulatory role shall be conducted seriously. While put effort to establish the law, the scope of law itself is very important and warrant for careful attention.

Previous literature asserted that good governance framework is proposed to promote effectiveness and efficiency in the *waqf* management<sup>57</sup>. As a matter of fact, this study based on the experience of *waqf* sector in Singapore, finds different evidence. To a certain extent, there is trade-off between strict and so-called good governance procedure with effectiveness and efficiency in *waqf* management. Individual *waqf* must deal with audit rotation and periodic survey at cost of the *waqf* income and *mawqūf* 'alayh. As such, this study suggests, while proposed regulations for *waqf* governance need to enable effective protection, development, and evaluation of *waqf* assets, the procedure should not be too rigid and create difficulty.

To effectively conduct supervisory and regulatory role, as expected by their stakeholders, *waqf* authorities need to accommodate and employ knowledgeable and skilful persons with relevant background. Professional working environment shall be promoted, including full time working scheme and transparent selection process of key persons in the *waqf* authorities. In present time, more people opine that *waqf* has economic dimension, not merely about religious matter. As such, for most informants, skilful people with technicality expertise are needed to sit in *waqf* authorities. Usage of proper technology, such as blockchain, can be considered to promote user friendly mechanism. WCPs<sup>58</sup> highlighted that institutions of *waqf* need to maintain high public confidence because the system is “fully dependent upon public’s propensity to donate”.

When we talk about *waqf*, we expect for best practice...because in *waqf* it is possible to have so many innovation...unfortunately some people in the authority do not know, seems that we know better (Vice chairman, nāzīr forum)

While work clarity between relevant authorities shall be ensured, proper infrastructure in term of resource and support shall be secured. Specific measurable performance indicators to examine the significance of *waqf* authorities in Indonesia and Singapore is needed. Without any defined official and explicit target, people might find difficulty to assess their performance. In making any policy, to make it relevant and practicable, it is important for the *waqf* authorities to involve and call participation from relevant stakeholders and public. Concern on structure and mechanism by *waqf* authorities which lead to institutional issues from perspective of their immediate stakeholders, may indicate existing challenge towards their legitimacy<sup>59</sup>. From the perspective of organisational legitimacy, to improve their legitimacy, *waqf* authorities need to adhere with expectations of their stakeholders.

In the initial years there were a lot of that kind of issues... MUIS is seen as part of the government and so on. But by the time we build mosque, we rebuild *waqf*, we show our potential and realize and bring the *waqf* assets to realize its potential...they less resistant (Committee member, MUIS council member)

Above statement illustrates, may be a proof, that it is possible to change perception of immediate stakeholders through substantial efforts.

## **5. Conclusion and Recommendation**

This study collects information from the stakeholders in the field to identify major and practical issues on *waqf* sector in contemporary era. It is collected through 22 one on one in depth interviews, 3 FGD sessions, observations, and document reviews. Upon the thematic analysis, evidence from two countries in very different setting indicates similar institutional challenges. This is caused by the existing regulations and brings embedded consequences in Indonesia and Singapore. Multiple conflicting roles of *waqf* authorities is seen as the main institutional challenge in both countries. In addition, the duality of *waqf* authorities in an expansive Muslim populous Indonesia and administrative capital city government involvement in Singapore to nominate and select key people who be represented as *waqf* authorities present institutional challenges to meet stakeholders needs and expectations. Potential conflict of roles and centralized *waqf* administration that moderated



the lack of *waqf* governance roles for social inclusion are among the identified consequences due to the issue on institutional aspect.

*Waqf* is theoretically and conceptually good, but its goodness cannot be realized without proper enabling environment. Legitimate and effective *waqf* authorities are among the main enabling environment to unlock good potential of the *waqf*. From organisational legitimacy perspective, *waqf* authorities need to adhere with the stakeholders' expectations to improve their stance of legitimacy and to strengthen their roles. Upon data analysis, it is found that regulatory roles and supervisory functions represent two pertinent central activities required to be discharged by *waqf* authorities to address the identified issues on *waqf* in contemporary era. The stature and quality of people in the authorities and the extent of public involvement are among the perceived determinants to be effective supervisor and regulator.

Since this study only focus on Indonesia and Singapore and the findings may be relevant to other countries, the result of the study cannot be generalised. Different research in other geographical locations with different *waqf* settings may be necessary to accommodate the context and setting of different jurisdictions. In addition, the perceptions and expectations of informants in this study are mostly based on their experiences and interactions with *waqf* authorities. To accommodate the voice of other stakeholders of the *waqf* authorities, future research can involve other stakeholders as informants.

This study contributes to the literature on the *waqf* sector, especially the governance of the *waqf* authorities in both Muslim majority and minority country jurisdictions. Usage of organisational legitimacy theory in analysing the collected data, along with triangulation between interview, FGD, observation, and document reviews contributes in terms of methodology. In terms of practical contributions, findings of this study can be used by the relevant authorities to evaluate and improve their policies, people, structure, and procedure. In addition, the *waqf* authorities can re-consider their multiple conflicting roles and their duality in governing the *waqf* sector to address the institutional challenge while playing their pivotal roles.

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